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the architectural centre inc.
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Re: Improving our Resource Management System

This submission is from the Architectural Centre, an incorporated society dating from 1946, which represents both professionals and non-professionals interested in the promotion of good design.

In general the Architectural Centre opposes the suggested changes.

1. As the document notes (pp. 14-15), **there have been a number of changes to the RMA very recently.** In fact the most recent proposals are still in the midst of a Select Committee process. We are yet to see the impact of this legislation and consider that **an evaluation of these changes would be prudent before more alterations** to the Act are proposed. We also note that "New data on the impact of the RMA is anticipated in mid-2013" (p. 15). This sounds like important information to evaluate and take into consideration prior to putting forward proposals. We also understand that some developers are finding the recent changes difficult given the short timeframes for providing evidence, and we strongly suggest that time for changes to bed in, and a full evaluation of the benefits and weakness of the recent RMA amendments occur prior to commencing yet more change. This is particularly relevant as many of the proposals refer to mechanisms which already exist in the current legislation. We consider better use of the current legislation would address many of the issues raised, and **strongly encourage the government to show leadership through the issuing of National Environmental Standards and National Policy Statements.**

2. We also note that currently 94% of Resource Consent submissions are processed non-notified, and consider that **6% is a very small number** for the wider community to be consulted. We consider that this percentage indicates the success of the current system. When it is considered that, in addition to applications required to undergo the Resource Consent process, **there is additional development which is accommodated within permitted activities, which does not require Resource Consents**, the number of notified Resource Consents is a much less significant percentage of the total number of built projects. This group of "Permitted Activities" is absent from Figure 1: Key elements of the Resource Management Act (p. 14) and should be included to provide a more complete picture.

3. The assertion that the RMA "focuses largely on managing the negative effects of resource use. Less attention is paid to encouraging and managing positive effects" (p. 24, also p. 43) appears to misunderstand that the beginning point of the process is that everything is permissable and then the RMA/District Plans explain exceptions to this initial stance, and/or conditions for these to be done. **We also note that in §10 of the RMA development is implicit.** We are also concerned that the consultation document appears to promote the mitigation of negative effects, rather than the preservation or protection of the environment, and we do not agree that this is the right approach to managing the environment.

4. **There is an inherent conflict in the document regarding prescriptive regulation and council discretion.** The document proposes "putting clear requirements in plans" (p. 22), which we presume to mean prescriptive requirements, while simultaneously, it

proposes the following discretion: "A new process to allow for an "approved exemption" for technical or minor rule breaches" (p. 48). We strongly disagree with this proposal to introduce an idea of "very nearly permitted" (p. 50). We believe that such an idea will lead to unfairness, and - at the extreme - corruption, and either make managing Resource Consents impossible or this proposal relatively meanless, the courts relying instead on the legal concept of *de minimis*. We recommend that, rather than the application of unregulated discretion, legislation and plans be properly drafted in the first place.

The Architectural Centre also warns against the apparent aim to increase prescriptive regulation in District or Unitary Plans. While this will remove ambiguity it will also mean that the District or Unitary Plans are less flexible in terms of potential ways to achieve good design outcomes. **Certainty is easy to provide but most players in the building industry appreciate the ability for council discretion to enable good design which sits outside of the conventional thinking usually described by prescriptive regulation.** Historically we have had prescriptive regulation but this has been proved to be unsatisfactory.

5. We strongly disagree with the assumption that extending city limits and increasing land supply (p. 42) will deliver affordable housing. **Housing affordability is an extremely complex issue**, and extending city limits will only cause problems regarding infrastructure provision, and long term unaffordability of housing for poorer people because of transport and other costs. We find the assertions regarding housing affordability to be offensively simplistic. The issues have to do with cultural issues as much as any others. In the 1950s when the first National government promoted home ownership (in contrast to the rental state housing of the Labour government) a significant cultural shift began. This has resulted in most New Zealanders using house ownership as their prime financial investment, and means that New Zealand lacks a framework for encouraging renting as a viable permanent housing model. These issues are outside of the scope of the RMA but have been critical in terms of the assumptions New Zealanders have about housing form and threaten the ability for us to achieve desirable urban living.

6. **We propose that the RMA requires local authorities to stipulate a utilities limit rather than a city limit.** This would prescribe the area within which the local council will provide urban utilities (public transport, water, sewage etc.). The aim of this would be to give certainty to developers regarding what utilities will be provided for by councils and what utilities a developer would be required to provide for any development.

7. We believe the reference to local councils being "motivated to perform in a "customer-centric" way" (p. 33) ought to be rephrased encouraging them instead to be: "motivated to perform in a "citizen-centric" way" to better reflect the relationship between our city councils and the democratic processes which underpin the District or Unitary Plan making processes.

8. **We oppose the collapsing of the current §6 & §7.** This proposal, including the matters to be included or excluded, raises several issues. We support the existing hierarchy of "matters of national importance" and "other matters," underpinned by §5 which provides higher level, overarching principles. **We see the prime role of the RMA as one of protecting the environment, and the proposed elevating of economic matters runs counter to this.** Instead the proposal would replace the existing hierarchy into an opposition between environmental protection and economic benefits. We do not believe this to be appropriate.

