



LEGISLATION ADVISORY COMMITTEE

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Chair
Local Government and Environment Committee
Parliament Buildings
P O Box 18 041
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Dear Ms Wagner

LOCAL GOVERNMENT ACT 2002 AMENDMENT BILL (No 3)

Introduction

1. The Legislation Advisory Committee was established to provide advice to the Government on good legislative practice, legislative proposals, and public law issues. It has produced, and updates, Guidelines on the Process and Content of Legislation as appropriate benchmarks for legislation, which have been adopted by Cabinet.
2. The terms of reference of the LAC include:
 - to scrutinise and make submissions to the appropriate body on aspects of Bills introduced into Parliament that affect public law or raise public law issues;
 - to help improve the quality of law-making by attempting to ensure that legislation gives clear effect to government policy, ensuring that legislative proposals conform with the LAC Guidelines, and discouraging the promotion of unnecessary legislation.

Substance

Appointment of commissioners

3. Clause 53 of the Bill inserts new sections 199A-199N. New section 199F(3) sets out the criteria for appointment of commissioners, but subclause (4) says

the Minister may, by notice in the Gazette, “specify additional criteria for the appointment of ... commissioners”. This effectively gives power to alter the criteria in the earlier subclause. The LAC submits that the criteria should be settled prior to the passing of the legislation, and included in the legislation itself.

Schedule 7

4. Clause 10 in Part 2 of new Schedule 13A (p 96 of the Bill) states:

“10 Development contributions commissioners’ powers

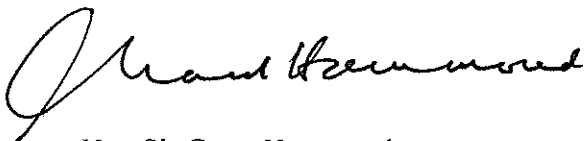
The commissioners conducting a hearing on an objection have the same powers that a District Court, in the exercise of its civil jurisdiction, has to cite parties and to conduct and maintain order.”

5. It is unclear what the word “cite” means in this context. If it means that the commissioners have the same powers as a District Court Judge in a “contempt in the face of the court” situation, this should be explicit, as those powers include the power to fine and imprison a person.
6. The LAC considers a reference to the powers in sections 29 to 31 of the Inquiries Act 2013, which include a contempt provision, would be a more appropriate means of providing commissioners with the relevant powers to maintain order.
7. An example of a similar reference provision can be found in section 41 of the Resource Management Act 1991, which states that a number of provisions of the Commissions of Inquiry Act 1908 apply to every hearing conducted by a local authority.
8. On this point, the LAC notes that Recommendation 67(b) of the Law Commission’s report *A New Inquiries Act* (R102) recommended that “... a review of the statutory entities that take their powers from 1908 Act, including those set out in Schedule 1 of the draft Bill, must take place to enable the 1908 Act to be finally repealed. The new Act should contain a review provision to this effect.” This is reflected in s 36 of the Inquiries Act 2013 which requires such a review to be commenced within 5 years of the Act’s commencement.

Conclusion

9. Thank you for taking the time to consider the Committee’s submission. The Committee does not wish to be heard on this submission.

Yours sincerely



Hon Sir Grant Hammond
Chair