

11

Making the most of opportunities to influence the development or amendment of Legislation—Tips on what to do and not do when making a Submission

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Abstract

Legislation is always in a constant state of flux. Laws are introduced or amended to rectify existing issues, control emerging problems or to improve recognised deficiencies in the existing legislation. As individuals or organisations involved in enforcing or complying with laws, we want contemporary legislation that reflexes societal norms; supports human health, safety and quality of life; and provides strong controls when needed. This paper examines how we can make the most of our opportunities to influence the outcomes when law are proposed to be made, or amended. It also examines how best to evaluate draft laws, to look at other interested parties views and influence the process in the most effective way possible.

Introduction

We are all affected by laws, whether we enforce them, are meant to abide by them; or a combination of both, depending on the circumstances. Legislation is always in a constant state of flux. Laws are introduced or amended to rectify existing issues, control emerging problems or to improve recognised deficiencies in the existing legislation. As individuals or organisations involved in enforcing or complying with laws, we want contemporary legislation that reflexes societal norms; supports human health, safety and quality of life; and provides strong controls when needed.

When laws are made or amended, those responsible for the process must follow procedures that involve engagement. The level, depth, breadth and how this engagement process is undertaken, varies depending on the overarching laws that detail the law making process involved and the choices made by those making the proposed law.

When the engagement process is undertaken, it is your opportunity to make a submission to present your or your organisation's opinions, observations, and recommendations. It is your avenue to influence the process and the resulting outcomes.

The chance to ensure that the resulting laws are practical, logical, enforceable and overall meet their objectives, is too important to waste with a poor submission or worse, no submission at all.

The following points provide guidance on how to make a submission that has the best potential to influence the law making process and resulting outcomes.

Preparation and planning

REVIEW PROCESS

Read thoroughly all details, advice and instructions associated with the review process. This includes the purpose of the proposed laws, how to make and where to send the submission and most importantly the timeframes associated with the process.

PROJECT PLAN

The six Ps principle never goes out of date – “*Proper prior planning prevents poor performance*”. There are several matters to be considered in organising the submission, with again the most important being to ensure that the submission is made within the timeframes given.

READ THE PROPOSED LAWS THOROUGHLY

While potentially monotonous, it is the cornerstone of the process to read and understand what is written into the proposed law. Without this understanding, there is the possibility that your submission could be off the mark. Working just off the advice of others, hear-say, media reports or just reading summary documents, will leave you short of a full understanding of the proposed laws.

SEEK THE INPUT OF OTHERS

Seek the input, opinions and advice of others who have knowledge in the area and in particular those in your organisation who may be directly affected by the

laws (e.g. management or policy officers should seek the views of the operational areas).

ASK QUESTIONS

If unsure of anything or require clarification on a matter, contact those running the process and ask questions. This ensures that your submission is not based on a misinterpretation or an irrelevant issue, resulting in your efforts not only being wasted, but potentially embarrassing to yourself and/or organisation.

Informed comments are the most useful, so find out as much as you can by attending open days, reading documents relating to the proposed law and asking questions. If you are not sure on anything, ask for advice.

OTHER SUBMISSIONS

Encourage other relevant stakeholders to make submissions and if needed, assist them in preparing their submission. If part of a larger organisation (e.g. regional group or professional body), provide input into their submission and again if required, do the work to prepare the submission.

The considered opinions of a regional group or professional organisation will hold greater influence than that of most individuals.

The submission

CLEAR AND CONCISE

Submissions should be clear and concise. A well set out submission that follows a set pattern is easier to read and understand. In doing this, it encourages the reader to acknowledge your views.

Information in the submission should be in a logical order, preferably following the layout of the consultation document (e.g. use the same chapter headings and subheadings, quoting the page number relevant to the point(s) being made).

In simple terms you should quote the section number, whether you agree or disagree, your reasons why and your recommendations.

PROVIDE AN ALTERNATIVE

If possible, don't just criticise the proposed provision, provide a possible alternative solution. If the governing body agrees with your point, you have also provided the answer to the problem. More importantly, you have provided the outcome that you or your organisation wants.

