

TO: Kapiti Coast District Council:

Either

Deliver to **175 Rimu Road, Paraparaumu 5032 Attention District Planning Team** or

You can email this submission to: **district.planning@kapiticoast.govt.nz**

SUBMISSION ON PROPOSED PLAN CHANGE 2 TO THE OPERATIVE KAPITI COAST DISTRICT PLAN 2021.

Full Name of Submitter: **Munro Duignan Trust & Pat Duignan & Sally Munro**

Contact Person (name and designation if applicable): **Pat Duignan**

Postal Address (or alternative method of service under section 352 of the RMA:

[REDACTED]

Telephone: **021 975 000**

Electronic address for service of submitter (ie email): **pat.duignan@outlook.com**

I would like my address for service to be my email **YES** (delete one)

I have selected email as my address for service, and I would also like my postal address withheld from being publicly available **YES** (delete one)

SCOPE OF SUBMISSION

The specific provisions of the proposal that our submission relates to are:

1. The need for an enlargement of the area within the Coastal Qualifying Matter Precinct(s) (RECx3) in general and in the Waikanae Beach area in particular.
2. The need for Beach Residential Qualifying Matter Precincts and/or
3. The zoning of Local Centre Zones and the application of Residential Intensification Precinct B around Local Centre Zones.

SUBMISSION

Our submission is:

1. I oppose the plan change insofar as it:
 - a. Unduly and inappropriately restricts the Coastal Qualifying Matter Precinct.
 - b. Removes Beach Residential Precincts.
 - c. Maintains Local Centre Zonings and the application of Residential Intensification Precinct B around those Local Centre Zones where located in areas that should be located in Coastal Qualifying Matter Precinct and/or Beach Residential Precinct.

We seek the following decision from the Kapiti Coast District Council:

1. Either:
 - a. The landward (eastern) boundary of the Coastal Qualifying Matter Precincts for the District (marked PRECx3) should be amended to be the landward boundary of the area shown as Coastal Environment in the District Plan; or

- b. that the landward (eastern) boundary of the Coastal Qualifying Matter Precincts for the District (marked PRECx3) should be amended to be the landward boundary of the areas shown as the Adaptation Areas which the Kapiti Coast District Council recently determined and published on its Takakutai Kapiti Coastal Hazard Susceptibility Assessment maps.
(<https://maps.kapiticoast.govt.nz/portal/apps/storymaps/stories/dbc000c7263f4d63b8978047ed0e826b>)

Pending a plan change promulgated by the Council relating to Coastal Hazards.

2. Further, or alternatively, that existing Beach Residential Precincts become Beach Residential Qualifying Matter Precincts under PC2 and that accordingly:
 - a. Residential Intensification Precinct B PRECx2 be removed from all Beach Residential Qualifying Matter Precincts; and
 - b. All existing Beach Residential Precinct plan provisions continue to apply to the Beach Residential Qualifying Matter Precincts.
3. Further, or alternatively, that such larger Beach Residential Qualifying Matter Precinct be adopted based on a full landscape assessment of the coastal environment, particularly as it relates to Waikanae Beach.
4. Further, or alternatively, in relation to Local Centre Zones:

That there be such other consequential amendments to Local Centre Zones as are required to give effect to a Beach Residential Qualifying Matter Precinct or enlarged Coastal Qualifying Matter Precinct.

5. Such further or other consequential relief as is required to give effect to the submissions above.

The Reasons for My submissions

We consider:

1. The Waikanae Beach Resident Society Inc submission sets out in detail the reasons why the relief sought in this submission should be agreed to by the Independent Hearing Panel. We agree with and support that WBRSI submission.
2. **Section 77I(a) and (b) of the RMA** provides:
A specified territorial authority may make the MDRS and the relevant building height or density requirements under policy 3 less enabling of development in relation to an area within a relevant residential zone only to the extent necessary to accommodate 1 or more of the following qualifying matters that are present:
 - (a) *a matter of national importance that decision makers are required to recognise and provide for under section 6:*
 - (b) *a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2010:*
3. Sections 5, 6(a) and (h), 7(c) and (i) supports the submissions made above.
4. Section 6(h) of the RMA requires councils to recognise and provide for the management of “**significant** risks from natural hazards”. The requirement relates to significant risks from all natural hazards.

5. Policy 24 of the NZCPS provides that Councils must:

Identify areas in the coastal environment that are potentially affected by coastal hazards (including tsunami), giving priority to the identification of areas at high risk of being affected. Hazard risks, over at least 100 years, are assessed having regard to:

- (a) physical drivers and processes that cause coastal change including sea level rise;*
- (b) short-term and long-term natural dynamic fluctuations of erosion and accretion;*
- (c) geomorphological character;*
- (d) the potential for inundation of the coastal environment, taking into account potential sources, inundation pathways and overland extent;*
- (e) cumulative effects of sea level rise, storm surge and wave height under storm conditions;*
- (f) influences that humans have had or are having on the coast;*
- (g) the extent and permanence of built development; and*
- (h) the effects of climate change on:*
 - (i) matters (a) to (g) above;*
 - (ii) storm frequency, intensity and surges; and*
 - (iii) coastal sediment dynamics;*

taking into account national guidance and the best available information on the likely effects of climate change on the region or district

6. In this submission we detail why the Section 32 report that is provided by the Council in support of PC2, when analysed, supports provision of the relief sought.
7. The Section 32 report, on page 153, under the heading “6.1.3 New Qualifying Matter: Coastal Qualifying Matter Precinct” states:

The purpose of the Coastal Qualifying Matter Precinct is to identify the area where it is not considered appropriate to enable the level of development otherwise required by the Medium Density Residential Standards (MDRS) and policy 3 of the NPS-UD until the management of coastal hazards is addressed through a future coastal environment plan change.

...

In this context, the purpose of the Coastal Qualifying Matter Precinct is to maintain the status quo level of development enabled by the provisions of the operative District Plan in the relevant area, to ensure that the management of coastal hazards can be appropriately addressed through the future coastal environment plan change process, while avoiding intensification in areas that may need to be subsequently reversed as part of this process. This approach is consistent with policy 3 of the NZCPS which requires the Council to adopt a precautionary approach to use and management of coastal resources potentially vulnerable

to effects from climate change so that avoidable social and economic loss and harm to communities does not occur.

...

The Coastal Qualifying Matter Precinct is required to ensure that PC2 does not reduce the degree to which the District Plan gives effect to policy 25 of the New Zealand Coastal Policy Statement 2010.

...

Enabling an increase in the level of development that could occur in an area potentially susceptible to coastal erosion hazard over at least the next 100 years would reduce the degree to which the District Plan gives effect to this policy. Specifically, enabling more people to live in (and more assets to be located in) areas potentially affected by coastal erosion hazard would result in an increase in the risk of social, environmental and economic harm, as well as exposure to adverse effects, from coastal hazards. Policy 25 of the NZCPS directs the District Plan to avoid this outcome. Policy 3 of the NZCPS also requires the Council to take a precautionary approach so that avoidable social and economic loss and harm to communities does not occur.

Until the District Plan is updated to fully give effect to the NZCPS, the level of development provided for by the operative District Plan more appropriately gives effect to these NZCPS policies than the level of development that would otherwise be required by the MDRS and policy 3 of the NPS-UD.

We agree with the above reasoning. Given that inundation is a coastal hazard which will be increased by sea level rise due to climate change and indeed affects a greater area than coastal erosion, the reasoning above applies at least equally, if not more, to inundation.

