

Rt Hon Jacinda Ardern  
Prime Minister and Leader of the Labour Party  
Parliament Buildings  
Wellington 6160

29 September 2021

Dear Prime Minister,

I write to you today, along with 24 other major property firms, to express our concern at the Government's decision to, without any consultation, amend commercial leases across New Zealand via an amendment to the Property Law Act contained in the Covid-19 Response (Management Measures) Legislation Bill.

Having the right to freely negotiate the terms of our leases from both a landlord and tenant perspective, is a fundamental and essential part of our commercial and social license. Both landlords and tenants up and down the country have negotiated in good faith with each other to come to agreements that work for their specific arrangement and lease. To date, some of New Zealand's biggest property owners have given in excess of \$320 million in rent relief to Kiwi businesses. The decision to impose a clause without agreement only serves to jeopardise the goodwill that landlords and tenants have created.

We understand the pain being felt by the retail and hospitality sectors in particular, and we accept the intent of the proposal is that those sectors will receive equitable rental relief from their landlords. Our members have proactively shared in that pain through providing rental relief to these sectors. However, the proposal as drafted has significant and widespread application beyond the intended beneficiaries, by changing *all* commercial leases, the vast majority of which are not those which the legislation is intended to assist.

In many cases the businesses which will benefit have much greater financial strength than the landlords who will be impacted. By way of illustration, the proposal as currently drafted, with its wide application to commercial leases, would entitle the major Australian-owned banks to claim rental relief from their New Zealand landlords, despite the pandemic restrictions having little or no impact on those banks' profitability. We do not believe this is the Government's intent.

We see a number of very serious unintended consequences resulting from the decision to deploy a blanket approach to what is a very nuanced and individualised contractual environment. The most obvious issue is how to interpret what "fair" means amongst two parties. That interpretation will result in a long and costly process to which property lawyers will have a field day.

As the biggest property industry body representing New Zealand's largest sector with over 550 companies, we, by necessity, practise collaboration and demonstrate genuine

partnership principles each and every day. That extends to our relationship with the government of the day, whichever hue they may be.

In the spirit of constructive engagement, such as we have had with the likes of MBIE on seismic strengthening, MfE on RMA and MHUD on purpose-built rentals (Build to Rent), we are deeply disappointed by the decision and announcement of compulsory commercial lease changes.

We respect the Government's desire to want to assist those whose businesses have been impacted by Covid-19, the signatories to this letter are amongst them. We believe the proposed legislation could be amended in such a way to mandate the right to rental relief for the targeted businesses, but without having the widespread application outlined above. For example, at its simplest level this could include a qualification criterion that a lessee must be eligible for the wage subsidy in order to imply the right to rent relief into their lease.

We are inviting you to meet with us and for the Government to work with our all parties in the industry to help find a way forward that puts the best interest of tenants and landlords first.

Yours sincerely,



**Leonie Freeman**

Chief Executive, Property Council New Zealand

*on behalf of major Property Council members listed below:*

**Argosy Property**

**Goodman**

**Safari Group**

**Auckland Airport**

**Hugh Green Group**

**Scentre Group**

**Bayleys**

**Naylor Love**

**Stride Property**

**CBRE**

**NZRPG**

**Templeton Group**

**Chalmers Properties**

**Oyster Property Group**

**The Woolstore  
Management**

**Chow:Hill**

**PMG Funds**

**Tramco Group**

**Colliers**

**Precinct Properties**

**Trust Management**

**Cooper and Company**

**Property for Industry**

**Winton Property**