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My husband and I moved to Paraparaumu in 2010.

We had the choice of the whole of NZ in which to live and have our own peaceful stress less retreat.

My husband spent months researching to find a place that had a beautiful coast, good diving and fishing, where the environment was safe and secure. Where we would be able to rest and relax between stressful assignments in the world war zones.

We chose Kapiti. It ticked all the boxes. We did a full investigation of the property we were interested in buying. There was nothing on the Council web site or anywhere else that we saw as negative. We chose a house one back from the beach.

What great stress it was to receive out of the blue a notice of 25 August 2012 saying we lived in a property - 130 meters from the sea- that is likely to be washed away. We were horrified. We could not believe it. We still can't believe it.

In the over 2 years that we have been living here we were never consulted before KCDC splashed their announcement on the front page of the Dominion Post.

We had naively believed that the relevant laws in NZ would give us rights to be consulted, to have an input.

Now we have been told of **managed retreat, a** withdrawal of services:

> "In some cases, properties will lose access to water/storm water/sewerage services even before their land or buildings will suffer damage". Natural Hazards: Frequently Asked Questions, Kapiti Coast District Council, 2012.

There was not a hint of this when we were buying .Kapiti Council's web site spoke of protecting the environment, not withdrawing from it. Making Kapiti a place people want to live.

I believe that my husband and I had a reasonable expectation to be consulted given that KCDC had in its possession a report from 2008 which indicated which houses had been affected. Despite this report, there was not any indication of hazard lines that ran through our property in the LIM report at that time.

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We oppose the coastal hazard lines shown on the planning maps and the associated provisions and restrictions contained in the Proposed District Plan.

We accept that as a result of sea level rise there is some risk of erosion of the dune face in the long term. However this can be managed through beach nourishment and active replanting of the dune as a required.

As a result we consider that the Kapiti Coast Erosion Hazard Assessment 2012 Update (and the 2008 hazard assessments upon which it is based) is fundamentally flawed in a number of aspects. As a result it does not provide a correct basis for the development of PDP policies and rules.

The effect of the flawed nature of the hazard assessment is to overstate, the areas of land that are likely to be subject to coastal erosion and particularly in relation to our specific property.

As a result the objectives, policies and rules relating to development in the coastal environment are overly restrictive and do not adequately take into account the effects, including effects on our assets as existing property owners within the proposed hazard zones.

The PDP is contrary to the RMA in a number of respects, including in that it does not enable people and communities to provide for their social, economic and cultural well-being and for their health and safety (section 5(2)) and also does not provide for the efficient use and development of natural and physical resources (section 7(b)).

The PDP fails to give effect to the New Zealand Coastal Policy Statement 2010 (NZCPS) and the Regional Policy Statement and fails to have sufficient regard to the Proposed Regional Policy Statement.

We have found many of the provisions of the PDP to be confusing and poorly drafted including errors, gaps and inconsistencies.

We have a major concern that the hazard assessment has not been undertaken in accordance with the NZCPS and that is overly conservative and therefore exaggerates the extent of land likely to be affected by coastal hazards. It is the Council's responsibility to ensure that it has an appropriate report to enable it to make the decisions that it needs to make

The Council instructing us that we must employ scientists to be able to have the lines removed or altered has placed a heavy burden on people like us to fund experts to challenge the assessment. It is the Council's responsibility to ensure that it has a report that is suitable for the decision-making process.

The hazard lines do not indicate areas "likely" to be affected by erosion within 50 or 100 years. Rather they reflect a worst case assessment of what is possible. The predicted lines reflect a high degree of uncertainty and conservatism.

The assessment has not been peer reviewed by admission of the author, Dr. Shand himself at a public council meeting (transcript) on November 1, 2012.

The hazard assessment lines have been relied on by the PDP to accurately reflect likely future shorelines and have been used to define hazard zones.

In preparing the PDP, the Council appears to have assumed that it will, in the future, adopt a policy of not managing erosion except in some limited areas. As a consequence, it has based the proposed re-locatable area on the (highly speculative) 100 year unmanaged line and in places has based the no-build area on an unmanaged 50 year line.

There has been inadequate analysis and testing of alternative mitigation and management strategies and instead an acceptance of a policy preference for managed retreat.

The policy of managed retreat is inapplicable to an accreting coastline. Also, there is no need for managed retreat in areas where the effects of erosion can be mitigated cost-effectively.

The Coastal Chapter is premature and should await the preparation of a regional hazard management strategy by Greater Wellington Regional Council.

We consider that the Council has failed to evaluate properly the efficiency and effectiveness of the provisions, and has not adequately evaluated the extent to which the proposed policies and resulting rules are the most appropriate means of achieving the specified objectives and the purpose of the RMA as specifically required by section 32 of the RMA.

## 1. Proposed Objectives and Policies

We opposes Objective 2.4 Coastal environment. In particular, part (d) should be subject to review and further analysis as sought in this submission. This includes an appropriately-based hazard assessment and economic assessment.

In the meantime part (d) should be deleted.

We oppose Objective 2.5 Natural hazards for the same reasons as above. This Objective should be reworded after more detailed analysis and assessment. The Explanation will similarly require amendment.

There has been a failure to evaluate properly the extent to which the objectives are the most appropriate way to achieve the purpose of the RMA.

We oppose sections 4.1.1 and 4.2 of the PDP because highly restrictive policies have been applied to our land without adequate consideration of the effects on us and our reasonable property rights.

In particular, we oppose the following policies in Section 4.1.1:

Policy 4.6 in that it is not appropriate to accommodate natural shoreline movement in our cases.

