

**Improving the *'Rules of Engagement'*: Understanding how
participatory processes are defined, experienced and
implemented in Australian natural resource governance**

Submitted by

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DECLARATION

I certify that the substance of this thesis has not already been submitted for any degree and is not currently being submitted for any other degree or qualification.

I certify that any help received in preparing this thesis, and all sources used, have been acknowledged in this thesis.



Signed electronically

.....

Tanya Howard

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I turn then to seek to understand the meaning of the phrase “effective consultation” when it is used in the guidelines.

A reading of the guidelines as a whole shows that they are speaking of what is required in terms of the activities of the person or body engaging in consultation, rather than focusing on the results of the consultation upon the minds of the persons being consulted. As one would expect from their nature, the guidelines are not prescriptive and admit of a degree of flexibility depending upon the circumstances. They have the tone of constructive suggestions rather than firm commands. And construing them as a whole, their reference to “effective consultation” to my mind focuses on the quality of the process of consultation, rather than on any outcome whereby the persons who are the focus of the consultation are persuaded by it.

Justice Button.

(Metgasco Limited v Minister for Resources and Energy [2015] NSWSC 453 2015)

“Any discussion of regulation or policy-making that advocates greater participation, negotiation and deliberation as the solution ... offers not a solution but a new set of questions.... Calls for participation and deliberation [should] .. be the starting point not the end point of debate, and it is a warning that although proceduralisation may seem an attractive cure for modernity’s ills, it cannot be yet freely or unproblematically prescribed”.

Julia Black.

(Black 2001a) (Black 2001b)

Black, J. (2001a). Proceduralizing regulation. *Oxford Journal of Legal Studies*, 21(1), 33.

Black, J. (2001b). Proceduralizing Regulation: Part II. *Oxford Journal of Legal Studies*, 21(1), 33-58, doi:10.1093/ojls/21.1.33.

Metgasco Limited v Minister for Resources and Energy [2015] NSWSC 453 (2015). *Metgasco Limited v Minister for Resources and Energy [2015] NSWSC 453*.

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ABBREVIATIONS

Acronyms and abbreviations	
NRM	Natural resource management
CMA	Catchment Management Authority
ESD	Ecologically sustainable development
LLS	Local Land Services
CAP	Catchment Action Planning
NRC	Natural Resource Commission
IP2	Institute for Public Participation

GLOSSARY

Terminology	Definition
Governance	The interactions among structures, processes and traditions that determine how power and responsibilities are exercised, how decisions are taken, and how citizens or other stakeholders have their say. (Graham et al., quoted in Lockwood, 2010, p. 986)
Institutions	Institutions ... are the established rules, norms, laws, practices and any other arrangement put in place that can influence social change. (Wallis & Raymond, 2011, p. 4082)
Natural resource governance	Natural resource governance is ... the mechanisms ... people and organisations use to influence decisions about the sustainable use of ... lands, seas and waters. (Ryan Broderick, Sneddon, & Andrews, 2010)
Community	A category of 'the public' in which networks and social relationships of various forms connect people together ... within a hierarchy of interacting scales of action. Its position is above the individual and households, but typically below the level of local government. This entails the notion of a collective, but one which is not formally part of the structures of formal government, and can therefore act independently of it. (Walker, 2011, p. 778)
Community engagement	For the purpose of this thesis: a participatory process by which the non-expert members of an affected population are involved in ... address[ing] complex issues (researcher's definition).
Public participation	Increased involvement of the community in the affairs and decisions of policy-setting bodies (Rowe & Frewer, 2005, p. 251). Community members are accorded a role in the activities and decision-making processes that directly impact on their lives and well being (Bottriell & Cordonier Segger, 2005, p. 3).
Participatory processes	A strategic process with the specific purpose of working with identified groups of people, whether they are connected by geographic location, special interest, or affiliation to identify and address issues affecting their well-being. (Center for Economic and Community Development, n.d)
Sponsor	The individual or organisation that initiates a participatory process.
Accountability	A system, or set of mechanisms, designed to make sure promises are kept, duties are performed, and compliance is forthcoming. (Weber, 2003, p. 11).
Mechanisms	Processes/techniques/ instruments for enabling activity. (Rowe & Frewer, 2005, p. 251)
Democracy (note that there	[a] form of government in which supreme power is held by the people and exercised directly or through elected representatives. Although

are qualifying adjectives, e.g. direct, representative, environmental, etc.)	democracy comes in many forms, nowadays the concept generally implies majority rule, minority and individual rights, equality under the law, and civil rights and liberties” (Rohmann cited in McGee, R, et al., 2003,p. 8)
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ABSTRACT

Community action in natural resource governance can provide a pathway for improved decision-making, increased on-ground activity and acceptance of government and industry legitimacy in managing natural resources.

Increasing the role of community in the protection, restoration and management of natural resources is a stated priority of ecologically sustainable development (ESD) principles. Despite a proliferation of legal requirements for public participation and non-legal guidelines that promote community access to environmental decision making at both the international and national scale, implementation is often unsatisfactory and difficult to evaluate.

This research considers how high-level commitments to community engagement are implemented in natural resource governance. The empirical data is drawn from two qualitative case studies of participatory processes in one Australian jurisdiction. The empirical data reveals that different participatory processes co-exist under the same legal and policy frameworks.

This research concludes that participatory processes in Australian natural resource governance are primarily concerned with facilitating community acceptance and demonstrating compliance with legal and policy requirements. This focus on acceptance and compliance conflicts with ideals of devolved governance and community empowerment implied in high-level commitments to community engagement. There is limited understanding of the potential of participatory processes to address community dissatisfaction, strengthen legitimate governance and address inequitable power dynamics.

This research argues that participatory processes offer potential sites of negotiation for community involvement in natural resource governance. The data shows that balancing public administration requirements for accountability and responsibility with community capacity to participate is a significant barrier to realising this potential. This research demonstrates that legal requirements for participatory processes must be balanced with commitments to build community capacity. Integrity checks must be designed to ensure that participatory processes are well run, inclusive and explicitly address power imbalances.

Best practice standards and robust review mechanisms can ensure that legal requirements for participatory processes are implemented with integrity. Processes must be independent of political bias and allowed to continue without the destabilising impact of regular policy reform.

This thesis argues that legal clarity of key terms is necessary for better alignment of policy expectations with community aspirations for participatory processes. This research contributes a methodology that can improve the design, implementation and evaluation of participatory processes.

Chapter 1: Introduction

1.1 Introduction to thesis

This chapter introduces the research in five sections:

- The first section provides a brief overview of the research project.
- The second section outlines the key concepts encountered in this research.
- The third section describes the research context and the central research question.
- The fourth section highlights the practical outcomes of the research.
- The fifth section is a guide to the structure of the thesis and how it meets the University of New England's Journal article format for Thesis by Publication.¹

1.2 Research overview

Community engagement is an increasingly important feature of natural resource governance. Obligations for government agencies or project developers to consult with communities appear in legislative arrangements and government policies of many countries. Environmental law and social justice scholars propose participatory processes to adjust power imbalances, ensure better-informed decisions, and improve communication between power-holders and citizens (Kirk, & Reeves, 2011; La Camera, 2013; Lambropoulos, 2010). Government and industry see public participation as a strategy for increasing community acceptance and legitimacy (Markell, 2006; Whitman, 2008). The extent to which these aspirations are achieved through the implementation of legal obligations is an important environmental and social justice question for community members, given the significance of their aims and, sometimes, the vulnerability of the interested community (Ortas, 2015; Peterson, 2011; Prager, 2015).

This research considers how community engagement is *implemented* in Australian natural resource governance. Specifically, it focuses on how legal rules, policies, organisational norms and social norms interact to shape the *form and function* of 'community' in participatory processes. In this thesis, norms are defined as accepted and widely-enforced behaviours that are based on collective values. These norms

¹ The University guidelines are attached in Appendix One.

are strongest when individuals internalise the values that support the desired behaviour, in either a social or organisational context (Tyler, 2006). The focus is on public policy and the formal frameworks that guide action and decision making. This research suggests that these institutional frameworks articulate social norms, provide benchmarks for evaluation, inform decisions and, through the expression of a 'public good', shape expectations of community engagement. Understanding the connection between legal requirements and implementation dynamics is necessary to achieve more authentic, better quality participation in natural resource governance.

This research was stimulated by personal and professional experience in natural resource management and environmental conservation. In more than fifteen years of work in volunteer management, community facilitation and environmental advocacy, I developed expertise in the broad field of 'community engagement'. A gradual move from community-based organisations to government employment opened my eyes to the complex interaction between legal requirements, policy development and community participation.

Working directly with community members in water resource and natural resource planning processes, I was regularly asked about the purpose of participation. Community members struggled to see their contribution reflected in final decisions; to them, the institutional framework seemed designed to restrict innovation and limit community influence in natural resource decision making. In my efforts to combat community cynicism, I found little evidence that could genuinely address their concerns. Despite a professional commitment to best-practice community engagement, I began to question the value of my own work in facilitating these participatory processes.

Community participation is a well-researched field of activity. Guidance about how to design and conduct best-practice processes is readily available. Despite these resources, community cynicism and disengagement remains a challenge to the vitality of participatory processes. As a practitioner concerned with sustainable and equitable natural resource governance, the gap between legislated requirements and meaningful face-to-face community engagement became an issue of increasing

concern and led to a growing interest in researching the subject of community engagement in natural resource governance.

1.2.1 The research focus

An opportunity arose to research 'improved institutional mechanisms for community engagement in rural resource governance' as part of the broader Next Generation Rural Landscape Governance program, at the Australian Centre for Agriculture and Law (2012).² The Next Generation program draws attention to the influence of institutional frameworks in natural resource governance, from the local to the international, and the mechanisms designed to implement them.

Research partners are interested in applied outcomes that can improve their understanding of both community and institutional dimensions of natural resource governance. The impact of regular policy reform, the frustrations of communities, the lack of evidence of effective participation, and the gaps in implementation of participation objectives are core concerns of the Next Generation program.

The intention of this research is to develop reform proposals that can move the debate from a repetitive focus on how to run a good participatory process to a better understanding of how these processes could more effectively involve rural communities in natural resource governance.

1.2.2 The research problem

The research concern with *improving* 'community engagement' is inspired by the regular appearance of the phrase in public policy contexts. Legal and policy requirements for the participation of community in formulating and implementing public policy suggest there are inherent benefits, although *for whom* the benefits accrue, and what they specifically are, is rarely articulated.

The extent to which expectations of community engagement can be successfully formalised in legislation is an active research question (Jendroska, 2013; Ortas, Alvarez, & Garayar, 2015; Pieraccini, 2015). The design of legislation must strike a

² The 'Next Generation Rural Landscape Governance' research program focused on proposing the next generation of integrated natural resource management laws and institutions. The program involved collaborators in Australia, USA, Iceland and Asia, and was supported by an Australian Research Council (ARC) Linkage grant. Core research themes included: Institutional Governance; Co-regulation; Overarching Legal Architecture; Effective Engagement; Behaviourally Effective Rules; Risk Instruments; Transaction Costs.

balance between clearly stated and precise legal rules, and the need for flexibility and interpretation in implementation (Kirk, & Blackstock, 2011; Wiersema, 2008). The legal tradition rests on principles of rational objectivity, where individuals are expected to make decisions in line with the rules rather than with their own subjective values (Bottomley, 2012; Miller, 2012). In the case of participatory processes however, these subjective passions and interests may be a motivating factor for community members to become involved and actively contribute.

This tension between the requirements of formal rules and the flexibility needed to engage the community is the tension of interest underpinning this thesis. Drawing on socio-legal scholarship, this research examines the interaction between substantive, procedural and process elements in the design and implementation of legal requirements for community engagement.

Investigating how legal requirements for community engagement are put into practice offers a range of possible interpretations. This research focuses on the design and implementation of *participatory processes*. The empirical component of this research focused on participatory processes that illustrate how legal requirements for community engagement are put into practice. Examining case studies of wind farm governance and natural resource planning in New South Wales, Australia, the participatory processes include consultative committees, collaborative consortiums and community reference panels.

Table 1.1: Four participatory processes selected for qualitative analysis

	Legislation	Activity	Participatory process
Case Study One	NSW - Environmental Planning and Assessment Act 1979 No 203 (1979)	Wind farm governance	Community consultative committee
			Community consortium
Case Study Two	NSW - Catchment Management Authorities Act No.104 (2003)	Catchment planning	Collaborative governance steering group
			Community reference panel

1.3 Key concepts of the research

There is a wide and diverse scholarship on the intersection of democracy, public participation, power and politics (Colebatch, 2009; Dryzek, 2000; Fischer, 2005;

Fung, 2006; Moynihan, 2003; Ostrom, 2010; Taft, 2014). Ranging from deeply theoretical to applied and pragmatic, this scholarship suggests many different ways that this research problem could be addressed. In order to clearly delineate the boundaries of this research project, the following section discusses two key concepts used in this research: 'community engagement' and 'governance'.

1.3.1 Community engagement as participatory process

This research considers the question of improving community engagement by focusing on specific participatory processes in natural resource governance. A participatory process is defined as

A strategic process with the specific purpose of working with identified groups of people, whether they are connected by geographic location, special interest, or affiliation to identify and address issues affecting their well-being. (Center for Economic and Community Development, n.d.)