8. PC2 does not, however, include the major part of the area subject to the coastal hazard of inundation in the Coastal Qualifying Matter Precinct. The Section 32 report asserts:

Coastal inundation risk is managed by proxy through the existing flood hazard provisions of the District Plan. There is a reasonable correlation between the areas in the urban environment identified as susceptible to coastal inundation in the Jacobs' assessment, and the flood hazard category areas in the District Plan⁶⁴. In addition to this, the flood hazard provisions of the District Plan are dynamic in that the 1% AEP flood event is to be determined using the best available information (which includes site-specific modelling). On this basis, for the purposes of PC2 this hazard is considered to be appropriately managed by existing District Plan provisions. However, a review of the District Plan's flood hazard provisions is planned as part of the future flood risk/stormwater management Plan Change

9. We submit that the Council assessment that the coastal hazard of inundation can be appropriately managed by existing District Plan provisions for the purposes of PC2, ie in the context of MDRS intensification, is invalid. Specifically, in the area exposed to the coastal hazard of inundation, the existing District Plan provisions cannot make MDRS zoning compatible with the requirements of Policy 25 of the New Zealand Coastal Policy Statement 2010, namely to

(a) avoid increasing the risk of social, environmental and economic harm from coastal hazards;

(b) avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;

...

10. There are multiple reasons why the requirements for building sites and habitable floors to be a required height above the 1% AEP level will fail to avoid increasing the risk of social, environmental and economic harm from the coastal hazards of inundation and fail to avoid increasing the risk of adverse effects from the coastal hazards of inundation:
- a. Requiring buildings to be sited above the AEP 1% level only ensures some assets are out of harms way from flooding. Many other types of private assets, such as vehicles, will be exposed to the effects of flooding particularly on a site with up to 3 dwellings of 3 storeys.
 - b. Intensification would materially increase exposure to economic loss not only for sites part of which is vulnerable to inundation but also for sites in the area which themselves would not be flooded. Such sites in the coastal area subject to inundation would likely be cut off by inundation of roads which would force their residents to relocate until the inundation subsided thereby incurring significant economic losses.
 - c. The economic cost of dwellings being inaccessible, either because the sites themselves are inundated or because roads required to access them are inundated, will be incurred by KCDC and its ratepayers in general as well as by owners and residents of affected properties since the number of displaced residents will be increased by intensification. The increased number of displaced residents will result in pressure for more rapid and therefore more expensive remedial work to drain flood waters.
 - d. Intensification would inevitably materially increase the amount and value of both public and private utility infrastructure and other public assets exposed to loss. The cost of repair and replacement of damaged assets typically will be incurred by all residents in the Kapiti District rather than being confined to owners of directly affected properties.
 - e. Intensification results in an increase in the impermeable site coverage which would materially increase the volume of water that would not be naturally absorbed and would therefore need to be drained from the area where the number of dwelling is increased. This would tend to prolong the time required for flood waters to dissipate.
 - f. Cumulative effects, such as whether sites will be able to accommodate internalised disposal of stormwater as climate change increases the frequency of flooding events, cannot be satisfactorily managed by the current flooding hazard provisions of the District Plan.
11. The assertion in the Section 32 report that the coastal hazard of inundation can be appropriately managed by existing District Plan provisions is exactly the inadequate and unrealistic response to the challenges of climate change which the NZCPS 2010 and the National Adaptation Plan are intended to avoid. Experts on coastal hazards are concerned that local authorities will be tempted to resort to inadequate responses as those on which the Council relies in PC2¹. The Section 32 report actually comes close to acknowledging the existing provisions are inadequate when it states *“However, a review of the District Plan’s*

¹ Inadequacy Revealed and the Transition to Adaptation as Risk Management in New Zealand, Judy Lawrence, Sylvia Allan and Larissa Clarke; POLICY AND PRACTICE REVIEWS published: 19 November 2021, doi: 10.3389/fclim.2021.734726

flood hazard provisions is planned as part of the future flood risk/stormwater management Plan Change."

12. We submit that allowing intensification prior to the implementation of the planned flood risk/stormwater management Plan Change is a clear violation of NZCPS 2010 Policy 3 which requires a precautionary approach. To quote the Section 32 report:

Policy 3 of the NZCPS also requires the Council to take a precautionary approach so that avoidable social and economic loss and harm to communities does not occur.

Until the District Plan is updated to fully give effect to the NZCPS, the level of development provided for by the operative District Plan more appropriately gives effect to these NZCPS policies than the level of development that would otherwise be required by the MDRS and policy 3 of the NPS-UD.

13. We submit that the above analysis of the Section 32 report demonstrates that it is internally inconsistent. The report fails to apply to the management of flooding risk the reasoning that it relies upon to justify the creation of the CoastalQualifying Matter Precinct for the management of coastal erosion risk.
14. Members of the Independent Hearing Panel, in considering the proposed PC2 you are confronted with a Planning Change to allow intensification in a district where the Council on its own admission has not completed the hazard delineation task required by Policy 24 of the NZCPS 2010, in part due to legal challenges. Crucially, the Kapiti District is the one among the Tier 1 districts which has the most extensive exposure to the coastal hazards. The Council has correctly recognised this a qualifying matter for the purposes of PC2 and applied that qualifying matter to the area exposed to erosion risk but has then balked at the implications as they relate to the coastal hazard of inundation. The greater size of the area exposed to inundation compared to the area exposed to erosion risk is not a valid basis for distinguishing between these two areas, given Policy 3 of the NZCPS 2010.
15. The extension of the Coastal Qualifying Matter Precinct to include the area exposed to the coastal hazard of inundation will result in foregoing of more potential intensification but that simply reflects the larger quantum of exposure to loss arising from the inundation hazard. The foregoing of more potential intensification is offset by the greater reduction of the risk of loss.
16. We submit that the appropriate relief is, in summary, that landward (eastern) boundary of the Coastal Qualifying Matter Precincts for the District (marked PREC3) should be amended to encompass the area subject to the coastal hazard of inundation and that consistent with at amendment the existing Beach Residential Zoning should remain in force.
17. We wish to note as further evidence that the proposed PC2 is unsatisfactory, the Ministry of the Environment envisaged that the Te Horo residential area would not be a relevant residential zone as indicated in the attached memorandum from that Ministry to the Select Committee considering the amendment to the RMA. This was provided to the Council but that area has been treated as a relevant residential zone.
18. In conclusion to this submission we support the submission of Glen Wiggs which includes details inundation experiences and predictions relating to the Waikanae Beach area.

We seek the following decision from the Kapiti Coast District Council:

1. Either:
 - a. The landward (eastern) boundary of the Coastal Qualifying Matter Precincts for the District (marked PRECx3) should be amended to be the landward boundary of the area shown as Coastal Environment in the District Plan; or
 - b. that the landward (eastern) boundary of the Coastal Qualifying Matter Precincts for the District (marked PRECx3) should be amended to be the landward boundary of the areas shown as the Adaptation Areas which the Kapiti Coast District Council recently determined and published on its Takakutai Kapiti Coastal Hazard Susceptibility Assessment maps.
(<https://maps.kapiticoast.govt.nz/portal/apps/storymaps/stories/dbc000c7263f4d63b8978047ed0e826b>)

Pending a plan change promulgated by the Council relating to Coastal Hazards.

2. Further, or alternatively, that existing Beach Residential Precincts become Beach Residential Qualifying Matter Precincts under PC2 and that accordingly:
 - a. Residential Intensification Precinct B PRECx2 be removed from all Beach Residential Qualifying Matter Precincts; and
 - b. All existing Beach Residential Precinct plan provisions continue to apply to the Beach Residential Qualifying Matter Precincts.
3. Further, or alternatively, that such larger Beach Residential Qualifying Matter Precinct be adopted based on a full landscape assessment of the coastal environment, particularly as it relates to Waikanae Beach.
4. Further, or alternatively, in relation to Local Centre Zones:

That there be such other consequential amendments to Local Centre Zones as are required to give effect to a Beach Residential Qualifying Matter Precinct or enlarged Coastal Qualifying Matter Precinct.
5. Such further or other consequential relief as is required to give effect to the submissions above.

HEARING SUBMISSIONS

I/We wish to be heard in support of our submission YES (delete one)

If others make a similar submission I will consider presenting a joint case with them YES (delete one)

Signature of Submitter

Dated: 15/9/2022

Note A signature is not required if you make your submission by electronic means.

Trade Competition [select the appropriate wording]

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

We could not gain an advantage in trade competition through this submission.

