

Infrastructure Australia Amendment Bill 2013

Portfolio: Infrastructure and Regional Development

Introduced: House of Representatives, 20 November 2013

Status: Before Senate

PJCHR comments: First Report of 44th Parliament, tabled 10 December 2013

Response dated: 23 December 2013

Information sought by the committee

3.48 The committee sought further information on how the power to terminate the appointment of the Chief Executive Officer of Infrastructure Australia was compatible with the right to work.

3.49 The Minister's response is attached.

Committee's response

3.50 The committee thanks the Minister for his response.

3.51 In light of the information provided, the committee makes no further comments on this bill.

3.52 The committee notes it would have been useful had the information provided in this response been included in the statement of compatibility.



The Hon Warren Truss MP

Deputy Prime Minister
Minister for Infrastructure and Regional Development
Leader of The Nationals
Member for Wide Bay

23 DEC 2013

Reference: 06146-2013

Senator Dean Smith
Chair
Parliamentary Joint Committee on Human Rights
PO BOX 6100
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PARLIAMENT HOUSE
CANBERRA ACT 2600

Dear Senator Smith *Dean*

Thank you for your letter dated 10 December 2013 regarding the Infrastructure Australia Amendment Bill 2013 (the Bill).

On behalf of the Parliamentary Joint Committee on Human Rights (the committee), you seek clarification on matters concerning the Bill set out in the committee's report, *First Report of the 44th Parliament*.

The committee seeks further information on how the power to terminate the appointment of the Chief Executive Officer (CEO) of Infrastructure Australia is compatible with the right to work.

The bill proposes to replace the existing provision in section 38 of the Infrastructure Australia Act 2008 relating to the termination of the appointment of the Infrastructure Coordinator. The new provision will allow the Board to terminate the appointment of the CEO at any time, by instrument in writing.

The purpose of the provision is to ensure the effective governance and operation of Infrastructure Australia. The ability of the Board to terminate the CEO's appointment at any time is reasonable and necessary to ensure that the CEO retains the confidence of the Board and is accountable to the Board.

The ability of the Board to terminate is proportionate, given:

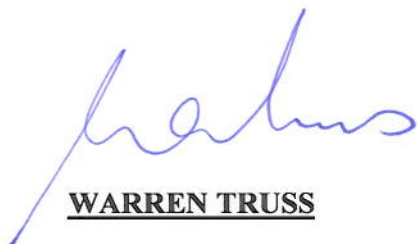
- the high level nature of the position, analogous to the CEO of a corporation. Only the CEO's position is open to termination by the Board at any time;
- the decision to terminate the CEO's appointment would be subject to procedural fairness requirements, and the CEO would be able to seek judicial review of any decision;
- if the CEO's appointment is prematurely terminated other than for misbehaviour, unsatisfactory performance or incapacity, the CEO would be entitled to compensation for early loss of office in accordance with the Remuneration Tribunal's Determination 2012/10.

The provision is also consistent with termination of appointment arrangements that apply to other very senior public sector appointments including a number of senior appointments to Commonwealth statutory bodies.

Hence, my view is that proposed section 38 is not incompatible with human rights.

I thank you again for taking the time to write and inform me of your concerns on this matter.

Yours sincerely



WARREN TRUSS