The empirical component of this research examined two case studies in which four types of participatory processes occurred; the processes were stimulated by a legal requirement for community engagement.³ The case studies considered **who** takes decisions and **how** decisions are taken in a participatory process. They show how high-level aspirations of community engagement connect with the implementation of participatory processes.

As Gaventa (2006) notes, participatory processes derive from the established routines of modern democratic politics, replicating patterns of representation, power distribution and economic interests. In this thesis, power is recognised as a multi-dimensional concept that becomes meaningful in the study of human interactions. Participatory processes provide a vehicle for a version of power that describes the ability to achieve individual or common objectives (Boulding, 1990). Working with this definition, the hidden criteria of the capacity to participate are revealed as education, gender, employment, geographic access and wealth (Gaventa, 1980). While legislated requirements for community engagement seem to offer possibilities of increased community influence in decision making, the community that hopes to

³ These are the NSW Government Catchment Management Authorities Act 2003 No.104 and the NSW Government Environmental Planning and Assessment Act 1979 No 203.

engage often finds itself subject to 'business as usual' as despite best intentions, the status quo re-asserts itself at every opportunity (Cornwall, 2002).

1.3.2 Governance

Much of the literature reviewed for this research touched on issues of democracy (Berner, Amos, & Morse, 2011; Carson, 2008), justice (Ben-Dor, 2007; Black, 2001), procedural fairness (Bratspies, 2011; Dellinger, 2012), social capital (Eversole, 2011; Ford-Thompson, Snell, Saunders, & White, 2012) and subjective definitions of success (Beierle, 1999; Burchardt, 2014; McKinney & Field, 2008). The lens of governance brings all of these factors together to question how decisions are made, how they are implemented and how they are evaluated.

The working definition of governance underpinning this thesis is

The interactions among structures, processes and traditions that determine how power and responsibilities are exercised, how decisions are taken, and how citizens or other stakeholders have their say. (Graham, quoted in Lockwood, Davidson, Curtis, Stratford, & Griffith, 2010, p.987).

In this framing, governance is an interaction between legal rules, policy settings, program and project design, and on-ground implementation. It includes both social and individual norms of behaviour, guided by the mundane and routine features of institutional frameworks, such as legislation, policy and guidelines, in a process of ongoing '*ontological constitution*' (Woolgar & Neyland, 2013).

The extent to which governance is distinct from 'government' continues to be discussed (Bevir, 2011; Hordijk, 2014; Koch, 2013). There are many theories and arguments about the exact meaning of 'governance' (Evans & Reid, 2014) (Black 2001; Colebatch 2009), but it is not within the ambit of this thesis to explore these. This research considers the role of participatory processes in the natural resource governance context.

1.4 The research context: Natural resource governance

Natural resource management has unique requirements for active and sustained community engagement. These include: the need for collective action across land tenure boundaries; the recurrence of environmental threats that cannot be eradicated but must be managed; the distributive impacts of environmental damage

on landholders; the public good implications of poor natural resource management; and the legacy of previous governance decisions (Kotze 2014; Martin, Kennedy, & Williams, 2012).

Managing the human dimension of natural resources is the concern of natural resource governance (Borrini-Feyerabend et al., 2014). In Australia and around the world, human demands on natural resources are increasing. Modernisation, ushered in by the industrial revolution, has been powered by access to human and natural resources (Kotze, 2014). Natural resources have been increasingly exploited to ensure that irrigation, transport and electricity generation needs are met (Hordijk, 2014; Taft, 2014). Such human impacts have altered the planet and have led to climate change and resource depletion, leading to an unpredictable future (Arnold, 2014; Pattberg & Widerberg 2015). Climate change, globalisation of trade, the rise of neo-liberal economics and resource scarcity all touch on the utilisation and management of natural resources and, hence, on the governance regimes that are created and reinforced.

Agenda 21 and subsequent international agreements on the management of natural resources make a strong connection between environmental and human rights (United Nations European Commission on the Environment, 1998; United Nations Environment Programme, 1992; United Nations General Assembly, 2012).⁴ In Australia, this link has been reinforced through legislation and policy that reference principles of ecologically sustainable development (Australian Government, 1992; Montoya, 2013). Procedural requirements for (limited) public access to information, transparency in decision-making and avenues for public comment are common features of Australian legislation (Lambropoulos, 2010). These procedures reinforce the link between environmental and social justice expressed in international agreements. To understand how effectively these high-level aspirations are realised, it is necessary to consider how community voices are heard within the governance system (Pieraccini 2015; Black 2001).

⁴ 'Natural resource governance' shares features with 'environmental governance'. Although it is possible to draw a slight distinction between the production focus implied by 'resource' and the broader ecological implications of 'environment', there is little to distinguish between them in the context of the current research; the state of the environment and the natural resources that comprise it are inextricably linked.

1.4.1 The research question

The research question was informed by a comprehensive literature review that ranged across intersections between public policy and natural resources, and diverse versions of ‘community engagement’ in this context. As the research problem came into focus, the broad terminology was tightened to focus on *participatory process* as a form of community engagement.

The research question took a step back from normative assumptions about the assumed benefits of increasing legal and administrative requirements for community engagement, and asked:

How are participatory processes currently defined and experienced in Australian natural governance; and how can they be improved?

This primary research question was broken into five secondary questions that focused attention on the *legal*, *policy* and *practice* elements of legislated requirements, and the interactions among them.⁵ These secondary questions were aligned to an investigative framework that broke governance into five components: legislation, policy, practice, evidence and reform. Data sources were aligned to each of these secondary questions, as illustrated in Table 1.2.

⁵ The research questions are described in more detail in Chapter 3 and are further detailed in Appendix Two.

Table 1.2: Data sources linked to research questions.

Research Questions		Data source
RQ1	What expectations and definitions of community engagement are embedded in current natural resource legislation , and what substantive guidance is provided for their implementation through participatory processes?	Content analysis; documentary sources; literature review.
RQ2	What expectations and definitions of community engagement are embedded in current natural resource policy, and how are these implemented in participatory processes?	Content analysis; documentary sources; case study data.
RQ3	What expectations and definitions of community engagement are embedded in current natural resource practice , and how are these experienced through implementation of participatory processes?	Content analysis; documentary sources; case study data.
RQ4	How do definitions and expectations of participatory processes differ, and what are the evidence implications for improving community engagement as an element of natural resource governance?	Content analysis; documentary sources; case study data.
RQ5	What alternative rules could improve participatory processes in natural resource governance and what are the barriers or enablers to achieving this reform ?	Synthesis of documentary data and literature review.
RQ5	Suggestions for improvement	Synthesis of documentary data and literature review.

The evolution of the conceptual framework into an investigative framework is central to the progress of the research and is briefly outlined here.

1.4.2 The research frameworks underpinning this research⁶

1.4.2.1 Conceptual framework

A key component of the research design is the development and application of a conceptual framework that could be applied to the research problem. The concepts and terminology used in this framework are borrowed from socio-legal scholarship, and derived from the findings of the literature review, particularly:

- Confused expectations and definitions of community engagement

⁶ The conceptual and investigative frameworks are described in more detail in Chapter 3 – Methodology.

- Limited evidence of effective outcomes
- A focus on process and activity rather than institutional reform
- Repetition and stasis in the current body of literature.

The conceptual distinction between *substantive*, *procedural* and *process* elements of governance design provided a useful way to segment the literature and describe the research problem (Black, 2001; Bottrill & Cordonier Segger, 2005; Dellinger, 2012; Kirk, & Blackstock, 2011; Ross, 2010; Turner, 2013; Tyler, 1988; Wiersema, 2008).

In adapting this research terminology for the purpose of this research, the *substantive* element refers to the explicit objective of achieving community involvement in governance. This element is termed 'legislation' in this research. The *procedural* element, concerned with community engagement as participatory processes to operationalise engagement, is termed 'policy' in this research. The *process* element, which describes the implementation and delivery of participatory processes, is the interface between high-level statements of intent and practical implementation. This element is termed *practice* in this research.

While useful, this linear approach excludes consideration of how evaluation, evidence and change could be included in a socio-legal conceptual framing (Arnold and Gunderson 2014; Martin and Gunningham 2011). To address this deficiency, the elements *evidence* and *reform* are added, further developing the investigative framework.

1.4.2.1 Investigative framework

The investigative framework, therefore, breaks governance into five components: legislation, policy, practice, evidence and reform. The framework was used to guide the empirical research of two natural resource governance case studies identifying how participatory processes evolved from legislated requirement to project level implementation. This framework also facilitated the collection of empirical evidence to assist in the design of better governance structures, providing the means for not only designing and analysing the research project but also for presenting conclusions and implications.

The study was designed to range across *scales*, focus on *implementation* and maintain an explicit connection to *institutional frameworks*. To ensure the research

would produce useful outcomes, it maintained a focus on developing applied policy recommendations drawn from an understanding of participatory processes in practice, and the legal and policy settings that framed these processes (Banisar, Parmar, deSilva, & Excell 2011; Barnard 2012; Bottriell & Cordonier Segger, 2005; Dellinger, 2012; Goepel 2010).

1.4.3 The research approach

The influence of cultural, organisational and social norms on formal and informal rules and behaviours is a key interest of this research. The research suggests that articulation of norms is likely to reveal how informal dynamics impact on the way that participatory processes operate in practice. Increased understanding of normative influences can inform ideas of what new norms should be encouraged to drive improvement in governance of natural resources. This required a research approach that paid attention to the fine grain of participatory processes as implemented. The research asks: Whose voices are heard? What barriers to participation are experienced? And how do participants construct their own norms of participation and governance across the institutional framework?

The research interest in experience and perception suggest that qualitative methods were the most appropriate for exploring the dynamics of how participatory process are implemented. Chapter 3 discusses in detail the methods used in this research.

1.5 Dissertation outline

This thesis is a compilation of published papers (or papers in the process of being published) and discussion. This section explains the format of this thesis and how the published papers and chapters interact. Figure 1.1 summarises the structure showing how the six substantive chapters are integrated with the five journal papers to present a complete dissertation.

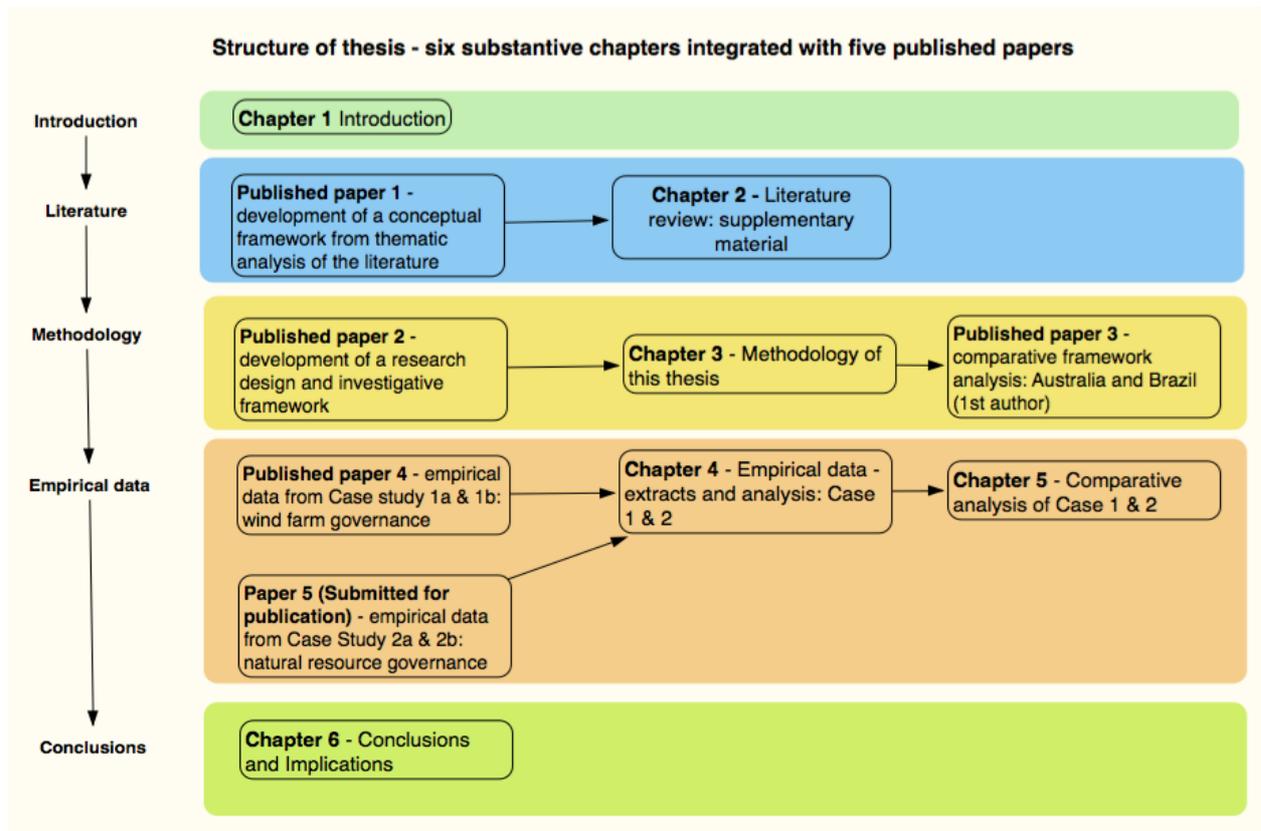


Figure 1.1: Illustrating the structure of the thesis.