If you could gain an advantage in trade competition through this submission, please complete the following:

I am / I am not directly affected by an effect of the subject matter of the submission that—

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.



Te Tūāpapa Kura Kāinga
Ministry of Housing and Urban Development



Ministry for the
Environment
Manatū Mō Te Taiao

Info request

Further advice on the ability to exclude smaller settlements

For: Environment Committee

Date: 1 December 2021

Security level: In Confidence

Purpose

1. This note provides further information on options for exempting smaller settlements from having to apply to the Medium Density Residential Standards (MDRS).

Advice

2. As outlined in the departmental report, the Bill currently requires the MDRS to be applied to residential zones in “urban environments”. This definition would be difficult to implement. Councils would be required to determine the extent of their urban environment based on two factors – whether an area of land is or is intended to be predominantly urban in character and is or is intended to be part of a housing a labour market of at least 10,000 people.
3. As a result, we recommended clarifying that all residential areas in a tier 1 territorial authority are in scope. This will include all residential zones across tier 1 districts, including many small towns.

Options to exclude smaller settlements

4. The Environment Committee has asked for options for excluding smaller settlements from application of the MDRS.

Current mechanism available to councils

5. The Bill enables councils to exclude smaller settlements from applying the MDRS through the intensification streamlined planning process (ISPP). They will be able to re-zone small and rural settlements as large lot residential¹ or settlement zones².

¹ Large lot residential zones are described in the National Planning Standards as areas used predominantly for residential activities and buildings such as detached houses on lots larger than other residential zones, and where there are particular landscape characteristics, physical limitations or other constraints to more intensive development.

² Settlement zones are described in the National Planning Standards as areas used predominantly for a cluster of residential, commercial, light industrial and/or community activities that are located in rural areas or coastal environments.

The Bill could use a definition to exclude smaller settlements

6. If the Committee would like to go further than the current mechanism, it could include a provision in the Bill that would enable councils to exclude towns with a population lower than 5000 at the 2018 census and offshore islands.
7. Our preference is for this provision to be directive (i.e. all towns and islands would be excluded by default) as it is less ambiguous for councils and less open to challenge. However, it could also be discretionary (i.e. councils retain the ability to determine whether MDRS is applied to a town or island) if more flexibility was desirable.
8. We consider this approach would:
 - a. apply the MDRS to all medium sized towns and major satellite towns as intended by the policy
 - b. ensure the right locations are included by default, and give councils the ability to exclude areas that are not integrated into major housing and labour markets
 - c. recognise some areas have less capacity to accommodate growth
 - d. provide an unambiguous definition and make implementation as straightforward as possible for councils.
9. Annex 1 provides a non-exhaustive list of towns that would and would not be captured by this change.

A qualifying matter could also be used to exclude smaller settlements

10. As set out in our advice on managing infrastructure impacts, another option would be to add an additional qualifying matter to the Bill to enable councils to not apply the MDRS in remote and/or coastal residential areas where growth is not reasonably expected.
11. This qualifying matter could capture smaller, more remote towns in tier 1 council areas that are not integrated into major housing and labour markets – for example, places like Akaroa, Raglan and Te Horo. These smaller towns are also less likely to have capacity in existing infrastructure networks (particularly three waters) to accommodate growth.
12. An additional qualifying matter would permanently restrict intensification in these areas, unless they were rezoned under a further plan change, so would need to be tightly scoped. We are confident that could be achieved through the specific wording of the qualifying matter, for example where there is no reticulated waste water. Depending on the scope, it may also be possible to reduce the evidential requirements, limiting the work required by councils to exempt relevant areas.

Annex 1: Impact of a 5000-person population and offshore island threshold (non-exhaustive)

	Included (above 5000)	Could be excluded (below 5000)
Auckland	Waiuku (9510), Beachlands-Pine Harbour (6,480)	Muriwai (1300), Patumāhoe Village (1220), Wellsford (2,030), Kumeū (3,580), Helensville (2910), Walk worth (5,820), Clarks Beach (1,490), Waiheke Island (offshore island)
Waipā	Cambridge (19,300), Te Awamatu (12,550)	Pirongia (1,250), Kihikihi (2900), Karapiro Village (310), Ngāhinapōuri (200), Ōhaupō (610), Rukuhia (170)
Waikato	Tuakau (5,210) Ngāruawāhia (7,300), Huntly (8,290)	Te Kauwhata (2,170), Pōkeno (2,800), Raglan (3,390), Whatawhata (310), Te Kōwhai (500), Horotiu (650), Taupiri (510), Meremere (580), Port Waikato (540)
Western Bay of Plenty	Te Puke (9,180),	Ōmokoroa (3,320), Paengaroa (820)
Christchurch		Lyttelton (3,100), Akaroa (770)
Selwyn	Lincoln (6,840), Rolleston (18,400)	West Melton (2,210), Darfield (2,830), Kirwee (1,000)
Waimakariri	Rangiora (18,400), Kaiapoi (12,200)	Oxford (2,280)
Kāpiti	Paraparaumu (29,500)	Paekākāriki (1,800), Te Horo Beach (340)

From: [Pat Duignan](#)
To: [Mailbox - District Planning](#)
Subject: Munro Duignan Trust Submission on Proposed Planning Change 2 Kapiti District Plan September 2022.pdf
Date: Thursday, 15 September 2022 3:15:05 pm
Attachments: [Munro Duignan Trust PC2 Submission.pdf](#)
[MFE Advice on Small Town Exclusions.pdf](#)

Hi,

I am resending the Munro Duignan Trust Submission since the previous email (below) had the wrong title.

Regards,

Pat Duignan

-----Original Message-----

From: Pat Duignan <Pat.Duignan@outlook.com>

Sent: Thursday, 15 September 2022 3:08 PM

To: District.Planning@Kapiticoast.Govt.NZ

Cc: Pat Duignan <Pat.Duignan@outlook.com>

Subject: RE: Emailing: Waikanae Beach Residents Society Inc Submission on Proposed Planning Change 2 Kapiti District Plan September 2022.pdf

District Planning, Kapiti Coast District Council,

I attach the Munro Duignan Trust Submission on Proposed Planning Change 2 Kapiti District Plan, September 2022. Please associate with this submission the document also attached entitled MFE Advice on Small Town Exclusions.

Please confirm receipt and that the format meets the requirements of Form 5.

Thank you,

Pat Duignan

Ph: 021 975 000



3 June 2022

COR2969

Pat Duignan
mdconsulting@mdconsulting.co.nz

Dear Pat Duignan

Thank you for your email of 2 May 2022 about the application of the Medium Density Residential Standards (MDRS) and the issue of coastal hazards in the Kāpiti District. I acknowledge your concern for ensuring government policy is well coordinated including the draft National Adaptation Plan.

You noted that council plans need to give effect to the New Zealand Coastal Policy Statement, to ensure the avoidance of coastal hazards. Adapting to a changing climate, including directing development away from high-risk areas, as well as ensuring that New Zealanders have affordable quality homes are priorities for me.

The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act (the Act) requires specified territorial authorities to incorporate the MDRS and give effect to the National Policy Statement on Urban Development (NPS-UD) intensification policies. The MDRS and the NPS-UD will enable a range of benefits, including increased housing supply, a wider variety of housing options and prices and good urban form. Intensification can also enable greater access to active and public transport and associated reductions in greenhouse gas emissions.

Councils can modify the MDRS and NPS-UD requirements if a 'qualifying matter' applies. The New Zealand Coastal Policy Statement and the management of significant risk from natural hazards are qualifying matters which means that councils can modify intensification in areas prone to coastal hazards. More information on qualifying matters can be found at: environment.govt.nz/publications/intensification-streamlined-planning-process/.

I have been advised that Kāpiti Coast District Council (KCDC) has proposed a coastal qualifying matter precinct in its draft proposed plan change which was recently out for public comment and closed on Monday 2 May. You can find more information at: kapiticoast.govt.nz/media/wj3ffpk/pc2_intensification_draft.pdf.

I encourage you to continue to engage with KCDC on the implementation of the Act and the NPS-UD.