GET TO THE POINT

Get to the point and stick to it. Ensure all matters raised are relevant and easy to read. It can be difficult to draw out what the writer's exact point is,

if the reader is asked to read a long winded story filled with irrelevant material. Tell the reader what you want – don't leave them guessing. If you want to suggest changes, explain what they are.

LENGTH

There is no set length for a submission. In fact, the length will vary depending on the complexity of the issue and the number of issues you want to make comment on. However, you should balance the need to provide as much information as possible with the need to be concise. If particular length restrictions are set, they are usually specified in the notice inviting submissions.

If the submission is long, include a summary of the main points and recommendations

DO NOT ASK QUESTIONS

A submission should not include questions, unless it is designed to make a point. The role of those running the engagement process is not to supply written answers to questions made in submissions. To do this has the potential to result in protracted written debate, which is not the intent of the process.

It is not the role of those running the process to persuade others into their views, but to listen to the views of others and ensure these views are noted as part of the decision making process.

Any questions should have been answered earlier in the preparation stage (see above).

BE FACTUAL

Provide facts and include specific information that will help the reader to consider the point(s) being made. Stick to the facts (facts supported by evidence). Be specific and provide examples.

WRITING STYLE

Write in an appropriate writing style to the situation. Use appropriate terms, acronyms or wording associated with the subject matter. While plain language is always the goal, your writing style should give the impression of an informed and logical writer. After all, you are trying to influence the process.

Provide references to any factual data, such as scientific reports.

DO NOT BE TUNNEL VISIONED

Look at the proposal from more than one view. Many people develop their views and opinions only from their own individual experiences, knowledge and in particular, their self interests. A submission based purely on self interest, that clearly does not take into account the interests and views of others, or how the outcomes will effect others, has less potential to influence the outcomes than one that does. There is usually a counter argument to most views.

Also, those proposing the law are looking to address an issue and meet certain objectives. In doing so, there is a realisation that there are costs associated with the implementation of the proposed laws, in both enforcement and compliance. There is always a gain versus pain ratio associated with the introduction of any new law. From their point of view, the gains outweigh the pain/costs.

So explaining that there are costs associated with the implementation of the proposed law, is nothing new to the writers. Explaining what those costs are and whether these are insurmountable or not practical, is more relevant to the process.

DO NOT USE BIASED STATEMENTS

Transparent biased statements do nobody any good; you are fooling no-one. Lying is worse, yet you could use statistics.

DO NOT THREATEN

There is no place for threatening statements in a submission. A wise man once said "do not threaten unless you are prepared to back it up", (or the threat actually means something). A statement of the like of "Under the current economic conditions, we do not have the resourcing to implement the proposed provisions", reads much better than "We will not enforce this law".

DO NOT MAKE EMOTIVE STATEMENTS

Emotive statements, assigning blame or making personal statements about the organisation or persons running the review are a definite no-no. Such statements belittle the submission, you and the organisation you represent. It is also an immense turn-off for the reader, who is more like than not to dismiss your views (after all they are people themselves).

DETAILS

Include your organisation's details including name, address, contact persons and their phone numbers and e-mail addresses.

APPROVALS

Ensure the submission reflects who it is made by (Council/State Department or individual officer; organisation, association, institute or individual member). Ensure appropriate approvals are obtained if required. This may need to be factored into your project plan.

Your submission does not need to be long or complex. Your opinions, your reasons for them and your suggestions are the most important parts. It is your chance to provide an informed impression to influence the final outcome.

References

Information was obtained from the web-sites of the follow organisations:

- The National Health and Medical Research Council (NHMRC)
- New Zealand Parliament
- Comhairle Contae Country Council
- Horowhenua District Council
- Awandan Parliament
- Environmental Protection Authority Western Australia
- New Zealand Ministry for the Environment

BIOGRAPHY

Trevor Green

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Trevor has over 30 years experience in local government, working in environmental health operations, management and policy; and now is in a senior democratic governance policy role for Redland City Council. He has an Associate Diploma in Health Surveying, Bachelor of Applied Science (Medical Science), Graduate Diploma in Management and Master of Philosophy. In 2001 Trevor has presented at the International HACCP conference in Thailand and in 2005 was a guest speaker at the heads of department annual food safety conferences for the Gansu and Guangdong Provinces China. Trevor was a member of the bronze medal corporate relay team at the 2009 World Triathlon Championships.



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