1.5.1 Thesis by publication

This thesis combines published papers and substantive chapters to meet the requirements of the 'Journal-article format for PhD theses at the University of New England' (Appendix One). These requirements permit doctoral candidates to present their research as a combination of journal papers and traditional chapters. The journal article format requires that the final dissertation present a consistent narrative throughout. An Introduction and Conclusion are required to demonstrate the theoretical and empirical links between the articles and chapters. The work must be cohesive and consistent in its use of key concepts, terminology and methodology.

This dissertation comprises five journal articles and six chapters. Papers that have been submitted for peer-review and accepted for publication are wholly drawn from the research. These papers have been combined with the substantive chapters to present an integrated body of work.

To establish the research context, each publication drew on the literature review and methodology to a different extent. Common themes were explored in several published papers. Efforts have been made to minimise duplication in the integrated dissertation.

Published paper one (Howard, 2015a), presents findings from a review of academic and practitioner literature on the topics of community engagement and natural resource governance. A data-set of 127 articles were reviewed and a resulting socio-legal conceptual framework derived. A thematic analysis of the data-set was then conducted to further clarify and extend the research question. The thematic analysis is discussed in the context of the literature and how this informed the conceptual framework for this research. The conceptual framework was then refined to develop an investigative framework. Due to word limits imposed during publication, it was not possible to include the entire literature review in this paper.

Chapter 2, the literature review, presents additional literature that was part of the original data set analysed in Published paper one. The review further explores the disconnection between legal requirements for community engagement and the implementation of these requirements identified in Published paper one; it unpacks assumptions buried in the plurality of theories, perceptions and expectations that exist under the phrase 'community engagement' and its many synonyms. The review highlights that such assumptions and underpinning values influence the way that community engagement is framed, implemented, assessed and utilised in natural resource governance.

Published paper two (Howard, 2014) introduces concepts of procedural and substantive legislative reform. A review of existing socio-legal methodologies for evaluating the implementation of international principles identifies a possible 'principled policy' approach. This paper demonstrates how the conceptual and investigative frameworks described in Published paper one combined with a 'principled policy' methodology shaped an empirical research design.

Chapter 3 – Methodology provides a detailed description of the research design and methodology of this thesis introduced in Published paper two.

Published paper three (Howard, 2015b) is co-authored with Solange Teles da Silva and considers the legal requirements for public participation in two case studies; one from Australia and one from Brazil. The paper draws out the key points from a comparative analysis and applies the investigative framework described in Published paper two. This paper highlights the importance of reform that combines substantive and procedural elements to deliver authentic public participation in natural resource governance.

Published paper four (Howard, 2015c) describes the results of applying and testing the investigative framework introduced in Published paper one using interview and documentary data from a windfarm. *Case study one: Windfarm governance* analyses two participatory processes operating under legal requirements for community consultation. The research described in this paper assisted in the development of policy reform recommendations described in Chapter 6: Conclusions and implications.

Like Paper four, submitted paper five (Howard, in review)⁷ describes the application and testing of the investigative framework introduced in Published paper one. The paper presents *Case study two: Natural resource planning*, in which two participatory processes operating under legal requirements for community consultation are described. Again, interview and documentary data was analysed and interpreted within the natural resource governance framework, and the results assisted in the development of the policy reform recommendations described in Chapter 6.

Chapter 4 presents extracts from the qualitative data analysis of case studies one and two. This chapter provides empirical data to illustrate and support the analytic process that led to papers four and five.

Chapter 5 presents a comparative analysis of case studies one and two, synthesising the empirical data described in published papers four and five, and Chapter 4.

⁷ This paper was submitted for publication to the **Journal of Rural Studies** in February 2015 and is currently under review.

Chapter 6 concludes the dissertation by outlining its original contributions and limitations and discussing future directions for research. In addition, the chapter provides a number of recommended governance reforms.

1.6 Summary

This Chapter has presented a brief introduction to the context of the research problem and the concerns of the present research. The research concerns of community engagement and natural resource governance have been outlined within an Australian context. The central research question, the investigative framework and the methodological approach have been introduced. An outline of the Chapter and Paper structure has been provided, illustrating how the research problem unfolds throughout the thesis.

Published paper one:

Howard, Tanya. (2015). 'The rules of engagement: A socio-legal framework for improving community engagement in natural resource governance'. *Onati Socio-Legal Series*, (forthcoming).

The “rules of engagement”: A socio-legal framework for improving community engagement in natural resource governance

TANYA HOWARD

Howard, T., 2015. The “rules of engagement”: A socio-legal framework for improving community engagement in natural resource governance. *Oñati Socio-legal Series* [online], forthcoming. Available from: <http://ssrn.com/abstract=2553768>



Abstract

Increasing community action in natural resource governance is commonly seen as a pathway for improving decision making, enabling increased on-ground activity and facilitating widespread acceptance of government and industry legitimacy in managing natural resources. Other perspectives on community engagement see the promise of enriching existing or emerging democratic values by addressing the limitations of representative governance. While the practice of community engagement has been well described, more work needs to be done to understand the institutional factors that contribute to the expectations attached to these practices, and how the role of community in natural resource governance can be improved.

This article presents findings from a review of academic and practitioner literature on the topics of *community engagement* and *natural resource governance*. 127 articles were reviewed and the resulting conceptual framework is described. A thematic analysis of the data-set was then conducted to further clarify and extend the research question. The results reveal a persistent focus on practical aspects of engaging community, without sufficient analysis of how institutional dynamics such as legal requirements, policy drivers and implementation contexts impact on the realities of community environmental governance. The paper concludes with future research directions in the pursuit of improving the role of community in natural resource governance. It is expected that the insights generated through this article will have relevance to other modern democratic societies and be of interest to environmental lawyers, policy makers and community advocates.

Key words

Community engagement; public policy; socio-legal frameworks; natural resource governance

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1. Introduction

In Australia, government investment in natural resource management is receding. National programs supporting conservation and environmental management on private and public lands are under review in a context of budget efficiencies and growing government emphasis on market based strategies (Australian Government 2014a) (Australian Government 2014b). Conflict over land use has seen tensions arise between government, community and private industry (Barbour 2014, Guilliat 2014, Woods 2014). Recent corruption investigations have linked powerful vested interests with unethical development decisions that have serious environmental impacts (Nicholls 2013, The Australian 2014, Glanville 2014). Attempts to manage shared natural resources across jurisdictional boundaries have been challenged by politicisation and vocal community opposition (Hussey and Dovers 2007, Gray 2011), reducing the ability of government to deliver equitable and sustainable natural resource management (National Water Commission 2013, Rawlins *et al.* 2014).

As population growth, consumption demands and climate change increase pressures on shared resources, there is a need for improved governance structures that balance vested interests with consideration of social and environmental impacts, and enable communities to be involved in making decisions about the management of natural resources (Martin *et al.* 2012, Taft 2014). If "*public participation is widely considered a fundamental aspect of good governance*" (Dellinger 2012) then it is necessary to explore how existing governance structures can engage in productive reforms that bring community voices into natural resource decision making (Holley 2010, Herriman 2011, Evans and Reid 2014).

Analysis of governance regimes from the international arena has identified that power to set the agenda and determine the content of any particular meeting is the least transparent aspect of current community engagement procedures (Werksman and Foti 2011). Suggested reforms are concerned with issues of legitimacy and accountability, and see existing laws as an avenue to enable more rapid progress towards institutionalising new norms of community engagement (Becker 2010, Ross 2010, Turner 2013). This article is concerned with the role of community in Australian natural resource governance, and in particular focuses attention on the interactions and impacts that human populations have with the environment and how institutional rules, organizational structures and cultures of bureaucracy and industry structure these interactions (Dovers 2010).

Community engagement is a common requirement of public policy in modern democratic societies such as Australia. Regularly appearing in legislation, policy documents and program descriptions, '*community engagement*' and '*public participation*' are used in a reassuringly authoritative fashion, suggesting a clear and uncontested view of community engagement and a common understanding of its role in modern governance. However, community is not a static concept, as interactions between individuals, society and the environment create a dynamic context for change, influenced by institutional rules, industrial activities, organisational politics and social norms (Harrington *et al.* 2008, Whitman 2008, Johnston 2010, Souter 2012).

Within this paper, the term *community engagement* is used as synonymous with *public participation*. This reflects an interaction between the Australian vernacular of public policy, and the international terminology of sustainable development (Bottrill and Cordonier Segger 2005, International Association for Public Participation 2012, La Camera 2013). Both phrases carry an assumption that "*environmental issues are best handled with participation of all concerned citizens, at the relevant level*" (United Nations Environment Programme 1992).

This paper briefly outlines the current context for natural resource governance and community engagement in Australia, and then describes the methods used to

develop the empirical component of this analysis. Result of a thematic analysis are presented and then extended in the Discussion, where insights from the literature review are linked to the conceptual framework. The paper then describes how the findings from this analysis have informed a research design and empirical work currently underway in Australia, and concludes with an outline of this investigative framework.

2. Natural Resource Governance in Australia

Natural resource management (NRM) is a field of public policy that has developed hand-in-hand with community engagement since the rise of environmental activism and participatory planning in the 1960s (Munro-Clark 1992, Whitman 2008). Natural resources are assets that are derived from the natural environment, such as water, soil, mineral and botanical resources. These naturally occurring resources provide the capacity for agriculture, aquaculture, and the foundations of economic trade and development. When human society interacts with natural resources to control, change, improve or disturb ecosystem balance, natural resources are undergoing a form of management. Natural resource *governance* describes the mechanisms developed through policy, legislation and everyday interactions to influence or enact decisions about how these natural resources will be used (Ryan *et al.* 2010).

Concern for sustainable development, environmental protection and agricultural security combine with biophysical factors such as water scarcity, soil degradation and food security to generate complex arenas for public policy (Allan 2008, Lockwood *et al.* 2009). In Australia, attempts to find a balance between the utilisation and conservation of natural resources has seen many iterations of regulation, collaboration, voluntarism and market-interventions, with a current policy focus on a model of regional governance (Lockwood and Davidson 2010, Wallis and Ison 2011, Martin *et al.* 2012, Curtis *et al.* 2014).

Natural resource governance in Australia is multi-jurisdictional, with varying responsibilities held at every level of government from Federal to Local. Legislation devised at the Federal level devolves responsibilities to State and Territory Governments, inducing a diverse legislative response across the country. Likewise, local government responds to both Federal and State/ Territory directives, to create a mosaic of localised management instruments. Adding further complexity, the Federal Government initiates direct relationships with regional bodies and local governments, distributing funding and imposing conditions of accountability within these agreements. This fragmentation enables competing objectives and interests to flourish, as regional needs are nested within the political mechanisms of federalism. As a consequence, it is suggested that

"ad hoc, polycentric and multi-layered development, constitutional constraints and fragmented institutional arrangements have obstructed an integrated and systemic national approach to managing Australia's natural resources" (Bellamy 2007).

As illustrated in Figure 1, the complexity of natural resource governance in Australia creates challenges for effective community *engagement*. The opportunity for different interpretations of what community engagement is, or should be, and where and when it is appropriately utilised to achieve better environmental outcomes, continue to multiply, as the intention to engage is 'lost in translation' through layers of institutional design (Clayton *et al.* 2011, Williams *et al.* 2012; Martin *et al.* 2012). While procedural mechanisms that aim to inform the community and provide minimum consultation requirements are embedded in much legislation addressing natural resource management, no central organizing principle of participation exists in Australian law. Although "community" is regularly referred to in the objects of legislation there are seldom definitions of who this "community" is, and limited legal recourse on the issue of unsatisfactory community participation.

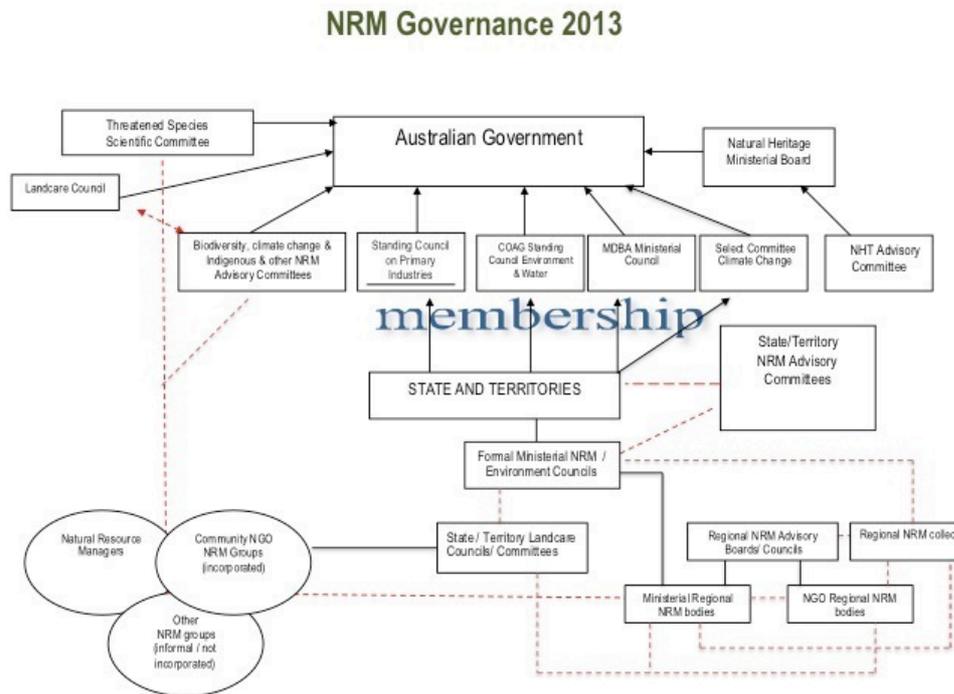


Figure 1: NRM governance in Australia. Source: Williams, 2013.