Yours sincerely

Hon David Parker
Minister for the Environment



8 July 2022

OIAD-285

Pat Duignan

mdconsulting@mdconsulting.co.nz

Dear Pat Duignan

Thank you for your email of 18 May 2022 requesting the following under the Official Information Act 1982 (the Act):

I hereby request under the Official Information Act all advice to Ministers regarding the potential conflict between the requirement for local authorities to direct development away from areas exposed to flooding or wildfires in the draft National Adaptation Plan (p75) and the equivalent obligation in the New Zealand Coastal Policy Statement versus the requirement to implement the MDRS under the December 2021 amendment to the RMA Act. I hereby request any reports, emails or other analyses by Ministry staff or contractors that acknowledge and/or discuss the potential conflict set out above. In particular I request any reports, emails or other analyses which acknowledge this potential conflict as it relates to the Kapiti District. I attach a letter to the Editor of the Dominion Post regarding this conflict and also request any advice to Ministers or emails or reports within the Ministry regarding this letter.

On 15 June 2022, the Ministry for the Environment (the Ministry) extended the timeframe to respond to your request by 15 working days under section 15A(1)(b) of the Act, as consultations necessary to make a decision on the request were such that a proper response to the request could not reasonably be made within the original time limit.

The Ministry has identified 18 emails within scope of your request. The emails are contained within documents 1 – 4, as listed in the attached document schedule. Each document consists of an individual email chain.

Some information within documents 1, 1a, and 2 has been redacted as out of scope of your request, or withheld under the following sections of the Act:

- 9(2)(a) to protect the privacy of natural persons
- 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty.

Document 3 is being withheld in full under section 9(2)(g)(i) of the Act and Document 4 is released to you in full.

The Ministry has also identified a Cabinet paper within scope of your request. The paper is publicly available here: [cab-paper-nps-urban-dev.pdf \(hud.govt.nz\)](https://www.hud.govt.nz/cab-paper-nps-urban-dev.pdf).

In terms of section 9(1) of the Act, I am satisfied that, in the circumstances, the withholding of this information is not outweighed by other considerations that render it desirable to make the information available in the public interest.

Contextual information to support this response:

1. Under the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act councils can modify, to the extent necessary, the intensification requirements of the Medium Density Residential Standards (MDRS) if a qualifying matter applies. There are three pathways for doing this under this legislation in respect of natural hazards (including those that may be impacted by climate change):
 - I. In areas where coastal hazard risks are present, using the New Zealand Coastal Policy Statement qualifying matter (RMA s 77I(b)). This qualifying matter was included in the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act after receiving submissions that were concerned that councils may not be able to restrict development in areas prone to the impacts of climate change. This is outlined in the relevant parts of the departmental report.
 - II. In areas where significant natural hazard risks are present, on the basis that the management of such risks is a matter of national importance (RMA s77I(a)).
 - III. As an 'other matter' that makes higher density provided for by the MDRS or policy 3 of the National Policy Statement on Urban Development inappropriate (RMA s77I(j)).
2. The qualifying matters framework was carried across from the National Policy Statement on Urban Development (NPS-UD) to the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act.
3. Since the passing of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act, the Ministry for the Environment and Ministry of Housing and Urban Development have worked to support councils to implement this legislation. Councils (including Kāpiti Coast District Council) will notify their required plan changes to implement the MDRS and NPS-UD (along with their RMA section 32 analysis report) by 20 August 2022, which will be followed by public submissions and hearings held by Independent Hearing Panels. This will enable the testing of the plan change and analysis. You are able to get involved in this by making a submission, more information will be available on Kāpiti Coast District Council's website.
4. To assist local authorities with planning for climate change adaptation, the Ministry for the Environment has produced two guidance documents: *Coastal hazards and climate change: guidance for local government* (2017) and *A guide to local climate change risk assessments* (2021). The information and processes contained in these documents can be used to inform land use planning decisions, such as those that will be made in implementing the MDRS and NPS-UD.

These weblinks to the following publicly available documents may be useful for your purposes:

- Departmental Report on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill: [94bf0dbf9e2d16f16000308f6e54d250937b7540](https://www.parliament.nz/bills/42-00/94bf0dbf9e2d16f16000308f6e54d250937b7540) (www.parliament.nz)
- Select Committee report on Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (pages 16 and 17): https://www.parliament.nz/resource/en-NZ/SCR_118070/e14e3e97b6f73854163fcd0ba2df2d4b62e4538f
- Of particular note, page 17 of the Select Committee report states: *"We note that councils can exempt areas where there are likely impacts of climate change."*
- *Coastal hazards and climate change: guidance for local government* (2017) [coastal-hazards-guide-final.pdf](https://www.environment.govt.nz/assets/Coastal-hazards-guide-final.pdf) (environment.govt.nz)
- *A guide to local climate change risk assessments* (2021) [climate-risk-assessment-guide.pdf](https://www.environment.govt.nz/assets/Climate-risk-assessment-guide.pdf) (environment.govt.nz)

Please note that due to the public interest in our work the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent. If you have any queries about this, please feel free to contact our Ministerial Services team: ministerials@mfe.govt.nz.

Yours sincerely

Electronically approved by Katherine Wilson

Katherine Wilson,
Director - Climate Adaptation and Evidence

Document schedule

Document no.	Document date	Content	Decisions	OIA sections applied
1	23 November 2021	Email correspondence between officials: Enabling Housing Supply Bill - responding to submissions	Released in part	S 9(2)(a) S 9(2)(g)(i)
1a	26 November 2021	Email correspondence between officials: Enabling Housing Supply Bill - responding to submissions	Released in part	Out of scope information redacted S 9(2)(g)(i)
2	23 September 2021	Email correspondence between officials: Outline of Cab paper - accelerating the up zoning of land for housing	Released in part	S 9(2)(a) S 9(2)(g)(i)
3	30 November 2021	Email correspondence between officials: Up zoning and climate hazards	Withheld in full	S 9(2)(g)(i)
4	21 September 2021	Email correspondence between officials: MRCCA/ Enabling Housing Supply	Released in full	

From: [Mark Johnson](#)
To: [Fleur Rodway](#)
Cc: [Sarah Anderson](#); [Ben France-Hudson](#); [Lisa Niven](#)
Subject: ACTION REQUIRED Enabling Housing Supply Bill - responding to submissions
Date: Tuesday, 23 November 2021 3:50:00 pm
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)

Kia ora Fleur,

Thanks for the opportunity to provide input into DR from a climate change perspective. Further to our discussion, below is some draft text that addresses the concerns around the extent to which climate change considerations can be taken into account when determining whether intensification of a particular area is appropriate. Please note that this analysis doesn't cover or address the wider points made by BOPRC / EQC about the problems arising from the lack of clarity over what constitutes a 'significant risk'. Depending on how comprehensive a response to the submissions is being included in the DR, this draft text may need to be augmented. I hope the below is nonetheless of use.

Please get back to me if anything is unclear or other questions arise.

Mark

Draft text

Submitters raised concerns that climate change, by virtue of not being a 'matter of national importance' under section 6 of the RMA, is not a qualifying matter that would enable a territorial authority to make the MDRS less permissive. This is part of a larger concern that, in combination with the lack of clarity over the application of the qualifying matter relating to natural hazards, intensification will occur in areas that are not resilient to either current or future natural hazard risks.

