



**LEGISLATION ADVISORY COMMITTEE**

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Chair  
Government and Environment Committee  
Parliament Buildings  
P O Box 18 041  
Wellington 6160

**Building Amendment Bill (No 3)**

1. This submission is made by the Legislation Advisory Committee (LAC).
2. The LAC was established to provide advice to the Government on good legislative practice, legislative proposals, and public law issues. The LAC has produced and updates the *Legislation Advisory Committee Guidelines: Guidelines on the Process and Content of Legislation* (LAC Guidelines) as appropriate benchmarks for legislation. The LAC Guidelines have been adopted by Cabinet.
3. The terms of reference of the LAC include:
  - (a) 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:
  - (b) 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.

4. The LAC considered the Bill at its meeting on 4 March 2011. In addition to more minor drafting matters that have already been referred to Parliamentary Counsel, the LAC has one major concern with the Bill. This concern relates to the lack of guidance in the legislation as to what might be appropriately dealt with under the ethical code provided in cl 57 ( new s 314A).
- 5 This section merely states that there can be an Order in Council setting out 'minimum ethical standards.' In the LAC's view it would be preferable to set out the kinds of matters, in addition to builders' statutory and contractual duties, that might be appropriately included in the code, so as to better guide the making of an appropriate code. This is especially so given that a breach of the code will make a licensed building practitioner liable to disciplinary action under proposed new s 317(1)(g) of the Building Act 2004. An example where better guidance in the context of proposed code is given is cl 1551 of the Telecommunications (TSO, Broadband, and Other Matters) Amendment Bill which sets out the minimum content of the code of access for the purposes of that Bill
- 6 The LAC is concerned that the Bill does not specify a process by which the code is to be developed. In particular it is submitted that s 314A should be amended to include a consultation process with those who will be affected by it. We would suggest as a possible model the Financial Advisors Act 2008 that sets up a code of minimum professional conduct, including ethical standards (s 86). That Act requires consultation with industry groups and requires that persons affected by the code be able to make submissions to the code committee that is responsible for the preparation of that code (s 87)
- 7 Thank you for consideration of this submission. The Committee does not wish to be heard in support of it.

Yours sincerely



George Tanner QC  
Acting Chair  
Legislation Advisory Committee