2.1. Legitimacy in natural resource governance

Institutions, both public and private, require the trust of the community and the stamp of legitimacy in order to operate successfully (Whitman 2008). Julia Black observed that

Organizations develop structures and procedures not because of their instrumental value in achieving efficient outcomes, but because they can thus communicate to observers that the decisions being made are legitimate and should therefore be supported (Black 1997).

Community engagement strategies can be seen as attempts to demonstrate legitimacy, translating participation in structured activities into a form of tacit approval by community, commonly referred to as a 'tick the box' approach (Ross 2010, Nabatchi and Farrar 2011). This raises serious questions about representation, justice, fairness, and potentially increases the risk of community *disengagement* (Fung 2006, Peterson 2011). Pursuing legitimacy as an objective in itself limits attention to the possible impact these procedures may have on achieving better environmental outcomes and complicates understanding of the purpose of community engagement (Smith 2003).

Previous research in the Australian context has suggested that while procedures of natural resource governance may be embedded in legislation, implementation tends to reinforce existing power imbalances (Holley 2010). The difficulty of distinguishing between the stated intention and the actual outcome is a recurrent finding (Margerum 2008) that stresses the need for more nuanced understanding of concepts of community, representation and participation (Rockloff and Moore

2006), terms that regularly overlap in environmental governance discourses (Lane 2005).

3. Methodology

3.1. What are the 'Rules of Engagement'?

This article draws on the substantial body of existing knowledge about the process and practice of community engagement, to focus on identifying strategic research directions for improving community engagement as an element of natural resource governance. The primary research question guiding this investigation asks: *How is community engagement currently defined and experienced in Australian natural resource legislation, policy and practice; and how could it be improved?*

This question directs attention to the difference between requirements and definitions of community as they appear in legislation, policy, programs and project levels of governance. Several key assumptions influenced the framing of this research. As part of a bigger research program concerned with institutional reform in natural resource governance, the framework needed to connect diverse concepts of "community engagement" and the rules and policy that make up the institutional scaffold (Banakar and Travers 2005, Martin *et al.* 2012). These assumptions guided the development of a conceptual framework which emerged from the literature review and informed the thematic analysis described in this paper.

3.2. Literature review

A literature review of existing published papers is a standard step in the development of a new research proposal (Neuman 2011). A literature review ensures that previous discoveries and important conceptual progress are not lost, and that ongoing research builds on the collective knowledge of the academic canon (Silverman 2010). To make sense of the literature, a researcher must compare and contrast, developing categories that group the main findings, while always remaining alert to the outliers that may reveal new or important directions for future research (Rapley 2007). As the literature is explored, these categories become important analytical tools that form the basis of an emerging research question, grounded in previous work and informed by the insights of others in the field (Bernard and Ryan 2010).

However it is always possible that a researcher views and filters the literature through a subjective lens that can skew the outcomes of a review (Agee 2009, Chambers 2003). While a commitment to reflexive research practice is one strategy for addressing the influence of subjective viewpoints, the approach taken in this study was to triangulate the findings of the literature review with a thematic analysis, to test the assumptions and findings that were emerging from the literature (Blaikie 2010, Johnson and Christensen 2008, Richards and Morse 2007).

3.3. Thematic analysis

Thematic analysis is a useful way to empirically test intuitive responses to the literature, by repeatedly interacting with the data to find recurring ideas, terms and references (Bernard and Ryan 2010, Neuman, 2011, Joffe 2012). As key terms and concepts emerge from this process, the results are re-examined for indications of what might be missing, to establish whether additional references need to be sought out. Themes are then developed and defined, and in this case the literature review keywords extended to capture missing data in the form of journal articles.

In developing a keyword selection list for this literature review, attention was focused on research that explored the intersection between *community engagement* and *natural resource governance*. A list of keywords was generated

from synonyms of community engagement, environmental governance and natural resource management.¹

A total data set of 126 full-text articles was generated over a six-month period from cross-disciplinary international databases.² The initial analysis suggested a lack of research addressing the intersection between institutional settings and community engagement, and this became an increasing area of interest for the review. To further strengthen this enquiry, it was considered worthwhile to revisit the data and code it to establish whether the initial analysis was correct. Codes were applied based on the description or definition of community engagement as it appeared in the abstracts, and whether the article applied a legal, political or practice lens to the research topic. Utilising the terminology of the conceptual framework, a codebook was developed and 5 themes were coded as described in Table 1.

This approach is not without limitations. As the themes were developed inductively and applied retrospectively, this analysis does not claim the methodological rigour of a quantitative systematic review. However, as part of a qualitative study, a thematic analysis can be applied to the same data set (in this case, the literature review) to test the findings and confirm the research direction, without striving for replicability or validity in a positivist sense (Richards and Morse 2007, Denzin and Lincoln 2008, Green and Thorogood 2009). The thematic analysis provides a way to map and visualise the findings of the literature review, while also directing attention to what may be missing, and how personal bias and theoretical influences may be colouring the research question. By exploring the literature through these two methods, the standard 'narrative' approach and a thematic analysis, the research combines social science research methods with the field of legal and institutional scholarship, to access cross-disciplinary insights informed by socio-legal terminology (Banakar and Travers 2005, Green and Thorogood 2009, Fisher *et al.* 2009).

¹. Keywords used: Analysis, Citizen, Collaborative, Community AND engagement, Consultation, Effective , Environment*, Evaluat*, Governance, Institution*, Law, Legal, Natural AND resources AND management, People, Policy, Public AND participation, Socio-legal, Stakeholder

². Databases included social science, humanities, legal studies and environmental science publications. All databases were accessed through institutional subscriptions. Only full text articles were included.

Table 1: Extracts from the codebook developed through inductive reading of the literature.

Community engagement defined, described or required	Examples
Substantive:	Institutional; rules; laws; principles; international frameworks
Substantive/procedural:	Attention to both themes or analysis of interaction
Procedural:	Administration; policy; programs; agreements; contracts; guidelines
Procedural/process:	Attention to both themes or analysis of interaction
Process:	Activities; practice; education; manuals; evaluation; implementation

3.4. Socio legal perspectives

Socio-legal research regularly focuses on aspects of procedural justice such as enhanced legitimacy of decisions (Markell 2006), access to justice, (Gross 2008; Tyler 1988) and understanding how people perceive and interact with the law (Tyler 2006). A socio-legal perspective directs attention to the difference between requirements and definitions of community as they appear in legislation, policy, programs and project levels of governance. The socio-legal framework proposed in this article rests on the assumption that clearer articulation of the institutional drivers for community engagement will go some way towards addressing the confusion of purpose that hinders the effectiveness of community engagement and will assist in building better evidence about the role of community engagement in natural resource governance, by establishing boundaries and clarifying expectations at the outset, addressing disillusionment and disengagement, and improving linkages with legal and policy dynamics (Clayton *et al.* 2011).

This research draws on socio-legal scholarship considering the influence of substantive and procedural elements of law in creating meaningful governance regimes (Black 1997, Brown *et al.* 1998, Wiersema 2008, Fisher *et al.* 2009, Kirk and Blackstock 2011, Turner 2013;) and concepts of multi-scale "vertical slice" research that support an analysis of the same issues as they appear across institutional, organizational and community scales (Marshall 2007, Dovers 2010;). Environmental justice and public policy scholarship that explores the intersection between institutional and social norms inform this framework, and how these are given form in both the *creation* and *delivery* of policy (Black 1997, Gross 2008, Bryner 2002).

Figure 2 illustrates how this research terminology has been adapted for the purpose of the research. The *substantive* refers to the explicit objective of achieving community involvement. This is perceived as a core intention of the legal instrument, and could indeed be the central organizing principle of legislation. The *procedural* concerns community engagement as described or prescribed in requirements, mechanisms, or procedures that can be seen to *enact* engagement, though this is not the core organizing principle of the legal or policy document. Further iterations of this distinction introduced a *process* element that encouraged attention to implementation of both legislation and policy elements (Waring 2001; Kennedy 2006).

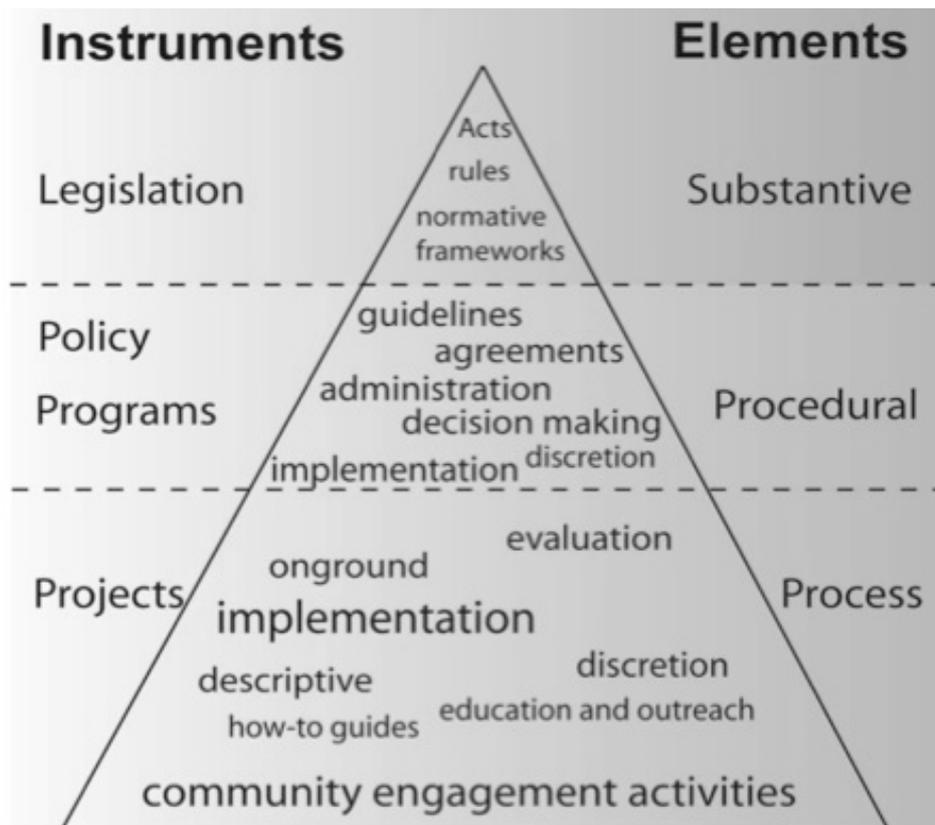


Figure 2: The conceptual framework includes examples of each element within the triangle, and draws parallels between instruments of modern governance on the left-hand side, and the socio-legal terminology employed in this framing on the right-hand side.

4. Results

4.1. Thematic analysis

The results of the thematic analysis supported the initial findings of the literature review and the utility of the conceptual framework for guiding further research. These findings are presented in the following Discussion. Attention to the interaction between the different themes required development of additional codes, resulting in five distinct themes as detailed in Table 1.

Figure 3 illustrates the predominance of *process* and *process/procedural* data in the literature, and shows the need for further research to understand how substantive and procedural elements interact to support or inhibit community engagement in natural resource governance. The following discussion identifies the significant factors that complicate the study of community engagement as an element of natural resource governance.