Officials agree that it would be inappropriate for residential intensification to occur in areas that will be subject to significant risks from natural hazards, including those hazards that will be exacerbated in future by the impacts of climate change. s 9(2)(g)(i)

We note that, in respect of coastal hazard issues, the impact of climate change on natural hazards is an issue that is covered by objective 5 and policies 24 – 27 of the New Zealand Coastal Policy Statement. As such, giving effect to those matters is a qualifying matter under clause 77G(b). However, as pointed out in the submission of EQC, "this is limited to coastal locations only, not inland".

s 9(2)(g)(i)

s 9(2)(g)(i)

From: Fleur Rodway <Fleur.Rodway@mfe.govt.nz>

Sent: Saturday, 20 November 2021 1:18 pm

To: Lisa Niven <Lisa.Niven@mfe.govt.nz>; Mark Johnson <Mark.Johnson@mfe.govt.nz>; Sarah Anderson <Sarah.Anderson@mfe.govt.nz>

Subject: ACTION REQUIRED Enabling Housing Supply Bill - responding to submissions

Importance: High

Kia ora koutou,

We have received some submissions on the Enabling Housing Supply Bill that have requested the Bill consider the appropriateness of intensification in areas that are likely to be impacted by climate change, mostly in the form of sea level rise, generally by including a qualifying matter. We are now writing the departmental report and have until Wednesday midday to finalise this for the Select committee, so it would be great if I could get back from you as soon as possible. I understand you have discussed the Bill previously with my colleague Elaine Gyde and would like to check what an appropriate response to the points raised by submitters would be. I was thinking it could include something like this:

- The Government and the relevant Crown Research Institutes have a programme of work, due to be completed by August 2022 (when councils need to have notified their intensification planning instruments) to provide guidance for local authorities on climate risk assessments. (is this accurate)
- This will provide more certainty to councils that the impacts of climate change including sea level rise can be considered in relation to signification natural hazard risk (I am not sure how to frame this or if that is accurate)
- Therefore, we don't need/do need to include the effects of climate change including sea level rise as a qualifying matter. (great to get your thoughts on this)

I am sorry for the short timeframes for responding and for not giving you a heads up in advance. Please feel free to get in touch with me via teams if you could help me with this response.

Nga mihi nui,

Fleur

Fleur Rodway (she/her)

Senior Policy Analyst | Kaitatari Kaupapa Here Matua
Urban and Infrastructure Policy

Ministry for the Environment | Manatu Mo Te Taiao

s 9(2)(a) | fleur.rodway@mfe.govt.nz | mfe.govt.nz

Ministry staff work flexibly by default. For me, this means I work full-time and am based in Wellington.



From: [Fleur Rodway](#)
To: [Mark Johnson](#)
Subject: FW: [REDACTED] ACTION REQUIRED Enabling Housing Supply Bill - responding to submissions
Date: Friday, 26 November 2021 12:48:57 pm

Out of Scope

From: Fleur Rodway <Fleur.Rodway@mfe.govt.nz>
Sent: Tuesday, 23 November 2021 6:02 pm
To: Fiona McCarthy <Fiona.McCarthy@hud.govt.nz>; Ben Wauchop <Ben.Wauchop@hud.govt.nz>
Cc: Rebecca Lloyd <Rebecca.Lloyd@mfe.govt.nz>; Jessica Ranger <jessica.Ranger@hud.govt.nz>
Subject: RE: [REDACTED] ACTION REQUIRED Enabling Housing Supply Bill - responding to submissions

Thanks Fiona and Ben,

What about this modified recommendation which, would at least ensure we weren't weakening the protection in the NPS-UD?

Ability to take into account the effects of climate change

Submitters raised concerns that climate change, by virtue of not being a 'matter of national importance' under section 6 of the RMA, is not a qualifying matter that would enable a territorial authority to make the MDRS or the NPS-UD intensification policies less permissive. This is part of a larger concern that, in combination with the lack of clarity over the application of the qualifying matter relating to natural hazards, intensification could occur in areas that are not resilient to either current or future natural hazard risks.

Officials agree that it would be inappropriate for residential intensification to occur in areas that will be subject to significant risks from natural hazards, including those hazards that will be exacerbated in future by the impacts of climate change. s 9(2)(g)(i)

s 9(2)(g)(i)

We note that, in respect of coastal hazard issues, the impact of climate change on natural hazards is an issue that is covered by objective 5 and policies 24 – 27 of the New Zealand Coastal Policy Statement (NZCPS). As such, giving effect to those matters is a qualifying matter under clause 77G(b). However, as pointed out in the submission of EQC, “this is limited to coastal locations only, not inland”.

Under the current approach to account for the future impacts of climate change, territorial authorities must rely on the qualifying matter 77G(a) (matter of national importance in relation to the management of signification risks form natural hazards) or 77G(h) other matters.

s 9(2)(g)(i)

To address this concern, we recommend bringing objective 8 and associated policies 1(f) and 6(e) of the NPS-UD, which collectively seek that urban environments are resilient to the current and future effects of climate change into the Bill. This would provide clearer direction to councils to use the existing qualifying matters to exclude areas that with be subject to the likely current and future impacts of climate change.

F

From: Fiona McCarthy <Fiona.McCarthy@hud.govt.nz>

Sent: Tuesday, 23 November 2021 5:43 pm

To: Fleur Rodway <Fleur.Rodway@mfe.govt.nz>, Ben Wauchop [EXTERNAL] (HUD) <Ben.Wauchop@hud.govt.nz>

Cc: Rebecca Lloyd <Rebecca.Lloyd@mfe.govt.nz>; Jessica Ranger [EXTERNAL] (HUD) <jessica.ranger@hud.govt.nz>

Subject: RE: [REDACTED] ACTION REQUIRED Enabling Housing Supply Bill - responding to submissions

How about adding those concerns, but saying councils could consider it as any other matter?

From: Fleur Rodway <Fleur.Rodway@mfe.govt.nz>

Sent: Tuesday, 23 November 2021 5:42 pm

To: Ben Wauchop <Ben.Wauchop@hud.govt.nz>; Fiona McCarthy <Fiona.McCarthy@hud.govt.nz>

Cc: Rebecca Lloyd <Rebecca.Lloyd@mfe.govt.nz>; Jessica Ranger <Jessica.Ranger@hud.govt.nz>

Subject: RE: [REDACTED] ACTION REQUIRED Enabling Housing Supply Bill - responding to submissions

Would you be comfortable with revised text to reflect a different recommendation?

From: Ben Wauchop <Ben.Wauchop@hud.govt.nz>

Sent: Tuesday, 23 November 2021 5:32 pm

To: Fleur Rodway <Fleur.Rodway@mfe.govt.nz>; Fiona McCarthy [EXTERNAL] (HUD) <Fiona.McCarthy@hud.govt.nz>

Cc: Rebecca Lloyd <Rebecca.Lloyd@mfe.govt.nz>; Jessica Ranger [EXTERNAL] (HUD) <jessica.ranger@hud.govt.nz>

Subject: RE: [REDACTED] ACTION REQUIRED Enabling Housing Supply Bill - responding to submissions

s 9(2)(g)(i)

We still think these risks are adequately dealt with through natural hazards and any other matter. So we don't consider making this change necessary.

Ben

From: Fleur Rodway <Fleur.Rodway@mfe.govt.nz>

Sent: Tuesday, 23 November 2021 5:25 pm

To: Ben Wauchop <Ben.Wauchop@hud.govt.nz>; Fiona McCarthy <Fiona.McCarthy@hud.govt.nz>

Cc: Rebecca Lloyd <Rebecca.Lloyd@mfe.govt.nz>

Subject: RE: [REDACTED] ACTION REQUIRED Enabling Housing Supply Bill - responding to submissions

Kia ora Ben and Fiona

Please find below some text that our Climate Adaptation team have recommended we include in the qualifying matters section. They are also recommending an additional matter. Sorry this might be a surprise, but these conversations have just been happening today.

Are you okay with including this in the DR?

Thanks,

F

Ability to take into account the effects of climate change

Submitters raised concerns that climate change, by virtue of not being a 'matter of national importance' under section 6 of the RMA, is not a qualifying matter that would enable a territorial authority to make the MDRS or the NPS-UD intensification policies less permissive. This is part of a larger concern that, in combination with the lack of clarity over the application of the qualifying matter relating to natural hazards, intensification could occur in areas that are not resilient to either current or future natural hazard risks.

Officials agree that it would be inappropriate for residential intensification to occur in areas that will be subject to significant risks from natural hazards, including those hazards that will be exacerbated in future by the impacts of climate change. s 9(2)(g)(i)

We note that, in respect of coastal hazard issues, the impact of climate change on natural hazards is an issue that is covered by objective 5 and policies 24 – 27 of the New Zealand Coastal Policy Statement (NZCPS). As such, giving effect to those matters is a qualifying matter under clause 77G(b). However, as pointed out in the submission of EQC, "this is limited to coastal locations only, not inland".