The proposal is to recognise "specified outstanding natural features and landscapes" (p. 36), but will fail to acknowledge the significance of everyday landscapes, which provide important amenity value and often support local identity. We are equally concerned about the inclusion of "specified," which will likely prevent an accurate representation of community and contemporary values due to administrative hurdles of identification or specification.

We do not agree with the deletion of "7(c) the maintenance and enhancement of amenity values" (p. 37) and suggest the reinstatement of, and inclusion of liveability, in this clause. Our opposition to the removal of amenity values reflects our belief that amenity is of enormous significance in terms of safeguarding the liveability of our environment, and because we do not consider that the advice the Minister has referred to (that amenity values are inherent to §5, and so their inclusion in the collapsed §6 and §7 is a duplication) is valid. The nature of overarching principles (§5) means that all of the clauses in §6 and §7 are inherent to, and co-relate with, §5.

Further we oppose the planned removal of the following from these sections (p. 37):
7 (aa) the ethic of stewardship
(c) the maintenance and enhancement of amenity values
(d) intrinsic values of ecosystems
(f) maintenance and enhancement of the quality of the environment
(g) any finite characteristics of natural and physical resources

We oppose the removal of "and its protection from inappropriate subdivision and development" from the clause referring to the "importance and value of historic heritage."

We suggest rewording as follows: "(k) the ~~effective~~ efficient functioning of the built environment including the availability of land for urban ~~expansion~~, use and development" (p. 37).

We encourage the deletion of (n) as trout and salmon are introduced species and so are technically pests, and because "significant aquatic habitats" (p. 37) duplicates (a) and (c) (on p. 36).

We strongly support the inclusion of "(l) the risk and impacts of natural hazards" (p. 37).

9. **We can see both advantages and disadvantages to a central government template.** For any template to be successful there would need to be sufficient flexibility for each district to be able to adequately represent concerns and issues of relevance to their locality (e.g. tall buildings and view shafts might be a significant issue in metropolitan areas, but not so for rural ones). We are concerned though about the expense of any new planning regime, and ask how central government proposes to provide financial assistance to local government to achieve this. Rewriting plans is alot of work, and often initially results in both expensive legal challenges and uncertainty.

10. **We are concerned that the emphasis on speedy decision-making is likely to cause bad-decision making, and cause arbitary costs to councils through penalty regimes.** We note that there are many instances where the result of indepth investigations, resulting from the Resource Consent process, including the involvement of community perspectives, has been improvements in decision-making. One example is the Canterbury landfill proposed for near Methven. Investigations resulting from the RMA process discovered the proposed site was on a previously unknown fault line, which resulted in its better location in Kate Valley, Waipara.

We do not support the proposal to "Empower faster resolution of Environment Court proceedings" (p. 42). Similarly we do not think that moving to a six month process for medium-sized projects is appropriate, given that we understand the current nine month process is putting resources under strain, and proper evaluation of this process is needed to inform any consideration of a six month process.

The Architectural Centre also opposes any reduction to the standard Resource Consent application processing from 20 days to 10 days. While we appreciate that it would appear, if the conditions proposed are adhered to (e.g. "complete documentation and an agreement in pre-application meetings"(p. 50)), that this reduction would be commonsense, it is likely, especially in times of building booms, that councils will

contract external consultants, who have not been party to pre-application discussions, meaning time-saving in application processing may not be possible. **We think more work could be done regarding this, which supports the streamlining of smaller projects and a fee structure which better reflects the scale of work involved in Resource Consent assessment.** We also note, for example, that the WCC Heritage Resource Consent Reimbursement Scheme is one current instance where council mechanisms result in good outcomes.

12. We do not agree with limiting who can object to or appeal a Resource Consent, nor do we support limiting the scope for submissions, objections and appeals to the matter which has generated the need for the Resource Consent applications (p. 54). Similarly we oppose the proposed shift from the current *de novo* appeals process (i.e. approaching the case afresh (p. 46)) to rehearings, with the potential for "limitations on new evidence being presented" (p. 46). The reasons for this are complex. We understand that many applicants often limit the material supplied for local council applications when they anticipate a likely Environment Court hearing, reducing the workload at local government level. A change to rehearings is likely to increase the burden and cost of hearings at local council level.

13. There are a number of situations where issues of definition arise. We consider for example that the definition of "nationally significant" would be critical. **We support consistent definitions throughout local authority plans across the country.** This appears to be a sensible move. We equally support moves to reduce the inconsistencies "in the wording councils use in their plans" (p. 18).

14. In closing we would like to note that the document has some aspects to it which undermine its credibility. For example, the observation (p. 49) that "Between 2007/08 and 2010/11 the proportion of Resource Consent processed on time increased from 69 per cent to 95 percent" (p 49). We are confident that due to the recession, GFC etc. that the number of Resource Consents would have fallen during this period of time making a percentage comparison misleading.

We would also like to note that while the consultation documentation conveys strong negativity towards the RMA and Resource Consent process, this does not reflect the case for many participating in the process, and **it is important to recognise the good that also comes out of the process.**

Thank you for this opportunity to make a submission on this consultation document: "Improving our Resource Management System."

Yours faithfully

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