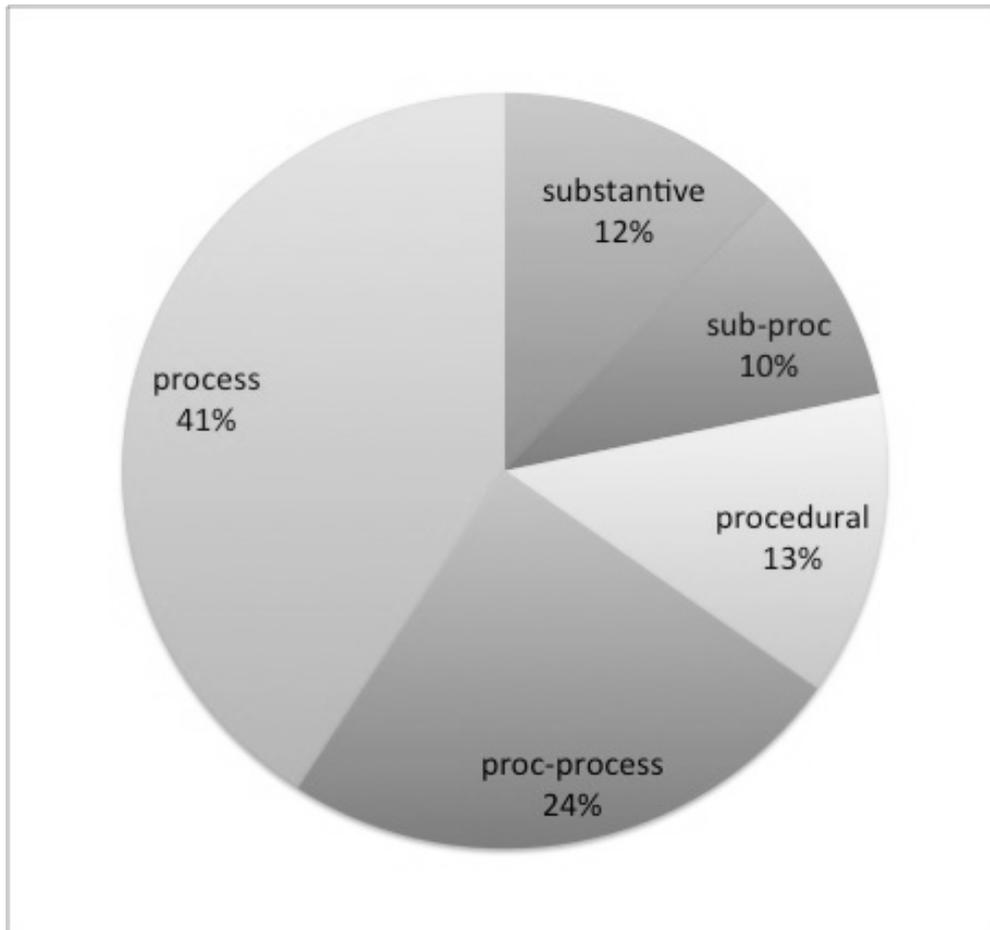


Figure 3: Results of a thematic analysis of the data set (n=126 articles) coded to the elements of the socio-legal framework, demonstrating the majority focus of the literature on describing the activities of community engagement.

5. Discussion

5.1. Confusion reigns

The literature reviewed for this research suggests that two types of confusion distinguish the study of community engagement: a confusion of **terminology** and a confusion of **intention** that fails to adequately distinguish between process and outcomes.

Terms such as participation, consultation, collaboration, partnership, public, citizen and community appear throughout the literature and are often used synonymously (Whitman 2008, Berner *et al.* 2011). Researchers have identified this confusion as a key factor in misunderstandings between participants at all levels of governance (Wallis and Ison 2011), with varied meanings being assumed and unspoken, impacting negatively on the design, practice and evaluation of engagement (Brackertz and Meredyth, 2009, Brugnach *et al.*, 2011, Besley, 2012). The wide variety of terms combines with a range of meanings to extend the field of possibility that is loosely referred to as 'community engagement'. In a similar way, terms such as *sustainable development*, *environmental governance* and *public good* are malleable, depending on the definitions accorded to them in different contexts (Shepherd and Martin 2011, Miller 2012, Jendroska 2013), making them difficult to implement effectively, and challenging to enforce in a consistent manner.

Engagement activities frequently evidence a confusion of purpose, conflating outputs with outcomes, and impeding strong empirical evaluation of effectiveness (Rosener, 1978, Koontz and Thomas, 2006). Additional confusions are commonly recorded in the diverse expectations held by those involved at various stages in the design, implementation and participation of engagement activities (Barr, 2011, Brugnach *et al.*, 2011). These confusions often reflect the differing world-views that are embedded in concepts of engagement at the institutional, organisation and individual level (Brackertz and Meredyth, 2009), and have significant implications for empirical evaluation of community engagement outcomes (Caron, 2000, McKinney and Field, 2008).

Practice guides for implementing community engagement often assert that

"public participation will lead to many benefits, such as increasing public trust in authorities, improving citizen political efficacy, enhancing democratic ideals and even improving the quality of policy decisions" (ScienceWise Expert Resource Centre, 2012).

This pervasive assumption rests on the belief that engagement carries a normative virtue and there is a predictable link between engagement activities and functional outcomes (Rowe and Frewer, 2004, Koontz and Thomas, 2006, Banisar *et al.*, 2011): if community is given some (undefined) level of access to decision making processes, there will be an increase in voluntarism or social capital to the ultimate benefit of decision makers (Adams and Hess, 2001, Brackertz and Meredyth, 2009, Marshall, 2011). Critical analysis has questioned whether these assumptions are supported by empirical data (Buchy and Race, 2001, Maurer *et al.*, 2003, Berner *et al.*, 2011). The literature reviewed for this study suggests a link between this lack of empirical evidence and the confusion that characterises the field (Caron, 2000, Lewis, 2008). It is difficult to assess the functional value of engagement when there is a lack of certainty about key terminology, organising concepts and desired outcomes (Grimble and Wellard, 1997, Collaborative Democracy Network, 2006, Torgler *et al.*, 2010, McKinney and Kemmis, 2011).

5.2. Institutional dynamics

Procedural forms of governance rely heavily on interpretation and precedence when translating rules into action (Wiersema, 2008, Jendroska 2013). Broad rules for community engagement are subject to a distinct form of discretionary power at the implementation stage, which may substantially influence the practical manifestation of these guidelines (Mutamba 2004, Lewis 2008, Wallis and Ison 2011). Legal frameworks for community engagement favour vague substantive definitions or requirements and thereby promote a greater reliance on the way that laws are interpreted and implemented (Wiersema, 2008, Shephard and Martin 2011). This reluctance to define clear goals and objectives at the substantive level and reliance on procedural and administrative instruments may reflect distaste for 'command and control' regulation (Wiersema, 2008, Bottomley and Bronitt, 2012).

Procedural, discretionary or administrative forms of power can be expressed in a range of ways that are relevant to the consideration of community engagement in natural resource governance. Controlling the definition of a problem, setting the agenda, resourcing a process and framing the terms of engagement are all ways that power can be exerted in a procedural fashion, supporting and reinforcing a status quo that may not be consciously acknowledged (Black, 1997, Boxelaar *et al.*, 2006). While regulation from the centre is perceived as anti-democratic and generally at odds with the values of inclusiveness and collaboration that characterise best-practice community engagement, in the context of natural resource governance, the literature reviewed for this paper suggests that both substantive and procedural reforms are required to achieve more meaningful community engagement (Becker 2010, Ross 2010, Bratspies, 2011).

Institutional arrangements such as legal rules, policy settings, bureaucratic cultures and more prosaic expressions such as funding applications or reporting templates, can exert an unseen influence on attempts to generate innovative policy responses, resulting in a disconnection between the stated objectives of policy initiatives and the way that these are operationalized (Steelman 2010, Woolgar and Neyland 2013). Paying attention to the institutional architecture that underpins governance enables consideration of possible perverse consequences from reforms (Marshall 2007, Wallington and Lawrence 2008, Fisher *et al.*, 2009). Scholars recommend examination of how entrenched policy cultures resist uncertainty and complexity (Gottweis, 2008), elevate simplicity and, as a result, increase the risk that decisions will be inadequate for the complex issue at hand (Allan 2008, Wallis and Ison, 2011).

While complex problems demand innovative responses, evidence suggests that new governance arrangements are often revealed to be sub-sets of old ways of doing things, destabilising or counteracting innovation (Fischer 2005, Colebatch, 2009, Eversole, 2011). There is not enough change to really be effective and this suggests that tradition, philosophy, culture, and values are all essential components in understanding the role of institutional dynamics in addressing complex policy problems (Reed, 2008, Gunningham, 2009, Ostrom and Cox 2010).

5.3. The limitations of typologies

Attempts to address these sources of confusion have resulted in a wide variety of typologies and classifications in the engagement literature, ranging from the descriptive to the interpretative (Rowe and Frewer, 2005, Margerum, 2008). These typologies generally fall into two categories: catalogues of engagement techniques and when to use them (a **process** perspective) (Fung 2006, Markell, 2006) and critiques of how power is being expressed through these processes (a **procedural** perspective) (Arnstein, 1969, Peterson 2011). These typologies describe the many versions of community engagement that sometimes operate concurrently, ranging from a *principled* commitment to community empowerment and a belief in the practice of democratic rights, all the way through to a *rational* belief in the one-way transfer of knowledge that supports a command and control approach (Johnson *et al.*, 2004, Lockwood *et al.*, 2009, Eversole, 2011). These different versions contain important normative assumptions about the purpose of community engagement, and are described in Table 2.

Disengagement and distrust are the dark sides of poor community engagement (Peterson 2011), creating civic dislocation that leads to a sense of illegitimacy and a vacuum of meaningful engagement (Gottweis, 2008). When there is a perceived or actual gap between stated intentions and actions, communities become disillusioned, cynical and detach from government, or from the activities of community engagement itself (Grimble and Wellard, 1997, Irvin and Stansbury, 2004, Markell, 2006, Marshall, 2007). The study of exclusion (as opposed to participation) critiques typologies that fail to recognise barriers to engagement (Taylor 2007) and limit our capacity to understand how community engagement works in practice (Holley 2010, Peterson 2011).

Processes can be designed to privilege dominant perspectives and exclude minority voices, through technicalities of limited time frames, restricted opportunities to comment, privileging of "expert" opinions and other subtle reinforcements of existing inequities (Adler, 2005, Fischer, 2005). Practical considerations such as poor venue choice, inconvenient timing of meetings and not catering for languages other than English are also identified as significant and common barriers to community engagement (Peterson, 2011). The political reality of distrust can be a less functional (from a policy perspective) expression of community engagement, where the public exercise their power in opposition to the status quo. This can create delays, undermine change or halt decision making altogether (Lewicki and

Gray 2003). When community engagement fails and civil disobedience results, a systemic lack of trust between community and decision makers is revealed (Fischer 2005) and this only serves to increase the difficulty of addressing complex natural resource problems (Beierle 1999, Gray 2003, Lewicki and Gray 2003).

Table 2: Normative assumptions underpinning different versions of community engagement (compiled by the author from the literature review data)

Procedural norms	Process norms
Principled	Rational
Intrinsic	Instrumental
Inherent good	Outcome focus
Democratic	Pragmatic
Empowering	Efficient
Human-right	Cost-effective
Social	Legal
Transformational	Functional

5.4. Institutionalising community engagement

Understanding the factors that drive community engagement in natural resource governance is a research interest for economists, environmentalists, legislators and policy makers, among others (Pannell *et al.*, 2006, Eversole, 2011, McKinney and Kemmis 2011, Podger *et al.* 2012, Muro and Jeffrey 2012)). Community networks and relationships are considered significant in predicting the success of programs that focus on increasing participation (Adams and Hess, 2001, Eversole 2011, Morris 2012). Often described as social capital, the trust and reciprocity that distinguish successful communities are valuable commodities and explains the ongoing focus of much of the research into 'community' (Herriman 2011, Marshall, 2011, Morris, 2012).

Ostrom argues that '*a core goal of public policy should be to facilitate the development of institutions that bring out the best in humans*' (Ostrom, 2010). Attempts to avoid complexity and uncertainty by promoting over-simplified and therefore unworkable policy solutions bears a significant transaction cost for those charged with implementation (Ostrom, 2010, Eversole, 2011). This is of particular significance when considering community engagement as an element of natural resource governance, where denying the complexity of the issue risks compounding the environmental consequences of poorly designed and implemented policy by disenfranchising the community, disempowering agency staff and creating a negative response to policy reform (Caron, 2000, Allan 2008, Brugnach *et al.*, 2011). This can lead to unintended or perverse consequences of policy, such as community conflict and poor environmental outcomes on the ground, common problems for natural resource management governance (Connell and Grafton, 2008, Wallis and Ison, 2011, Browne and Bishop 2011, Coggan *et al.* 2013) (). The results presented here demonstrate the need for more attention to the difficult interface between the substance of legal and policy settings, and the practical implementation that has direct impact on community interest and willingness to be "engaged" in matters of natural resource governance.

6. Conclusions

6.1. Implementation

Power dynamics are never far away in a discussion of community engagement and governance. While community has limited opportunities to formalise the 'rules of engagement', institutional power can impose significant transaction costs on the community through accountability mechanisms, legitimacy requirements and legal restrictions. (Marshall, 2007, Taylor, 2007, Eversole, 2011).

How then can community engagement be meaningfully institutionalised to achieve better governance and environmental outcomes? Is it possible to address power imbalances in current governance regimes by transferring accountability from the community back to the bureaucracy or legislature? (Black 1997, Wiersema, 2008) There is no doubt that the ingredients for successful engagement are well described and a best practice literature is readily accessible for those interested in the "how-to" of community engagement (Scottish Community Development Centre, 2005, Central Office of Information, 2009, International Association for Public Participation 2012, Clean Energy Council, n.d). However the connection of engagement to decision-making, policy development and legal change is often missing (Irvin and Stansbury, 2004).