Under the current approach to account for the future impacts of climate change, territorial authorities must rely on the qualifying matter 77G(a) (matter of national importance in relation to the management of significant risks from natural hazards) or 77G(h) other matters.

s 9(2)(g)(i)

s 9(2)(g)(i)

We have considered bringing objective 8 and associated policies 1(f) and 6(e) of the NPS-UD, which collectively seek that urban environments are resilient to the current and future effects of climate change into the Bill. However, these objectives and policies won't provide territorial authorities with the ability to exclude certain areas from the application of the MDRS or NPS-UD intensification policies.

Therefore, to ensure territorial authorities are explicitly enabled to consider these future impacts – not only in coastal locations through the NZCPS – but for all areas that may be subject to future climate impacts (eg, inland flood plains), it is recommended that a reference to a matter required to ensure urban environments are resilient to the likely current and future effects of climate change is added to the list of qualifying matters. This would also require a consequential amendment to the NPS-UD.

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From: [Mark Johnson](#)
To: [Lisa Niven](#)
Subject: FW: Outline of Cab paper - accelerating the upzoning of land for housing
Date: Thursday, 23 September 2021 9:38:25 am
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)
[image008.jpg](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.jpg](#)

From: Jym Clark <Jym.Clark@mfe.govt.nz>
Sent: Tuesday, 18 May 2021 8:39 am
To: Ben France-Hudson <Ben.France-Hudson@mfe.govt.nz>; Helen McNaught <Helen.McNaught@mfe.govt.nz>; Aroma Kim <Aroma.Kim@mfe.govt.nz>
Cc: Mark Johnson <Mark.Johnson@mfe.govt.nz>; Sarah Anderson <Sarah.Anderson@mfe.govt.nz>; Fleur Rodway <Fleur.Rodway@mfe.govt.nz>
Subject: RE: Outline of Cab paper - accelerating the upzoning of land for housing

Ata marie Ben and Mark

Thanks for those points. I hadn't understood future effects of climate change would not be considered significant.

The issue may not exist as it did because we are making a change of tack (at the 11th hour) around the use of exceptions and the Medium Density Residential Zone. Instead (and I need to understand that this is everyone's understanding, mostly those at HUD – will confirm) that we will fall back to the qualifying matters and other qualifying matters in NPS-UD cl 3.32 and 3.33. This is because we are joining up the Medium Density Residential Zone process and timeframe for both (August 22 Notification). Other matters could include potential significant effects.

Regardless I would like to speak this Thursday to ensure I fully understand the significance attribution.

Naku noa na
 Jym Clark

From: Ben France-Hudson <Ben.France-Hudson@mfe.govt.nz>
Sent: Monday, 17 May 2021 7:47 pm
To: Helen McNaught <Helen.McNaught@mfe.govt.nz>; Aroma Kim <Aroma.Kim@mfe.govt.nz>; Jym Clark <Jym.Clark@mfe.govt.nz>
Cc: Mark Johnson <Mark.Johnson@mfe.govt.nz>; Sarah Anderson <Sarah.Anderson@mfe.govt.nz>
Subject: RE: Outline of Cab paper - accelerating the upzoning of land for housing

Kia ora Helen,

Many thanks for your response. What we'd like to understand is how councils making decisions on whether or not to apply an exception to the new rule will be able to take into account circumstances where there are known natural hazard/climate change risks to proposed development, where those risk do not currently reach the threshold of significant, but they are likely to at some point during the lifetime of the development. s 9(2)(g)(i)

I wonder if it would help to meet to discuss this. Mark and I are at team away days tomorrow and Wednesday, but we could look to organise something on Thursday.

Nga mihi,
Ben

From: Helen McNaught <Helen.McNaught@mfe.govt.nz>
Sent: Monday, 17 May 2021 4:20 pm
To: Ben France-Hudson <Ben.France-Hudson@mfe.govt.nz>; Aroma Kim <Aroma.Kim@mfe.govt.nz>; Jym Clark <Jym.Clark@mfe.govt.nz>
Cc: Mark Johnson <Mark.Johnson@mfe.govt.nz>; Sarah Anderson <Sarah.Anderson@mfe.govt.nz>
Subject: RE: Outline of Cab paper - accelerating the upzoning of land for housing

Hello, Ben. My comments in red below. [@Jym Clark](#) can you check that I am correct?

From: Ben France-Hudson <Ben.France-Hudson@mfe.govt.nz>
Sent: Friday, 14 May 2021 4:54 pm
To: Helen McNaught <Helen.McNaught@mfe.govt.nz>; Aroma Kim <Aroma.Kim@mfe.govt.nz>
Cc: Mark Johnson <Mark.Johnson@mfe.govt.nz>; Sarah Anderson <Sarah.Anderson@mfe.govt.nz>
Subject: FW: Outline of Cab paper - accelerating the upzoning of land for housing

Kia ora Helen and Aroma,

Further to Sarah Anderson's email Mark Johnson and I have had an opportunity to review the paper and have a couple of queries.

We notice that you have removed the exception "areas subject to acute the effects of climate change (for example, significant coastal erosion, flooding, sea level rise)", that was included in your original draft. This appears to be replaced by a reference in footnote 8 in the context of s6(h) "Also includes natural hazards resulting from the future effects of climate change." My understanding was that "areas subject to acute effects..." was considered to be part of s6.

We'd like to understand how it's anticipated this will work in in practice and how it will account for changing risk thresholds over the lifetime of a development. s 9(2)(g)(i)

For example, coastal areas at risk from sea level rise. I'm not sure what you mean here. Happy for you to provide words for inclusion here.

We look to engaging with you on this further.

Nga mihi,
Ben

Dr Ben France-Hudson (him/he)
*Principal Analyst | Kaitatari Matamua
Climate Change Adaptation*

Ministry for the Environment | Manatu Mo Te Taiao
s 9(2)(a) | Ben.France-Hudson@mfe.govt.nz | mfe.govt.nz



From: Helen McNaught <Helen.McNaught@mfe.govt.nz>

Sent: Thursday, 13 May 2021 3:31 pm

To: Sarah Anderson <Sarah.Anderson@mfe.govt.nz>

Cc: Aroma Kim <Aroma.Kim@mfe.govt.nz>; Jym Clark <Jym.Clark@mfe.govt.nz>

Subject: RE: Outline of Cab paper - accelerating the upzoning of land for housing

Here it is. And yes, it has all changed now and we are writing a different paper... to Ministers end next week for lodging on Friday for CDC. [Document Overview: 2021-C-07932 - Bringing forward urban intensification in our biggest cities Final draft Wed 12th with MinT and HUD 1540.docx \(mfe.govt.nz\)](#)

From: Sarah Anderson <Sarah.Anderson@mfe.govt.nz>

Sent: Thursday, 13 May 2021 3:23 pm

To: Helen McNaught <Helen.McNaught@mfe.govt.nz>

Cc: Aroma Kim <Aroma.Kim@mfe.govt.nz>; Jym Clark <Jym.Clark@mfe.govt.nz>

Subject: RE: Outline of Cab paper - accelerating the upzoning of land for housing

Kia ora Helen and Aroma,

I heard that you might have a little more time on this paper – it would be great to see the latest version please as I'm conscious we provided comments but not sure we got the final version? Keen to link back in and support.

Many thanks,

Sarah

Dr Sarah Anderson (she/her)

Manager | Kaiwhakahaere
Climate change adaptation

Ministry for the Environment | Manatu Mo Te Taiao

s 9(2)(a) | sarah.anderson@mfe.govt.nz | mfe.govt.nz

Ministry staff work flexibly by default. For me, this means I don't work every other Friday and often work from home. You may receive an email from me outside of typical working hours but please respond at a time that is convenient for you.