Policy 4.7 in that it refers to shoreline retreat and is part of a suite of provisions in the PDP focussing on managed retreat, when neither the community nor the Council has found that to be an appropriate response. Dunes should not be enabled to migrate inland where this will have unreasonable effects on existing communities and where there are other options available.

We oppose all of Section 4.2, and in particular:

Policy 4.8 in that it gives inappropriate emphasis to managed retreat over other potential management options.

Policy 4.10 in that the extent of the CHMA generally and particularly as it relates to our property is overly conservative and requires extensive review.

Policy 4.11 in that it is overly restrictive for areas of existing residential development such as our property.

Policy 4.12 in that it is overly restrictive for our property.

Policy 4.13 in that it is overly restrictive for our property and other areas of existing residential development and gives undue weight to managed retreat as the preferred long-term option.

Policy 4.15 in that this policy should focus on locations and properties at highest risk. The level of risk is not currently evident from the hazard assessment.

We also oppose the parts of Chapter 9 that relate to the issues above.

## 2. Proposed Rules

The PDP having accepted an overly conservative hazard assessment has then applied overly conservative policies and seeks to implement them with overly conservative rules.

The future use of our property is dramatically affected by the rules and there is a consequent dramatic effect on the value of the land

We are opposed to the rules and definitions relating to Coastal Hazard Management Areas which includes rules 4A.1.1, 4A.1.2, 4A.1.3, 4A.1.4, 4A.2.2, 4A.3.4, 4A.4.1, 4A4.3, 4A5.2, 4A.5.3, 4A.6.1 and 4A.6.2.

Highly restrictive rules have been proposed in the CHMAs without adequate consideration of their appropriateness, the effects on public and private assets within the community, the effects on owners of property, the reasonable property rights of owners of properties, and the provisions of the RMA.

The rules are overly restrictive given the uncertainties and long time frames associated with the potential hazard.

The use of prohibited activities is considered inappropriate and has not been subject to adequate section 32 assessments.

## 3. Fundamental Principles

Section 6 of the Bill of Rights Act provides as follows:

"Interpretation consistent with Bill of Rights to be preferred. Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning."

Normally it will be possible to reconcile this approach with the purposive approach, for it is normally quite realistic to say that Parliament cannot have intended a meaning which would infringe the Bill of Rights Act.

In determining, for the purposes of section 6 of the Bill of Rights Act whether a limiting provision is consistent with a right, the requirements of section 5 should be weighed in the balance in that interpretative exercise: a *reasonable* and *justified* limitation is *not* inconsistent with a relevant right in the Bill of Rights Act.

The PDP breaches the Bill of Rights Act in a number of regards including taking away rights of owners to protect their properties.
Fundamental Common Law Principles

The common law has developed fundamental principles They include the dignity of the individual and **protected his or her property.** Those that have not been codified include the principle that property is not to be taken without compensation.

## 4. Re-locatable

I submit that the requirement to build re-locatable houses is ill conceived.

It relies on a premise that the existing landowner has funds to purchase another piece of land on which he can relocate the building. Who has the funds to do that?

It has the flow on economic effect of requiring even more investment in real estate when the Government and economists generally keep on insisting that NZ's relatively poor economic performance is due to an over allocation of resources in real estate.

- Where are the building sites in Kapiti on which these re-locatable can be built?
- There is no provision in the PDP for the hundreds of re-locatable to be put.
- New subdivisions usually have restrictive covenants preventing older dwellings being built on them, so they will not provide sites for re-locatable.
- No environmental justification can be made out for the environmental costs of relocation. There are the energy costs in moving. There are the trees that need cutting down to make way for the house. There is the cost of removing all existing services to the site from which the house has been removed. There is road damage.
- There are the extra building costs -up to 15% more to build a re-locatable. Again this means that housing becomes less affordable. Is this the objective of KCDC- to make Kapiti an area that few can afford to live in.

- There is no provision in the PDP for what happens to the vacated land. Will the owner still be paying rates on it? Will KCDC purchase the land off the owner

- The requirement for re-locatable is inconsistent with the Building Act requirements for building longevity. Only a building structural elements need to last 50 years to be code compliant. Cladding, windows and other elements have only to last 15 years. Ass the unlikely occurrence of a property being washed away is in a 50 or 100 year time frame the re-locatable requirement becomes an absurdity.

- The houses will be unlikely to be relocated in any event. The owners will have to meet the latest Building Code requirements if the building can be relocated. The KCDC will require the owner gets a new building permit, and a Code Compliance Certificate. This I likely to make the whole exercise uneconomic form the point of view of the owner.

We also adopt the Coastal Ratepayers United Incorporated submission.

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We seek:

The removal of the coastal hazard lines shown on the planning maps and the associated provisions and restrictions contained throughout the Proposed District Plan; and

The relief sought in the Coastal Ratepayers United Incorporated submission, which we support.

In addition:

We seek that the coastal hazard provisions, including Chapters 4, 2 and 9, the definitions and the maps of the PDP be withdrawn and replaced with a variation to the PDP with revised hazard lines that identify high hazard-prone areas, objectives, policies and rules.

The relief sought therefore includes:

- Deferral of these provisions until after a regional hazard management strategy has been prepared by Greater Wellington Regional Council.
- An independent review of the Coastal Hazard Assessment that reviews all the data and modelling used in the assessment and takes into account the matters raised in this submission and is based on a proper understanding of the RMA and NZCPS.
- Investigation of alternative coastal management methods along sections of the coast.
- Revised objectives, policies and rules after a careful economic, social and environmental analysis of mitigation strategies

In the alternative or additionally an objective, policy and rule regime that in revised hazard areas:

- Enables a wider scope of alterations and extensions to existing buildings in a 50 year zone, subject to compliance with Living Environment permitted activity standards.