As a result there is a certain amount of stasis in the study of community engagement that impedes our understanding of how it can be improved as an element of natural resource governance (Holley 2010). The literature surveyed here reveals a significant focus on the public sector, which suggests we may be missing important lessons from the practice of community engagement as it occurs in the private sector (Martin *et al.*, 2012). Environmental and natural resource management policies and guidelines may advise the importance of activating the community, however these documents do not specifically define the goals or objects of community engagement as a feature of natural resource governance (Programs Committee of the Natural Resource Management Ministerial Council, 2002, Central Office of Information, 2009, Gardner *et al.*, 2009). This governance gap institutionalises uncertainty at the highest level, by omitting to address how community engagement will be put into practice. There is a need to explore the interaction between expectations of community engagement at higher levels of governance, and the practical experiences of community on the ground (Collaborative Democracy Network, 2006, Berner *et al.*, 2011).

The literature in this field uniformly acknowledges Arnstein's Ladder of Citizen Participation (Arnstein, 1969) as the foundation work in classifying community engagement and participation. Although the academic field may have moved on, attempting to extend and update the Ladder of Participation (Rowe and Frewer, 2004, Brackertz and Meredyth, 2009, Neef and Neubert, 2011), current typologies tend to focus on the methods and practices of engagement (Smith *et al.*, 2005, Central Office of Information, 2009, Gardner *et al.*, 2009), with limited articulation of connections to decision-making (Beierle, 1999, Myšiak *et al.*, 2008), or the influence of organisational cultures and institutional design (Reed, 2008). The value of applying a socio-legal framework lies in the articulation of community engagement within the decision making process of modern natural resource governance (Brugnach *et al.*, 2011), and enabling reform proposals that articulate the interaction between the substantive, procedural or process elements. This framing calls attention to the **substance** of community engagement, clarifying the degree to which this is a primary focus or a side issue, regardless of the level of governance being examined.

6.2. Future research

The findings of this paper form the basis for future research concerned with understanding how existing laws and policies influence the implementation of

community engagement in natural resource governance. As part of the *Next Generation Resource Governance* research project, a series of Australian case studies have been developed employing a '*principled policy assessment*' methodology (Cordonnier Segger 2004; Howard 2014) that examines both the legal status of principles for community engagement (Barnard 2012) and their implementation³ (Dellinger 2012). This research is guided by a revised conceptual framework illustrated in Table 3 and the belief that

'while legal frameworks are enabling factors.... they are insufficient to guarantee that effective citizen participation will take place' (McGee *et al.* 2003).

The research takes a 'vertical slice' of case studies suitable for qualitative interview and documentary analysis, beginning with identification of legislation that states a role for community in the objectives and/or definitions. The cases are selected for comparative analysis and consider how different governance mechanisms address the community engagement objectives of the relevant legal and policy settings. Data collection has been completed at the time of writing, and analysis is underway.

This study is based on the belief that further analysis of implementation is necessary to inform well-rounded reform directions, and there is a need to develop techniques that can analyse the relationship between legislative, policy and practice frameworks (Fisher *et al.* 2009). Environmental law scholars see the need to develop standardised and replicable research methods (Fisher *et al.* 2009, Martin and Craig 2013) that can facilitate evaluation of both legal and policy settings, and the experience of participants in these community engagement processes (Kirk and Reeves 2011). While more time intensive, empirical work allows the nuts and bolts of implementation to become visible. Attention to the experience of participants through case studies can provide rich information about how ideals translate into experience, merging both legal and social data to improve knowledge in this field (Visseren-Hamakers 2013; Coggan *et al.* 2013; Yin 2009).

Table 3: The investigative framework extends the conceptual framework by adding an evidence and reform element to the research inquiry

Legislation	Content/ substance
Policy	Mechanisms/ requirements
Practice	Implementation/ activities
Evidence	Evaluation for improvement, knowledge change
Reform	Consideration of alternatives

6.3. Implications for the study of community engagement and natural resource governance

It is often assumed that community engagement will lead to many benefits, such as increasing public trust in authorities, improving citizen political efficacy, enhancing democratic ideals and even improving the quality of policy decisions. However, these assumptions are largely untested, and the benefits of 'participation' are not that clear. It appears that a confusion of purpose and lack of clear goals combines with a reliance on normative guidelines to generate a wide range of expectations for community engagement. A lack of clarity makes evaluation of effectiveness difficult, providing a possible explanation for the lack of empirical evidence in the field. Multiple expectations also increase the likelihood of disappointment and disengagement, with implications for the legitimacy of natural resource governance. These potentially serious consequences support further investigation of how

3. For more details of the research design and preliminary results see (Howard 2014).

community engagement is represented in current natural resource legislation and how it is operationalised across the substantive, procedural and process realms of governance, to establish the most strategic way to address this confusion and improve natural resource governance in the future.

This article suggests that applying a socio-legal framework to the literature, and articulating the substantive, procedural and process elements of community engagement in current natural resource governance, can address this gap in the research. Understanding the interaction between the substantive, procedural and process elements of resource governance will contribute to the development of a next generation of institutional arrangements that can successfully facilitate meaningful community engagement in Australia, and provide useful insights to other jurisdictions.

References

- ABC News [online], 15 May 2014. Metgasco referred to ICAC; Bentley gas drilling suspended. Available from: <http://www.abc.net.au/news/2014-05-15/government-suspens-metgasco-licence-at-bentley/5454442> [Accessed 5 February 2015].
- The Australian, 2014. Metgasco goes to court over drilling suspension. *The Australian* [online], 4 July. Available from: <http://www.theaustralian.com.au/business/mining-energy/metgasco-goes-to-court-over-drilling-suspension/story-e6frg9df-1226977910443?nk=c4d5544be51fc68263363d22554ea814> [Accessed 14 January 2015].
- Adams, D., & Hess, M. 2001. Community in Public Policy: Fad or Foundation? *Australian Journal of Public Administration*, 60(2), 13-23. doi: 10.1111/1467-8500.00205
- Adler, M. 2005. Constructing a typology of administrative grievances: reconciling the irreconcilable. In R. Banakar & M. Travers (Eds.), *Theory and Method in Socio-legal research* (1 ed.). Oxford: Hart Publishing.
- Agee, J., 2009. Developing qualitative research questions: a reflective process. *International Journal of Qualitative Studies in Education* [online], 22 (4), 431-447, doi:10.1080/09518390902736512. Available from: <http://www.tandfonline.com/doi/pdf/10.1080/09518390902736512> [Accessed 14 January 2015].
- Allan, C., 2008. Can adaptive management help us embrace the Murray-Darling Basin's wicked problems? In: C. Pahl-Wostl, P. Kabat, and J. Moltgen, eds. *Adaptive and Integrated Water Management*. Berlin; Heidelberg: Springer.
- Arnstein, S. R. 1969. A Ladder Of Citizen Participation. *Journal of the American Institute of Planners*, 35(4), 216-224. doi: 10.1080/01944366908977225
- Australian Government, 2014a. Caring for our Country Review. *National Landcare Programme* [online]. Available from: <http://www.nrm.gov.au/about/caring/review/index.html> [Accessed 16 September 2014].
- Australian Government, 2014b. Have your say on the National Landcare Programme. *National Landcare Programme* [online]. Available from: <http://www.nrm.gov.au/funding/nlp/index.html>. Accessed 16 September 2014].
- Banakar, R., and Travers, M., eds., 2005. *Theory and Method in Socio-Legal Research*. Oxford: Hart Publishing.
- Banisar, D., Parmar, S., deSilva, L., & Excell, C. 2011. Moving from Principles to Rights: Rio 2012 and Ensuring Access to Information, Public Participation, and Access to Justice for Everyone. In T. A. I. A. 19 (Ed.), *World Resources Institute: The Access Initiative*, World Resources Institute.
- Barbour, L., 2014. No new money for Landcare groups. *ABC Rural* [online], 30 May. Available from: <http://www.abc.net.au/news/2014-05-30/landcare-grants-no-money/5488998> [Accessed 15 January 2015].
- Barnard, M. 2012. The role of international sustainable development law principles in enabling effective renewable energy policy - a South African perspective. *Potchefstroom Electronic Law Journal*, 15(2). doi: <http://dx.doi.org/10.4314/pej.v15i2.8>
- Barr, N. 2011. I hope you are feeling uncomfortable now: role conflict and the natural resources extension officer. In D. J. Pannell & F. Vanclay (Eds.),

- Changing Land Management : Adoption of New Practices by Rural Landholders*, 129-139. Melbourne: CSIRO publishing.
- Becker, M.A., 2010. Russia and the Arctic: Opportunities for engagement within the existing legal framework. *American Universities International Law Review* [online], 25 (2), 225-250. Available from: <http://digitalcommons.wcl.american.edu/auilr/vol25/iss2/3/> [Accessed 15 January 2015].
- Beierle, T. C. 1999. Using social goals to evaluate public participation in environmental decisions. *Review of Policy Research*, 16(3-4), 75-103. doi: 10.1111/j.1541-1338.1999.tb00879.x
- Bellamy, J., 2007. Adaptive Governance: The Challenge for Regional Natural Resource Management. In: A. Brown, and J. Bellamy, eds. *Federalism and regionalism in Australia: new approaches, new institutions?* Canberra: Australian National University. Available from: <http://press.anu.edu.au?p=52401> [Accessed 15 January 2015].
- Bernard, H.R., and Ryan, G.W., 2010. *Analyzing qualitative data: systematic approaches*. Los Angeles: Sage.
- Berner, M. M., Amos, J. M., & Morse, R. S. 2011. What constitutes effective citizen participation in local government? Views from city stakeholders. *Public Administration Quarterly*, 35(1), 128-163.
- Besley, J. C. 2012. Imagining public engagement. *Public Understanding of Science*, 21(5), 590-605. doi: 10.1177/0963662510379792
- Black, J. 1997. New Institutionalism and Naturalism in Socio-Legal Analysis: Institutional Approaches to Regulatory Decision Making. *Law & Policy*, 19(1), 51-93, doi:10.1111/1467-9930.00021.
- Blaikie, N., 2010. *Designing Social Research*. 2nd ed. Cambridge, UK; Malden, MA: Polity Press.
- Bottomley, S., & Bronitt, S. 2012. *Law in Context* (4th ed.): Federation Press.
- Bottrill, K., and Cordonier Segger, M., 2005. The Principle of Public Participation and Access to Information and Justice [online]. *Recent Developments in International Law Related to Sustainable Development*. Oxford, UK: Centre for International Sustainable Development Law. Available from: http://www.worldfuturecouncil.org/fileadmin/user_upload/papers/CISDL_P4_Particpation.pdf [Accessed 19 January 2015].
- Boxelaar, L., Paine, M., & Beilin, R. 2006. Community engagement and public administration: Of silos, overlays and technologies of government. *Australian Journal of Public Administration*, 65(1), 113-126. doi: 10.1111/j.1467-8500.2006.00476.x
- Brackertz, N., & Meredyth, D. 2009. Community Consultation in Victorian Local Government: A Case of Mixing Metaphors? *Australian Journal of Public Administration*, 68(2), 152-166. doi: 10.1111/j.1467-8500.2009.00627.x
- Bratspies, R. 2011. Sustainability: Can law meet the challenge? *Suffolk Transnational Law Review*, 34(2), 283-316.
- Brown, W., Deakin, S., Hudson, M., Pratten, C., & Ryan, P. 1998. The individualisation of employment contracts in Britain *Research Paper for the Department of Trade and Industry*. Cambridge UK: University of Cambridge.
- Browne, A.L., and Bishop, B.J., 2011. Chasing our tails: psychological, institutional and societal paradoxes in natural resource management, sustainability, and climate change in Australia. *American Journal of Community Psychology*, 47 (3-4), 354-361, doi:10.1007/s10464-010-9390-1.