From: [Mark Johnson](#)
To: [Katherine Wilson](#)
Cc: [Ben France-Hudson](#); [Sarah Anderson](#); [Lisa Niven](#)
Subject: [REDACTED] Upzoning and climate hazards
Date: Tuesday, 30 November 2021 10:41:00 am
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.jpg](#)

Hi Katherine,

This email is to give you an update on our recent involvement in the Enabling Housing Supply Bill (upzoning legislation), which is currently in the last stages of the Select Committee process prior to being reported back to the House on 2 December.

Last week we worked with the Urban and Infrastructure (U&I) team to provide content for the Departmental Report addressing concerns raised in EQC's submission about intensification potentially being enabled in areas that will be subject to climate change impacts.

We agreed with the U&I team it would be desirable to add a climate change-related 'qualifying matter' which territorial authorities could use as justification for preventing or limiting the residential intensification that will otherwise be enabled as of right by the Bill. The justification for this addition was to ensure councils could consider not just whether an area is *currently* subject to a 'significant risk from natural hazards' (which is already a qualifying matter), but to be explicit that they could also consider *future* risk, which may change as a result of climate change – and if necessary, exclude areas from intensification on that basis.

The areas of particular concern are those 'inland' areas where the NZCPS won't apply. This is because there is a qualifying matter that refers to giving effect to national policy statements (other than the NPS-UD), which means that coastal areas that are subject to climate impacts are covered by virtue of the coastal hazard policies of the NZCPS. That is, giving effect to those coastal hazard policies will enable territorial authorities to exclude areas from the intensification provisions introduced through the Bill (subject to meeting the appropriate evidential requirements).

s 9(2)(g)(i)

- [REDACTED]
- [REDACTED]

An alternative proposal was subsequently put forward by the U&I team to include the relevant climate-related objective and associated policies of the NPS-UD, into the Bill (these collectively seek that urban environments are resilient to the current and future effects of climate change).

s 9(2)(g)(i)

The time pressures that the MfE and HUD teams were working under in preparing the DR, the scale of the other matters that needed to be considered as a result of submissions, as well as divergent views within MfE on the extent to which this is actually an issue, all played a part in this decision. The upshot of the above is that, outside of the coastal environment where the NZCPS hazard policies will apply, in order for councils to prevent or limit intensification on the basis of climate hazards they will need to rely on either:

- The qualifying matter related to “significant risks from natural hazards”; or
- A catch-all that allows councils to rely on “any other matter that makes higher density as provided for by the MDRS inappropriate in an area”. However, this is subject to higher, site-specific, evidential requirements than would otherwise apply, ie, there is a higher bar in order to rely on this provision.

We think reliance on these qualifying matters will make it harder for councils to justify preventing or limiting residential intensification, as compared to if a climate-related qualifying matter had been included. So, in 'inland' areas, it potentially increases the likelihood of development being intensified in inappropriate locations eg, on flood plains that are likely to be subject to increased risk of flooding from intensity of rainfall.

It's also worth noting that for either of the above qualifying matters, or even if a climate-specific qualifying matter had been added to the Bill, we think some councils will struggle with a lack of data and information to justify excluding areas from the intensification provisions.

Next Steps

As noted, the Bill is due to be reported back the House on Thursday 2 December. Following its enactment, there is an expectation from Ministers that relevant ministries (including ourselves and HUD) are to be involved in the implementation phase. This will include issuing guidance and having regular meetings with councils, so to the extent allowed under the legislation, there will be opportunities to emphasise the need for councils to consider long-term climate resilience when determining whether any areas are subject to a qualifying matter.

Mark

From: Lisa Niven <Lisa.Niven@mfe.govt.nz>

Sent: Thursday, 23 September 2021 2:54 pm

To: Katherine Wilson <Katherine.Wilson@mfe.govt.nz>

Cc: Sarah Anderson <Sarah.Anderson@mfe.govt.nz>; Ben France-Hudson <Ben.France-Hudson@mfe.govt.nz>; Mark Johnson <Mark.Johnson@mfe.govt.nz>

Subject: FW: [REDACTED] Upzoning and climate hazards

Hi Katherine,

Sarah's asked me to pass on the summary I put together for her of the interactions we've had with the team on upzoning and what our views have been, in case it's useful for a discussion with Ministers next week.

Nga mihi

Lisa

From: Lisa Niven <Lisa.Niven@mfe.govt.nz>

Sent: Thursday, 23 September 2021 12:47 pm

To: Sarah Anderson <Sarah.Anderson@mfe.govt.nz>

Cc: Ben France-Hudson <Ben.France-Hudson@mfe.govt.nz>; Mark Johnson <Mark.Johnson@mfe.govt.nz>

Subject: FW: [REDACTED] Upzoning and climate hazards

Hi Sarah,

Here's a bit of a timeline of our input on the upzoning proposals and where we understand it's got to. Happy to call and discuss if it's easier to talk through.

22 March – team had an initial chat to the urban team who are looking to understand where info on hazard exposure in tier 1 councils would be held. I followed up with an email to the team and suggesting we have further conversations as it's not an easy answer ([email attached](#))

28 April – After discussion with you, I provided some comments on the draft cab paper to Helen M and Aroma. This raised the risks of intensifying development in hazard areas and the associated costs of remediation and disruption, and added wording that we **consider that there**

should be an exemption in relation to areas subject to the effects of climate change to reduce these risks. Noting also that there is no standard methodology for highlighting 'inappropriate' areas, this would need to be assessed based on info held by both local and central govt. (Email with commented cab paper attached)

Mid May – we asked to see the final version of the paper we had commented on and were told it had all changed and was now a different paper so effectively our comments were superseded by this change. Ben and Mark reviewed this latest version and noted that the explicit exception for areas subject to the acute effects of climate change had been removed. The rationale for this was that it was considered to be covered by s 6(h) (significant risks from natural hazards), which was a basis for exemptions. **We raised concerns that the 'significance' threshold may not readily allow councils to restrict development in areas where the risks would grow over time – there appeared to be some difference of opinion on this.** (email attached)

Current status: exemptions are available in relation to section 6 matters and the NPS-UD, which has objectives and policies relating to resilience to the current and future effects of climate change. In principle this could provide scope to exclude areas for natural hazard and climate change reasons as the RMA definition of 'effect' includes 'future effects', and through referring to the 'probability' of effects occurring, can be read as also incorporating the concept of 'risk'. But in practice it will be a very high bar to clear to rebut the default presumption of densification for the national interest of housing supply.

In practice it looks like councils will have to raise any potential exemptions themselves, and if they don't there is not much formal scope for us to weigh in (via advice to the Minister) to query. With the tight turnaround and incomplete data councils have (as well as the expectation signalled by central government), it may be that exemptions are not applied for at all. This is likely to make any managed retreat system much more difficult and putting this zoning in place will require more unpicking through the NPF and RSS under the new system.

s 9(2)(g)(i)

If this happens we are likely to need to play a support role in advising on appropriateness of development in particular areas, but again for the issue to even be raised for advice it looks like the council would have to apply for such an exemption or if not, the IHP would have to raise it.

The urban team say that Ministers have said that they want relevant ministries (including ourselves and HUD) to 'be directive in the implementation phase' – this could presumably mean identifying any qualifying matters (for exemptions) we think might come into play and following up on these with councils. If we want to do this, it will require resourcing over the 6 months from passing of the legislation to when councils need to have notified their plan changes.

In terms of work underway that could support:

- it is possible that the work that Rohan is undertaking collating information held across central government could be of use here and that we could play a coordinating role in the context of the pre-notification phase as well. A possible info resource is the NIWA SLR data which will be ready at the end of the year, which may provide a level of granularity which could inform decisions on exemptions.
- Mark and Tamara are continuing towards procuring work around risk thresholds and tolerances that could potentially also support advice on this.

