



David Bennett
Chairperson
Transport and Industrial Relations Committee
Parliament Buildings
WELLINGTON

Tuesday, October 13, 2009

Dear Mr Bennett,

INFRASTRUCTURE BILL

Please find listed below several points the Committee may find useful when it considers the Infrastructure Bill. I make this late submission with reference to your letter of 24 September 2009. In light of the timing it has not yet been considered by the members of the Legislation Advisory Committee.

1. Part 4 of the Bill repeals the *Affordable Housing: Enabling Territorial Authorities Act 2008*. One section of that Act – relating to restrictive covenants and social housing – has been retained and will be inserted into the *Property Law Act 2007* by the Bill. The Business Committee has agreed to classify the Infrastructure Bill as an Omnibus Bill. Therefore the requirement in Standing Order 256 that Bills relate to only one subject matter is overcome. This said, from a law-making perspective there is some concern with the inclusion of Part 4 in the Bill given that it repeals a statute that has significant social policy implications. It would have been preferable if Part 4 of the Bill had been a separate Bill in its own right given the rather loose connection with other Parts of the Bill in terms of subject matter.
2. Clause 54 provides for the insertion into the *Property Law Act 2007* of the restriction on covenants designed to stop land being used for (i) housing for people on low incomes, (ii) people with special needs, or (iii) people with disabilities requiring support or supervision. However, the manner in which these three ‘purpose’ provisions are drafted appears to be overly vague and potentially uncertain in their application.
3. Clause 11 of the Bill provides for the preparation of Codes. As currently drafted, the process appears to be compressed and is unclear in some respects. For example, under clause 11(2)(a) must *all* utility operators and corridor managers be consulted on a draft Code, or only those who may be affected by

the new code? It would be preferable also to ensure that the public has a reasonable period of time to make a comment on the draft Code?

4. The purpose of the clause 13(3) is vague. The intent and potential scope of this provision should be made explicit.
5. Under clause 18, a Code can be imposed by way of regulation in the absence of a Code. To ensure consistency with the draft Code procedures in clause 11, and to help ensure that the resulting Code is durable and effective, the same consultation obligations should be imposed on the Minister in relation to a draft version of his or her Code.
6. The requirement in clause 37 (new section 77A(1)) that the relevant Agency must respond in writing within 30 working days to a request for access appears unnecessary. In practical terms, a ministerial directive to the agency to respond to a request should be sufficient.

Yours sincerely

A handwritten signature in black ink, appearing to read 'George Tanner', written in a cursive style.

George Tanner
Law Commissioner