

Factors to consider in deciding whether to consult with LDAC in relation to a legislative proposal

LDAC is likely to be interested in, and departments should consider engaging with LDAC in respect of:

Design issues
<ul style="list-style-type: none"> • A legislative proposal that will create a new principal Act.
<ul style="list-style-type: none"> • A legislative proposal that introduces a new regulatory regime (eg prohibitions plus licensing, creating an agency, etc).
<ul style="list-style-type: none"> • A legislative proposal that creates special operating regimes that supplant existing regulatory schemes.
Issues of constitutional importance
<ul style="list-style-type: none"> • A legislative proposal that creates significant powers to enter or to seize property or compel provision of information or significantly affects property rights.
<ul style="list-style-type: none"> • A legislative proposal that raises human rights issues.
<ul style="list-style-type: none"> • A legislative proposal that has special features raising concern such as retrospectivity, or relate to extant legal proceedings, overturn a court judgment, or override contracts or other legal rights.
<ul style="list-style-type: none"> • A legislative proposal that involves delegation of powers of exemption (or addition), or empowers delegated legislation to override primary legislation (Henry VIII powers).
<ul style="list-style-type: none"> • A legislative proposal that deals with a topic of constitutional significance (eg on the structure and powers of courts and tribunals, or affecting Parliament, or the workings of the Executive, or the Crown-Maori relationship).
<ul style="list-style-type: none"> • A legislative proposal that calls upon, and may create broad impacts for, tikanga Māori
Issues involving complex choices
<ul style="list-style-type: none"> • A legislative proposal that is likely to impact on the coherence of the statute book (eg because of a significant degree of overlap or interaction with other legislation, the common law, or regulators).
<ul style="list-style-type: none"> • A legislative proposal that has an international dimension (eg attempting to regulate the conduct of overseas entities operating in New Zealand, or New Zealand citizens operating overseas).
<ul style="list-style-type: none"> • A legislative proposal that involves complex transitional issues (eg moving an area of regulation and associated dispute resolution procedures into a new procedural paradigm).
<ul style="list-style-type: none"> • A legislative proposal for a new or significant change to a dispute resolution process
<ul style="list-style-type: none"> • Legislative proposals for a new, or significant amendments to an existing, compliance and enforcement regime.
<ul style="list-style-type: none"> • A legislative proposal that raises questions of instrument choice (eg involves competing considerations in determining the appropriate divide between primary and secondary legislation)
Other significant issues
<ul style="list-style-type: none"> • Legislative proposals whose aims might be obtained by executive and administrative action and do not need empowerment by statute.