- Brugnach, M., Dewulf, A., Henriksen, H. J., & van der Keur, P. 2011. More is not always better: Coping with ambiguity in natural resources management. *Journal of Environmental Management*, 92(1), 78-84. doi: 10.1016/j.jenvman.2010.08.029
- Bryner, G. 2002. Assessing claims of environmental justice: conceptual frameworks. In K. Mutz, G. Bryner, & D. Kenney (Eds.), *Justice and Natural Resources: concepts, strategies and applications*, 31-55. Washington DC: Island Press.
- Buchy, M., & Race, D. 2001. The Twists and Turns of Community Participation in Natural Resource Management in Australia: What is Missing? *Journal of Environmental Planning and Management*, 44(3), 293-308. doi: 10.1080/09640560120046070
- Caron, C. 2000. Evaluating environmental public participation: Methodological questions. *Journal of Environmental Planning and Management*, 43(6), 769-784.
- Central Office of Information. 2009. Effective Public Engagement: a guide for policy makers and communications professionals. *Government of the United Kingdom*. 1-40.
- Chambers, P., 2003. Narrative and reflective practice: recording and understanding experience. *Educational Action Research* [online], 11 (3), 403-414, doi:10.1080/09650790300200229. Available from: <http://www.tandfonline.com/doi/pdf/10.1080/09650790300200229> [Accessed 19 January 2015].
- Clayton, H., Dovers, S., and Harris, P., 2011. *Natural Resource Management Policy and Planning in Australia. Vol. 1. Synthesis of broad issues and opportunities* [online]. Canberra ACT: Australian National University. Available from: https://crawford.anu.edu.au/public_policy_community/research/nrm/NRM_Ref_Group_Combined.pdf [Accessed 19 January 2015].
- Clean Energy Council. n.d. Community engagement guidelines for the Australian wind industry.
- Coggan, A., et al., 2013. Factors that influence transaction costs in development offsets: Who bears what and why? *Ecological Economics*, 88, 222-231, doi: <http://dx.doi.org/10.1016/j.ecolecon.2012.12.007>.
- Colebatch, H. K. 2009. Governance as a conceptual development in the analysis of policy. *Critical Policy Studies*, 3(1), 58-67. doi: 10.1080/19460170903158107
- Collaborative Democracy Network. 2006. A Call to Scholars and Teachers of Public Administration, Public Policy, Planning, Political Science, and Related Fields. *Public Administration Review*, 66, 168-168.
- Connell, D., & Grafton, R. Q. 2008. Planning for Water Security in the Murray-Darling Basin. *Public Policy*, 3(1), 67-86.
- Cordonier Segger, M.-C.C., 2004. Significant developments in sustainable development law and governance: A proposal. *Natural Resources Forum*, 28 (1), 61-74, doi:10.1111/j.0165-0203.2004.00072.x.
- Curtis, A., et al., 2014. The great experiment with devolved NRM governance: lessons from community engagement in Australia and New Zealand since the 1980s. *Australasian Journal of Environmental Management*, 21 (2), 175-199, doi:10.1080/14486563.2014.935747.
- Dellinger, M. 2012. Ten Years of the Aarhus Convention: How Procedural Democracy Is Paving the Way for Substantive Change in National and

- International Environmental Law. *Colorado Journal of International Environmental Law & Policy*, 23(2), 309-366.
- Denzin, N.K., and Lincoln, Y.S., 2008. *The landscape of qualitative research*. 3rd ed. Los Angeles: Sage Publications.
- Dovers, S. 2010. Embedded scales: interdisciplinary and institutional issues. In V. Brown, J. Harris, & J. Russel (Eds.), *Tackling wicked problems through the transdisciplinary imagination*. 182-203. Earthscan Ltd.
- Evans, M., and Reid, R., 2014. *Public participation in an era of governance: lessons from Europe for Australian local government* [online]. Sydney: Australian Centre of Excellence for Local Government. Available from: <http://apo.org.au/research/public-participation-era-governance-lessons-europe-australian-local-government> [Accessed 19 January 2015].
- Eversole, R., 2011. Community Agency and Community Engagement: Re-theorising Participation in Governance. *Journal of Public Policy*, 31 (1), 51-71, doi:10.1017/s0143814x10000206.
- Fischer, F., 2005. *Citizens, Experts and the Environment: the Politics of Local Knowledge*. Durham: Duke University Press.
- Fisher, E., et al., 2009. Maturity and Methodology: starting a debate about environmental law scholarship. *Journal of Environmental Law*, 21 (2), 213-250.
- Fung, A. 2006. Varieties of Participation in Complex Governance. *Public Administration Review*, 66, 66-66.
- Gardner, J., Dowd, A.-M., Mason, C., & Ashworth, P. 2009. A framework for stakeholder engagement on climate adaptation CSIRO *Climate Adaptation Flagship Working paper* (Vol. 3): CSIRO.
- Gottweis, H. 2008. Participation and the New Governance of Life. *BioSocieties*, 3(3), 265-286. doi: 10.1017/s1745855208006194
- Gray, B. 2003. Framing of environmental disputes. In R. Lewicki, B. Gray, & M. Elliot (Eds.), *Making sense of intractable environmental conflicts*, 11-35. Washington: Island Press.
- Gray, J., 2011. Water Trading and Regulation in Australia. In: A. Saddy, and A.M. Linares, eds. *Infrastructure Law: a study of regulated markets*. Río de Janeiro: Lumen Juris.
- Green, J., and Thorogood, N., 2009. *Qualitative methods for health research*. London: SAGE.
- Grimble, R., & Wellard, K. 1997. Stakeholder methodologies in natural resource management: a review of principles, contexts, experiences and opportunities. *Agricultural Systems*, 55(2), 173-193. doi: [http://dx.doi.org/10.1016/S0308-521X\(97\)00006-1](http://dx.doi.org/10.1016/S0308-521X(97)00006-1)
- Gross, C. (2008). A Measure of Fairness: An Investigative Framework to Explore Perceptions of Fairness and Justice in a Real-Life Social Conflict. *Research in Human Ecology*, 15(2).
- Guilliat, R., 2014. How a row over land clearing left compliance officer Glen Turner dead. *The Weekend Australian Magazine* [online], 13 September. Available from: <http://www.theaustralian.com.au/news/features/how-a-row-over-land-clearing-left-compliance-officer-glen-turner-dead/story-e6frg8h6-1227055190971?nk=df606ada3c86e47c5190ff81b61cc1c7> [Accessed 19 January 2015].

- Gunningham, N. 2009. Environment Law, Regulation and Governance: Shifting Architectures. *Journal of Environmental Law*, 21(2), 29.
- Harrington, C., Curtis, A., and Black, R., 2008. Locating Communities in Natural Resource Management. *Journal of Environmental Policy & Planning*, 10 (2), 199-215, doi:10.1080/15239080801928469.
- Herriman, J. 2011. Local Government and Community Engagement in Australia. (pp. 74). Sydney: Australian Centre of Excellence for Local Government, University of Technology
- Holley, C. 2010. Public participation, environmental law and new governance: Lessons for designing inclusive and representative participatory processes. *Environmental and Planning Law Journal*, 27(5), 32.
- Howard, T., 2014. From international principles to local practices: a socio-legal framing of public participation research. *Environment, Development and Sustainability* , doi:(DOI) 10.1007/s10668-014-9572-3.
- Hussey, K., and Dovers, S., eds., 2007. *Managing water for Australia: the social and institutional challenges*. Clayton: CSIRO.
- International Association for Public Participation, 2012. Core values. *International Association for Public Participation* [online]. Available from: <http://www.iap2.org.au/resources/iap2s-foundations-of-public-participation> [Accessed 2015 February 5].
- Irvin, R. A., & Stansbury, J. 2004. Citizen Participation in Decision Making: Is It Worth the Effort? *Public Administration Review*, 64(1), 55-65.
- Jendroska, J., 2013. Public participation in environmental decision-making: interactions between the Convention and EU law and other key legal issues. In: M. Pallemmaerts, ed. *The Aarhus Convention at Ten: interactions and tensions between conventional international law and EU environmental law*. Groningen: Europa Law Publishing, 91-147.
- Johnson, B., and Christensen, L., 2008. *Educational Research: Quantitative, qualitative and mixed approaches*. 3rd ed. London: Sage.
- Johnston, K., 2010. Community engagement : exploring a relational approach to consultation and collaborative practice in Australia. *Journal of Promotion Management* [online], 16 (1-2), 217-234. Available from: <http://eprints.qut.edu.au/32126/> [Accessed 19 January 2015].
- Johnson, N., Lilja, N., Ashby, J. A., & Garcia, J. A. 2004. The practice of participatory research and gender analysis in natural resource management. *Natural Resources Forum*, 28(3), 189-200. doi: 10.1111/j.1477-8947.2004.00088.x
- Joffe, H. 2012. Thematic analysis. In D. Harper, & A. R. Thompson (Eds.), *Qualitative research methods in mental health and psychotherapy: a guide for students and practitioners* (1 ed.) 209-223: John Wiley and Sons.
- Kennedy, A. 2006. *Exploring individualism and collectivism within Australian universities: Procedural, Substantive and Process elements of the academic employment relationship*. (Doctor of Philosophy), University of New England, Armidale.
- Kirk, E. A., & Blackstock, K. L. 2011. Enhanced Decision Making: Balancing Public Participation against 'Better Regulation' in British Environmental Permitting Regimes. *Journal of Environmental Law*, 23(1), 97-116. doi: doi:10.1093/jel/eqq024
- Kirk, E.A., and Reeves, A.D., 2011. Regulatory Agencies and Regulatory Change: Breaking out of the Routine. *Environmental Law Review* [online], 13 (3), 155.

- Available from: <http://vathek.org/doi/abs/10.1350/enlr.2011.13.3.127>
[Accessed 19 January 2015].
- Koontz, T. M., & Thomas, C. W. 2006. What Do We Know and Need to Know about the Environmental Outcomes of Collaborative Management? *Public Administration Review*, 66(6), 111-121.
- La Camera, F., 2013. Economy, ecology and environmental democracy. In: M. Pallemmaerts, ed. *The Aarhus Convention at Ten: interactions and tensions between conventional international law and EU environmental law*. Groningen: Europa Law Publishing, 17-34.
- Lane, M. B. 2005. Public Participation in Planning: an intellectual history. *Australian Geographer*, 36(3), 283-299, doi:10.1080/00049180500325694.
- Lewicki, R., & Gray, B. 2003. Introduction. In R. Lewicki, B. Gray, & M. Elliot (Eds.), *Making sense of intractable environmental conflicts*. 1-11. Washington: Island Press.
- Lewis, P. 2008. Uncertainty, power and trust. *Review of Austrian Economics*, 21(2-3), 183-198. doi: 10.1007/s11138-007-0038-9
- Lockwood, M., and Davidson, J., 2010. Environmental governance and the hybrid regime of Australian natural resource management. *Geoforum*, 41 (3), 388-398.
- Lockwood, M., et al., 2009. Multi-level Environmental Governance: lessons from Australian natural resource management. *Australian Geographer*, 40(2), 169.
- Margerum, R. D. 2008. A Typology of Collaboration Efforts in Environmental Management. *Environmental Management*, 41(4), 487-500, doi:10.1007/s00267-008-9067-9.
- Markell, D. L. 2006. Understanding citizen perspectives on government decision making processes as a way to improve the administrative state. *Environmental Law*, 36(3), 651+.
- Marshall, G., 2007. Nesting, Subsidiarity, and Community-based environmental Governance beyond the Local Scale. *International Journal of the Commons* [online], 2 (1), 75-97. Available from: <http://www.thecommonsjournal.org/index.php/ijc/article/view/50> [Accessed 19 January 2015].
- Marshall, G. R. 2011. What 'community' means for farmer adoption of conservation practices. In D. J. Pannell & F. Vanclay (Eds.), *Changing Land Management : Adoption of New Practices by Rural Landholders*, 107-128. Melbourne: CSIRO publishing.
- Martin, P., & Craig, D. 2013. *Accelerating the Evolution of Environmental Law through Continuous Learning from Applied Experience*. Paper presented at the IUCN Academy of Environmental Law Research Workshop, University of Waikato, New Zealand.
- Martin, P., Kennedy, A., and Williams, J., 2012. Creating next generation rural landscape governance: the challenge for environmental law scholarship. In: P. Martin, et al., eds., *Environmental Governance and Sustainability*. Northampton: Edward Elgar, 47-78.
- Maurer, C., Ehlers, S., & Buchman, A. 2003. Aligning Commitments: Public Participation, International Decision-Making, and the Environment. In W. R. Institute (Ed.), *Issue Brief*. Washington: World Resources Institute.
- McGee, R., et al, 2003. Legal frameworks for citizen participation: synthesis report *Research report series* (pp. 84). Available from

- <http://www.ids.ac.uk/idspublication/legal-frameworks-for-citizen-participation-synthesis-report> [Accessed 5 February 2015].
- McKinney, M., & Field, P. 2008. Evaluating community-based collaboration on federal lands and resources. *Society & Natural Resources*, 21(5), 419-429. doi: 10.1080/08941920701744215
- McKinney, M., and Kemmis, D., 2011. Collaboration and the Ecology of Democracy. *Human Dimensions of Wildlife*, 16 (4), 273-285, doi:10.1080/10871209.2011.585435.
- Miller, L., 2012. *(Mis)Understanding American Federalism: on constitutions, collective action, competition and quiescence* [online]. Oxford: The Foundation for Law, Justice and Society. Available from: <http://www.fljs.org/sites/www.fljs.org/files/publications/Miller-Federalism.pdf> [Accessed 21 January 2015].
- Morris, R., 2012. *Community Engagement in Rural-remote and Indigenous Local Government in Australia* [online]. Sydney: Australian Centre of Excellence for Local Government, University of Technology Studies (UTS). Available from: <http://apo.org.au/node/31519> [Accessed 21 January 2015].
- Munro-Clark, M., ed., 1992. *Citizen participation in Government*. Sydney: Hale and Iremonger.
- Muro, M., and Jeffrey, P., 2012. Time to Talk? How the Structure of Dialog Processes Shapes Stakeholder Learning in Participatory Water Resources Management. *Ecology and Society* [online], 17 (1). Available from: <http://dx.doi.org/10.5751/ES-04476-170103> [Accessed 21 January 2015].
- Mutamba, E., 2004. Community Participation in Natural Resources Management: Reality or Rhetoric? *Environmental Monitoring and Assessment*, 99 (1-3), 105-113, doi:10.1007/s10661-004-4010-x.
- Myšiak, J., et al, 2008. Environmental Policy Aid Under Uncertainty. In A. J. Jakeman, A. A. Voinov, A. E. Rizzoli, & S. H. Chen (Eds.), *Developments in Integrated Environmental Assessment* (Vol. Volume 3,) 87-100: Elsevier.
- Nabatchi, T., & Farrar, C. 2011. Bridging the Gap between Public Officials and the Public. *A report of the Deliberative Democracy Consortium* (pp. 1-64). Available from: http://www.deliberative-democracy.net/index.php?option=com_docman&Itemid=92 [Accessed 5 February 2015]
- National Water Commission, 2013. *Murray–Darling Basin Plan implementation: initial report* [online]. Canberra: National Water Commission. Available from: <http://www.nwc.gov.au/publications/topic/audit-reports/murraydarling-basin-plan-implementation-initial-report> [Accessed 21 January 2015].
- Neef, A., & Neubert, D. 2011. Stakeholder participation in agricultural research projects: a conceptual framework for reflection and decision-making. *Agriculture and Human Values*, 28(2), 179-194. doi: 10.1007/s10460-010-9272-z
- Neuman, W.L., 2011. *Social Research Methods*. 7ed. Boston: Allyn and Bacon.
- Nicholls, S., 2013. ICAC: mining licence corruption 'almost inevitable' in NSW. *The Sydney Morning Herald* [online], 30 October. Available from: <http://www.smh.com.au/nsw/icac-mining-licence-corruption-almost-inevitable-in-nsw-20131029-2wf2y.html> [Accessed 21 January 2015].
- Ostrom, E. 2010. Beyond Markets and States: Polycentric Governance of Complex Economic Systems. *American Economic Review*, 100(3), 641-672. doi: 10.1257/aer.100.3.641