To summarise:

- There is a very fast (6 month) turnaround to notification for councils, and it will be extremely challenging for them to gather the type of evidence needed to support an exemption on climate impact/natural hazard grounds. If neither the council nor the IHP raises climate impact/natural hazard grounds as a qualifying (exemption) matter, the

Minister won't have an ability to make a different decision

- If councils do attempt to get an exemption where the hazard risk is predicted (even certain) but not yet significant it is likely to be a very hard bar to clear. This is will make any managed retreat system more difficult and putting this zoning in place is likely to require more unpicking through the NPF and RSS under the new system.
- MfE is not currently resourced to engage deeply on these matters at the pre-notification stage or to submit on proposed plan changes. We could play a coordinating role with agencies to raise issues around potential exemptions on the basis of climate impacts – this would require some resourcing.
- MfE does not have the information to fill the gaps in council data but we do have some work underway which could be useful to support us playing a role in the implementation/pre-notification phase.

Happy to discuss

Cheers

Lisa Niven

Senior analyst - Kaitatari Matua

Climate change adaptation

Ministry for the Environment | Manatu Mo Te Taiao

s 9(2)(a) | lisa.niven@mfe.govt.nz | mfe.govt.nz

Ministry staff work flexibly by default. For me, this means I work 4-day weeks with Fridays off.



From: Lisa Niven <Lisa.Niven@mfe.govt.nz>

Sent: Tuesday, 21 September 2021 10:26 am

To: Elaine Gyde <Elaine.Gyde@mfe.govt.nz>; Mark Johnson <Mark.Johnson@mfe.govt.nz>; Clint Betteridge <Clint.Betteridge@mfe.govt.nz>; Marieka Curley <Marieka.Curley@mfe.govt.nz>; Fleur Rodway <Fleur.Rodway@mfe.govt.nz>

Subject: [REDACTED] RE: MRCCA/ Enabling Housing Supply

Hi Elaine – happy to have a chat about this - the messaging from our pov is hopefully that the govt is very much not encouraging intensification in coastal (or other) hazard areas! At this point we don't have specific messaging on the Climate Adaptation Act that will help here – as this is still very much in the scoping phase. It's not going to be a silver bullet for this situation as we expect it to focus on areas of existing risk - we would expect tools like the RSSs under the new RM system to send strong signals on what is appropriate land use in a region, including where intensification should and should not happen, drawing on the best possible available information on coastal and other (eg flooding) hazards. At the moment, where it is held, this information is mainly held by councils, at least at the level that is granular enough for the decisions in question. As part of the broader adaptation policy work we are also looking at what data and evidence (eg downscaled climate projections) might need to be funded or centrally provided by central government or what other gaps might need to be filled.

Just noting that Mark is on leave and will not be able to attend – he has been working with NIWA on nation-wide mapping which would be of relevance here too.

Cheers

Lisa

-----Original Appointment-----

From: Elaine Gyde <Elaine.Gyde@mfe.govt.nz>

Sent: Friday, 17 September 2021 10:14 am

To: Elaine Gyde; Elaine Gyde; Lisa Niven; Mark Johnson; Clint Betteridge; Marieka Curley; Fleur Rodway

Subject: MRCCA/ Enabling Housing Supply

When: Tuesday, 21 September 2021 10:30 am-11:00 am (UTC+12:00) Auckland, Wellington.

Where: Microsoft Teams Meeting

Hi Mark and Lisa,

The RM amendments on upzoning are about to be announced and we wanted to confirm the messaging that we need on intensification where there are coastal hazards

We want to refer specifically to the coastal hazards and climate change guidance but wondered whether we could firm up the messaging on MRCCA?

Cheers,
Elaine

Microsoft Teams meeting

Join on your computer or mobile app
[Click here to join the meeting](#)

Ministry for the Environment

[Learn More](#) | [Meeting options](#)

Released under the Official Information Act 1982

Abbey
 Please note we have been asked to provide the following information and the attached Office is a matter of Response from the Ministry for the Environment I note the Minister's office once a month on the first of the month on a one to one basis. I may refer to some documents in my e-mails on to the Independent Press Regulator.
 Regards
 Pat

Sent from my iPad

Sent from my iPad

Begs to be a short message

From: Mr. [redacted] <[redacted]@[redacted]>
 Date: 17 September 2022 at 12:28 (GMT+08:00)
 To: The Director, The Department of the Environment, Mr. [redacted] <[redacted]@[redacted]>
 Subject: RE: Please see the attached document on the Proposed Planning Change 2 Kapiti District Planning Committee 2022.pdf

Hi Pat

Your e-mail has been updated as per the following

Kind regards

Abbey

Please see the attached document

Kapiti Coast District Council

Tel: 04 294 4121

Email: [redacted]

Web: [redacted]

Sent: Thursday, 15 September 2022 11:13 am

To: Mr. [redacted]

Subject: Please see the attached document

Hi

I am sending the Minister the document as per the email below. The email has been sent to the

Regards

Pat

Please see the attached document

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Web: [redacted]

Sent: Thursday, 15 September 2022 11:13 am

To: Mr. [redacted]

Subject: Please see the attached document

Email text is unreadable / very small went converting the
 email to a PDF - have copied and enlarged it on following
 pages. AM

From: Mdconsulting@mdconsulting.co.nz

To: [Mailbox - District Planning](#)

Subject: RE: Munro Duignan Trust Submission on Proposed Planning Change 2 Kapiti District Plan September 2022 - OIAD-285 Response Pat Duignan.pdf

Date: Tuesday, 27 September 2022 1:34:36 pm

Attachments: OIAD-285 Response Pat Duignan.pdf

[Letter from Minister Parker 2022 06 03 to Pat Duignan.pdf](#)

Abbey,

Please associate with our submission the attached letter from the Minister for the Environment and the attached Official Information Response from the Ministry for the Environment. I note the Minister reference to modification of intensification in areas prone to coastal hazards. I may refer to these documents in my oral submission to the Independent Panel Hearing. Regards,
Pat

Sent from my iPad

Begin forwarded message:

From: Mailbox - District Planning <District.Planning@kapiticoast.govt.nz>

Date: 17 September 2022 at 12:28:13 PM NZST

To: Pat Duignan <Pat.Duignan@outlook.com>, Mailbox - District Planning <District.Planning@kapiticoast.govt.nz>

Subject: RE: Munro Duignan Trust Submission on Proposed Planning Change 2 Kapiti District Plan September 2022.pdf

Hi Pat

Your submission has been updated accordingly.

Kind regards,

Abbey Morris
Planning Technical Support Officer

Kāpiti Coast District Council Tel 04 296 4725

Mobile 027 3037 312 <https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.kapiticoast.govt.nz%2F&data=05%7C01%7C%7Ca60b4d1b12c04c37122808da98437dbb%7C84df9e7fe9f640afb435aaaaaaaaaaaa%7C1%7C0%7C637989712925598200%7CUnknown%7CTWFPbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikl1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=6qv1pml%2FXc58%2BX5o3fH1DirMTaqJd2VxQgVAEACWbMo%3D&reserved=0>

-----Original Message-----
From: Pat Duignan <Pat.Duignan@outlook.com> Sent: Thursday, 15 September 2022 3:15 pm
To: Mailbox - District Planning <District.Planning@kapiticoast.govt.nz>
Subject: Munro Duignan Trust Submission on Proposed Planning Change 2 Kapiti District Plan September 2022.pdf Hi,

I am resending the Munro Duignan Trust Submission since the previous email (below) had the wrong title.

Regards,

Pat Duignan

-----Original Message-----
From: Pat Duignan <Pat.Duignan@outlook.com> Sent: Thursday, 15 September 2022 3:08 PM

To: District.Planning@Kapiticoast.Govt.NZ Cc: Pat Duignan <Pat.Duignan@outlook.com>
Subject: RE: Emailing: Waikanae Beach Residents Society Inc Submission on Proposed Planning Change 2 Kapiti District Plan September 2022.pdf

District Planning, Kapiti Coast District Council,

I attach the Munro Duignan Trust Submission on Proposed Planning Change 2 Kapiti District Plan, September 2022. Please associate with this submission the document also attached entitled MFE Advice on Small Town Exclusions. Please confirm receipt and that the format meets the requirements of Form 5.

Thank you,

Pat Duignan
Ph: 021 975 000

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