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Public submission

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Open Government Partnership: Draft National Action Plan - Public Submissions

Sociometry is a privately-held consultancy specialising in community consultation and participative social impact assessment. Our staff have considerable experience in working in the extractives sector in Australia and internationally, and on civic infrastructure projects and strategic community development program planning in remote Australia. Clients are governments or project/program proponents seeking to establish what might be called a social license to operate. I am its co-owner and managing director.

Given my limited familiarity with earlier phases of this consultation and the extremely short period allowed for this phase of consultation, I restrict comments to Theme 5. Should business priorities allow, I may make a subsequent submission.

I give permission for this submission to be made public.

Theme V: Public participation and engagement

The draft plan is well structured and easy to read.

It could be improved by insertion of an expansion to the subsection "Status Quo" to include reference to relevant international leading practice to provide better context. This comment may equally apply to all sections of the draft plan.

The draft could be improved by a sharper presentation of key challenges in the Status Quo section. A strong articulation of one or two key problems may provide an anchor for subsequent work during consultation and allow a more focused evaluation program to be developed.

I would urge focused and early consultation on the stakeholder participation approach for plan implementation. Aside from Theme 5, there are specific references to consultation among the commitments. It is not clear that where consultation is not specifically mentioned if the Australian Government intends to consult on detailed design of implementation actions and well as accountability/reporting. Overall, the nature of the envisaged partnership is not apparent. This is not trivial given the section "Development the Plan" is ambiguous.

- **Commitment 5.1**

The proposal to establish a permanent forum for dialogue with civil society is commendable. Together with the phrase "partnership with civil society" suggest decision-making by consensus and/or existence of a veto on the part of "civil society". It seems to me the remit of this forum is absolutely core to the purpose and credibility of the international initiative.

It is reasonable to consult with civil society to develop the forum mechanisms. However, the draft should not proceed further without resolving the question of the institutional decision-maker and the decision-making process. So as not to mislead CSO that “partnership” means joint decision-making, the degree of delegation from the minister should be made apparent very early in the piece – not when proposals arise in detailed implementation. It would be appropriate to have a high-level terms of reference attached to the plan to guide the early work of the lead government agency and civil society groups that may wish to be involved.

- **Commitment 5.2**

The draft should be amended to clarify that a “whole-of-government” framework to improve public participation in government decision making is not intended to include both state/territory and local governments in addition to Commonwealth agencies. I understand there is a global pilot project for sub-national governments, but the draft national action plan should consider explicit links through COAG processes to alignment of revised frameworks. This is particularly important where Commonwealth and state/territory agencies share decision-making responsibility such as some environmental approvals.

With respect to ambition, we should really be challenging ourselves to a higher level of performance. There is already framework in(s) place but experienced public participation professionals working at the coalface will often testify that a greater barrier is capacity within government. Consider a quality management system: having a policy and guidance is not sufficient without the other elements of a coherent management systems. This commitment should be expanded to address a suite of elements including: policy; objectives/targets; risk assessments; resources, roles and responsibilities; competency, training and assessment; documentation and control; performance incident investigation; corrective and preventative actions; audit and review.

Consider the very explicit procedural rules in place under the Offshore Petroleum and Greenhouse Gas Storage (Environmental) Regulations, the specific guidance available and the latest review of legislation and regulation by the Dept of Industry, Innovation and Science. Despite fairly prescriptive consultation requirements, a significant group of stakeholders continue to be frustrated by the inconsistent practices of petroleum titleholders and the NOPSEMA (the independent regulation of safety and environment matters for offshore petroleum industry). It is the ability of organisations to evaluate successes and failures and adapt their practices that will lead to improved decision-making and such organisation learning requires system level change. Guidance and tools are useful but improvements in consistent, predictable and transparent public participation require culture change that can be underpinned by quality management systems.

Commitment 2.1 illustrates the need to develop capacity and the challenge of designing citizen engagement in the full glare of public policy development. Ahead of Commitment 5.2 being put in place, a consultation process appears to have been designed for 2.1 and it is not clear how the planning process that has been used would measure against the expectations set out in the IAP2 Quality Assurance Standards.

The need for additional deliberative capacity - particularly data analysis - seems to be recognised by reference to the New Zealand capacity-building experience during its OGP journey and the draft’s commitment to, “Engage with the community and improve privacy risk management capability across government to build public trust around data sharing and integration”. The United States has developed capacity in the specific area of applying behaviour science to obtain value from ‘big data’

through the Social and Behavioural Science Team (www.sbst.gov) and the work of this group may be a model that can be adapted for Australia.

- **Additional commitment: transparency in decision-making**

I propose a commitment 5.3 that would require development through consultation of a Policy Impact Statement, Program Impact Statement, or Project Impact Statement for major Commonwealth undertakings. Similar to the familiar Regulatory Impact Statements but more robustly based on (open data) evidence, such participative modelling of the expected effects would focus public input and provides an established procedural toolset. Consultation without the focus of such systematic ex-ante impact assessment can be unfocused. Policy and cost-benefit analysis without consultation can result in blind spots and later public angst. Consultation is not impact assessment.

The Draft seems to recognise such an issue at Commitment 1.3 with a commitment around “providing timely, reliable, publicly available and independently verified data on the extractives industries’ contribution to the Australian economy”. This may or may not include reinforcing guidelines on accounting for opportunity cost in modelling contribution of extractives to the economy and prevent the worst cases of misleading information going unchallenged to the detriment of government policy, regulatory and management decisions.

- **Costs**

The high-level allocation of costs and benefits from consultation that improves decision quality from more open government should be a concern of the national action plan. An explicit pricing formula for funding access to data and making that data more open, should also be within the remit of the plan and seems indicated at Theme 2 (“...work with the research, not-for-profit and private sectors to release high-value datasets and drive social and economic outcome...”). It is not clear (privacy considerations notwithstanding) if this new national resource will be given away for free, if ‘open data’ means it is provided at cost, and when (like mineral resources) it will attract royalties or super-profits / rent tax.

Kind regards,



Daniel Marsh
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