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Ministry for the Environment
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Transforming the resource management system: Opportunities for change - Issues and Options paper.

Precinct Properties NZ Ltd (Precinct) is New Zealand’s only specialist listed investor in prime A grade commercial office property and is the largest owner and developer of premium inner-city business space in Auckland and Wellington. Precinct owns 14 properties with a portfolio value of $2.8 billion.

Precinct is interested in the resource management system and regularly participates in reviewing and providing submissions and feedback on statutory and non-statutory planning documents.

1. Introduction

Precinct welcomes the opportunity to provide input to the Resource Management Review Panel (the Panel) on the issues and options paper for transforming the resource management system. The submission addresses the following issues:

- Legislative architecture;
- Strategic integration across the resource management system;
- National direction;
- Planning and policy framework; and
- Consents/approvals.

2. Issue 1 – Legislative Architecture

Although much has changed since the RMA was first introduced, it does represent a body of work and thinking which should be used as a baseline for improving the resource management system rather than being discarded altogether. In reforming the legislation, Precinct support a statute with a clear purpose that addresses outcomes for both urban areas and environmental management in a coherent and integrated manner.

Central to reforming the resource management system is that resource management legislation needs to be more strategic and outcomes focused. The RMA’s “effects-based approach” currently leads to a
reactive approach to planning, focussing primarily on effects rather than outcomes. In Precinct’s view the legislation needs to be framed in a way that considers and fosters positive change in the natural and built environment.

Precinct would encourage the Panel to review and consider international approaches to resource management which could offer a fresh, unique and new way of legislating land use and the built and natural environment. Precinct considers it important to find an appropriate balance in the resource management reforms and see the process as an opportunity to draw on different approaches in looking forward to improving the RMA, whilst retaining the aspects that currently work well and keeping in mind the unique social, environmental and cultural context in New Zealand.

3. **Issue 4 – Strategic integration across the resource management system**

Precinct are supportive of the option put forward by the Panel to provide for spatial planning as a mandatory requirement within the RMA with statutory linkages to other relevant legislation. Precinct consider that spatial plans with strong legal weight over environmental management and land use plans is critical to providing certainty to developers and landowners in planning the development and management of their assets. Spatial plans should be required to be developed at the regional and district level ensuring that local authorities are forward thinking and anticipating the changes that need to occur to allow communities to thrive, rather than simply reacting.

In order to maximise the potential of spatial plans, Precinct would strongly recommend that spatial plans need to consider place making, urban design, infrastructure, environmental issues, iwi aspirations and funding. The Auckland Plan is a good example of a spatial plan with wide scope which the Auckland Unitary Plan was required to have regard for. Precinct considers that Spatial Plans would deliver greater certainty for private investment which would strategically be able to occur in parallel with development, leading to better urban and environmental outcomes for communities.

4. **Issue 6 - National Direction**

Precinct support the use of national direction and the role it has to play, particularly in terms of providing greater certainty and consistency across the country. It should be a requirement for central government to deliver national direction which provides strong, clear direction and gives effect to a revised purpose of the Act. The review of the legislation should be used as an opportunity to look at how greater use of national direction instruments that are more directive and faster to effect change can be used to address pressing issues.

Considerable effort is being put into improving and developing national direction including the release of the National Planning Standards in order to deliver a more aligned, coordinated, effective and efficient resource management and planning system for central government, local government, iwi, private developers etc. Precinct consider that the national planning standards could be further developed to support the development of standardised national rules e.g. urban design to deliver
greater consistency and certainty and developers and other users of the resource management system.

5. Issue 7 – Planning and Policy Framework
Precinct support reforms to the policy and planning framework to ensure planning promotes positive outcomes and can remain responsive to keep up with increasingly fast paced issues, particularly where changes can be made to simplify the planning process.

Precinct support updating the plan framework so that resource management plans are informed by regional spatial plans with strong legal weight. Falling out of this Precinct supports combining regional policy statements, regional plans (including regional coastal plans) and district plans to create a more streamlined and integrated plan framework. Having separate plans has resulted in hundreds of plans across the country and unnecessary variation between district plans. In addition, the process of plan making and plan changes needs to be reformed to be more agile and flexible to respond to rapidly changing needs and priorities.

The current plan making process is overly cumbersome and doesn’t enable responsive planning that keeps up with the increasingly fast paced change facing communities. Precinct are supportive of reforming the current processes where a more streamlined process for minor plan changes can be enabled. In Precinct’s view a ‘single stage’ process for plan review and significant plan changes should be adopted to increase efficiency. Appeal rights should be removed as appeals add significant costs and delays to the plan making and plan change process. To enable the removal of appeal rights the Independent Hearings Panel for a plan review should be chaired by an Environment Court Judge and the panel be made up of commissioners who are highly experienced. The hearings process should also enable the opportunity of the cross examination of expert witnesses should the Chair see this of being some value. Compulsory mediation, expert conferencing and mediated direct discussions with submitters over property specific issues should be utilised to narrow issues prior to a hearing.

Precinct are supportive of reforming the current Schedule 1 processes to enable a more streamlined process for minor plan changes. Often a minor rezoning is subject to a greater process than a complex resource consent that may result in more significant effects. The introduction of limited notification of plan changes is helpful however as there is no clear guidance in the RMA regarding the types of plan changes that should be processed on this basis and who notification should be limited to. Therefore, Councils are being risk adverse due to the potential threat of judicial review regarding their decision to limit notification of minor plan changes. Clarifying the limited notification provisions in legislation and removing appeal rights will significantly improve the timeframes and efficiency of the process for minor plan changes.

Precinct support retaining the ability to apply for private plan changes where these align with the strategic outcomes sought in the regional spatial plan. Regional or District Plans represent a point of
time. Plans need to be changed and updated in order to stay relevant and respond to changing needs and priorities, particularly in fast changing urban areas. Councils are not in a position to initiate all plan changes and will tend to prioritise more strategic plan changes of greater community benefit. This can lead to private stakeholders, community groups or developers being stuck with a planning framework that is no longer appropriate.

6. Issue 8 – Consents/Approvals
The RMA sets out a process for obtaining resource consents and Precinct regularly engage with this process in the course of developing their properties. Precinct understand that there is a process to go through as set out in the legislation and are generally comfortable with the process to obtain a consent. Despite this, Precinct are supportive of undertaking a review to determine if there are ways the resource consent process can become more efficient while enabling quality decision making.

Precinct consider that improvements could be made to the consenting process through providing a more streamlined process for minor consents and activities with localised/minor effects which is clearly set out and defined in the legislation. While assessment of effects should be completed for all consent applications, the scale and level of detail of the assessment and the process for obtaining consents needs to be proportionate to the scale of the activity. Precinct would be supportive of a separate permitting process and dispute resolution pathway for minor consents to be established. Central to establishing a separate permitting process will be determining what constitutes minor and quantifying this within the legislation. The legislation needs to be specific regarding what activities benefit from and can be subject to a simpler consenting pathway. Currently different Council’s around the country have developed bespoke pathways for consents to further streamline the process resulting in ad hoc approaches throughout New Zealand. This review provides the opportunity to build upon some of these ideas and formalise some processes which are proving to be successful and role these out nationwide. This will provide a level of comfort for Councils and greater certainty for applicants as to when and where a different streamlined application process can be applied.

Simplify Notification Decisions
Precinct considers that the current notification provisions lead to a relatively lengthy and costly consenting process. Precinct supports revising the approach to notification so that a more appropriate balance is struck between public participation and enabling quality decision making while providing more certainty to applicants. In our view this review provides the opportunity to promote a new approach to notification. It is important to note that changes to the legislative architecture will ultimately affect the approach to notification particularly if earlier comments in this submission are adopted which would see a change to an outcomes-based approach rather than the current more reactive effects-based approach.

Precinct see benefits to the first suggested approach within the issues and options paper for simplifying notification decisions. This option appears to be based on the UK model where applications are notified to all immediate neighbours in the area who have a set timeframe to submit concerns.
Within the UK developments over a certain threshold will be heard by a Council Committee. It is up to the Council to determine these thresholds with some basing the threshold on the number of submissions with other Councils basing the threshold on the scale of the project or infringements. This approach has clear benefits as it is very transparent and provides certainty to applicants in relation to applications. As hearings and appeals add a lot of time and cost to the application process the key to this approach being successful in the New Zealand context will be limiting the hearings and appeals to large complex applications where the decision maker requires the ability to hear and question experts. If a threshold for when a hearing or appeal right is triggered then this should be based on the proposal itself rather than the number of submitters. Just because an application attracts a lot of community interest does not mean that it will result in adverse environmental effects or that the activity is unanticipated. An example being that applications for social housing can often attract a lot of unsupportive submissions because of perceived social issues.

7. Conclusion
Precinct supports reforms to the resource management system where significant positive impacts can be made. However, Precinct consider that a balanced approach is needed to ensure that the body of work, thinking and well-functioning components of the RMA are not lost.

Precinct thank the Panel for the opportunity to provide feedback on the issues and options paper.

Precinct Properties New Zealand Limited