- Ostrom, E., and Cox, M., 2010. Moving beyond panaceas: a multi-tiered diagnostic approach for social-ecological analysis. *Environmental Conservation*, 37 (4), 451-463, doi:10.1017/s0376892910000834.
- Pannell, D. J., et al. 2006. Understanding and promoting adoption of conservation practices by rural landholders. *Australian Journal of Experimental Agriculture*, 46(11), 1407-1424. doi: <http://dx.doi.org/10.1071/EA05037>
- Peterson, N. 2011. Excluding to include: (Non)participation in Mexican natural resource management. *Agriculture and Human Values*, 28(1), 99-107, doi:10.1007/s10460-010-9258-x.
- Podger, A., et al., 2012. Putting the Citizens at the Centre: Making Government More Responsive. *Australian Journal of Public Administration*, 71 (2), 101-110, doi:10.1111/j.1467-8500.2012.00773.x.
- Rapley, T., 2007. *Doing conversation, discourse and document analysis*. Thousand Oaks: Sage.
- Rawlins, J., Gramenz, E., and Haxton, N., 2014. Wild rivers declarations for Stewart Basin, Archer and Lockhart ruled invalid. *ABC News* [online]. Available from: <http://www.abc.net.au/news/2014-06-17/queensland-government-wild-rivers-declarations-declared-invalid/5529148> [Accessed 21 January 2015].
- Reed, M. 2008. Stakeholder participation for environmental management: A literature review. *Biological Conservation*, 141(10), 2417-2431. doi: 10.1016/j.biocon.2008.07.014
- Richards, L., and Morse, J.M., 2007. *Readme first for a user's guide to qualitative research*. 2nd ed. Thousand Oaks: Sage.
- Rockloff, S. F., & Moore, S. A. 2006. Assessing representation at different scales of decision making: Rethinking local is better. *Policy Studies Journal*, 34(4), 649-670, doi:10.1111/j.1541-0072.2006.00196.x.
- Rosener, J. B. 1978. Citizen Participation: Can We Measure Its Effectiveness? *Public Administration Review*, 38(5), 457-463.
- Ross, A., 2010. It's time to get serious - why legislation is needed to make sustainable development a reality in the UK. *Sustainability* [online], 2 (4), 1101-1127, doi:10.3390/su2041101. Available from: <http://www.mdpi.com/2071-1050/2/4/1101> [Accessed 21 January 2015].
- Rowe, G., & Frewer, L. J. 2004. Evaluating Public-Participation Exercises: A Research Agenda. *Science, Technology & Human Values*, 29(4), 512-557.
- Rowe, G., & Frewer, L. J. 2005. A Typology of Public Engagement Mechanisms. *Science, Technology & Human Values*, 30(2), 251-290. doi: 10.1177/0162243904271724
- Ryan, S., et al., 2010. *Australia's NRM Governance System: Foundations and Principles for Meeting Future Challenges* [online]. Canberra: Australian Regional NRM Chairs. Available from: <http://nrmregionsaustralia.com.au/wp-content/uploads/2013/12/NRM-Governance-in-Australia.pdf> [Accessed 21 January 2015].
- ScienceWise Expert Resource Centre. 2012. The UK's national centre for public dialogue in policy making involving science and technology issues. *Resource library*. Available online: <http://www.sciencewise-erc.org.uk/cms/sciencewise-erc-resource-library/> [Accessed 5 February 2015]
- Scottish Community Development Centre. 2005. National Standards for Community Engagement: Scottish Community Development Centre.

- Shepherd, M., and Martin, P., 2011. Using the Moot court to trial legislation about land stewardship. *Land Use Policy*, 28 (2), 371-377. [PAGES TAKEN FROM <http://www.sciencedirect.com/science/article/pii/S0264837710000797>]
- Silverman, D., 2010. *Doing qualitative research: a practical handbook*. 3rd ed. London: Sage.
- Smith, J. 2003. The Changing Nature of Environmental Law: Recent Developments in Public Participation. Environmental Defender's Office Ltd, Sydney, Australia.
- Smith, T. F., et al. 2005. *Development of a Typology of Engagement in Natural Resource Management for the Western Catchments of South East Queensland*. Paper presented at the International Conference on Engaging Communities, Brisbane, Australia.
- Souter, D., 2012. *ICTs, the Internet and Sustainability: A discussion paper* [online]. Manitoba, Canada: International Institute for Sustainable Development. Available from: http://www.iisd.org/pdf/2012/icts_internet_sustainability.pdf [Accessed 21 January 2015].
- Steelman, T.A., 2010. *Implementing innovation: fostering enduring change in environmental and natural resource governance*. Washington: Georgetown University Press.
- Taft, K., 2014. *Fossil fuels, global warming and democracy: a report from a scene of the collision*. Rydalmere: Whitlam Institute, University of Western Sydney. Available from: <http://apo.org.au/node/41235> [Accessed 22 January 2015].
- Taylor, M. 2007. Community participation in the real world: Opportunities and pitfalls in new governance spaces. *Urban Studies*, 44(2), 297-317. doi: 10.1080/00420980601074987
- Torgler, B., Garcia-Valinas, M., & Macintyre, A. 2010. *Participation in Environmental Organisations*. New York: Routledge.
- Tyler, T. R. 1988. What is procedural justice?: Criteria used by citizens to assess the fairness of legal procedures. *Law and Society Review*, 22(1).
- Tyler, T. R. 2006. *Why people obey the law*. New Jersey: Princeton University Press.
- Turner, S.J., 2013. Factors in the Development of a Global Substantive Environmental Right. *Oñati Socio-legal Series* [online], 3 (5), 893-907. Available from: <http://ssrn.com/abstract=2247839> [Accessed 22 January 2015].
- United Nations Environment Programme, 1992. Agenda 21 [online]. Nairobi: United Nations Environment Programme. Available from: <http://www.unep.org/documents.multilingual/default.asp?documentid=52> [Accessed 31 May 2013].
- Visseren-Hamakers, I.J., 2013. Partnerships and Sustainable Development: the Lessons Learned from International Biodiversity Governance. *Environmental Policy and Governance*, 23 (3), 145-160, doi:10.1002/eet.1612.
- Wallington, T.J., and Lawrence, G., 2008. Making democracy matter: Responsibility and effective environmental governance in regional Australia. *Journal of Rural Studies*, 24 (3), 277-290, doi:10.1016/j.jrurstud.2007.11.003.
- Wallis, P.J., and Ison, R.L., 2011. Appreciating Institutional Complexity in Water Governance Dynamics: A Case from the Murray-Darling Basin, Australia. *Water Resources Management*, 25 (15), 4081-4097, doi:10.1007/s11269-011-9880-4.

- Waring, P. 2001. A greenfield in black coal - The Bengalla Open Cut mine. *Personnel Review*, 30(3), 280-296. doi: 10.1108/00483480110386121
- Werksman, J., and Foti, J., 2011. Improving Participation in International Environmental Governance. *Perspectives* [online], 1. Available from: http://www.unep.org/civil-society/Portals/24105/documents/perspectives/ENVIRONMENT_PAPERS_DISCUSSION_1.pdf [Accessed 22 January 2015].
- Whitman, D., 2008. "Stakeholders" and the politics of environmental policymaking. In: J. Park, K. Conca, and M. Finger, eds. *The Crisis of Global Environmental Governance: Towards a new political economy of sustainability*. London, New York: Routledge.
- Wiersema, A. 2008. A train without tracks: rethinking the place of law and goals in environmental and natural resources law. *Environmental Law*, 38(4), 1239+.
- Williams, J. 2013. Natural resource governance in Australia. *Working Paper*: Australian Centre for Agriculture and Law.
- Williams, J., Kennedy, A., and Craig, D., 2012. Lost in Translation: Threatened Species in Australia. In: *Global Environmental Law at a Crossroads: 10th Annual Colloquium of the International Union for the Conservation of Nature (IUCN) Academy of Environmental Law Presentations, 2012, Baltimore, Maryland, 1-5/8/2012* [online]. Available from: http://digitalcommons.law.umaryland.edu/gelc/2012/july2_3A/4/ [Accessed 15 January 2015].
- Woods, P., 2014. Residents lock the gate on coal. *The Gympie Times* [online], 10 September. Available from: <http://www.gympietimes.com.au/news/residents-lock-the-gate-on-coal/2381379/> [Accessed 15 January 2015].
- Woolgar, S., and Neyland, D., 2013. *Structures of governance*. Oxford University Press.
- Yin, R., 2009. *Case study research: design and methods*. 4th ed. Los Angeles: Sage.

STATEMENT OF AUTHORS' CONTRIBUTION

(To appear at the end of each thesis chapter submitted as an article/paper)

We, the PhD candidate and the candidate's Principal Supervisor, certify that all co-authors have consented to their work being included in the thesis and they have accepted the candidate's contribution as indicated in the *Statement of Originality*.

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Chapter 2: Literature review

This chapter presents additional literature reviewed as part of the analysis reported in published paper one (Howard, 2015a), and should be read in conjunction with that paper. Chapter 2 further explores the disconnection between legal requirements for community engagement and the implementation of these requirements identified in published paper one (Howard, 2015a). It unpacks assumptions buried in the plurality of theories, perceptions and expectations that exist under the phrase 'community engagement' and its' many synonyms. The reviewed literature shows that the assumptions and values underpinning community engagement influence the way that participatory processes are framed, implemented, assessed and utilised in natural resource governance.

The literature review commences with an exploration of the key concepts underpinning the research direction *improving community engagement in natural resource governance*. These concepts provided the initial search terms for investigating the literature and resulted in the thematic analysis detailed in published paper one (Howard, 2015a).

As the research problem came into focus, the broad terminology was tightened to focus on participatory processes. This chapter was informed by this transitional terminology.

2.1 Problematising community engagement

'Procedural issues have substantive roots' (Wiersema, 2008).

The study and practice of community engagement is common to many fields of public policy governance and research, and is often over-simplified and presented as a panacea for improving governance (Adams & Hess, 2001; Ostrom, 2007).

Scholars note that discussion of community engagement from an institutional perspective asserts a normative belief about its role as a tool that can deliver specific results (Adams & Hess, 2001; Hillman Crase, Furze, Ananda, & Maybery, 2005; Johnson, Lilja, Ashby, & Garcia, 2004). A common assumption is that

sustainable natural resource management cannot be achieved without involving the individuals and communities who make decisions about how resources are used. (Johnson, Lilja, Ashby & Garcia, 2004, p 189).

This position assumes an inherent intrinsic value for community engagement and promotes a 'more is better' perspective (Neef & Neubert, 2011) while neglecting to address the purpose of engagement and its outcomes (Irvin & Stansbury, 2004). This view of engagement supports transformational ideals of community-driven social change and power transfer through deliberative participatory processes (Dryzek, 2000 ; Fischer, 2013). This perspective rests on an intuitive faith in the ability of society to embrace diverse opinions when addressing complex issues (Dellinger 2012; Berner et al., 2011; Toth, 2010) and reach better, more widely acceptable decisions (Braun, 2010; Burchardt, 2014).

The confusion of these different norms rests in the often-unexamined interaction between governance reform and entrenched institutional structures (Brugnach, Dewulf, Henriksen, & van der Keur, 2011; Poteete & Ostrum, 2008). Thus, while engagement may provide access to unique perspectives, it is unclear how these perspectives contribute to environmental decision-making and on-ground action (Koontz, 2005; Walker, 2011).

2.1.1 What is community engagement?

Community engagement has become a central philosophical plank of environmental governance (Boxelaar, Paine, & Beilin, 2006; Holley, 2010; van Tol Smita, de Loëab, & Plummer, 2015). Decision-makers in the public policy arena increasingly describe an *engaged* community as key to the successful design and implementation of regulation and policy (Australian Public Service Commission, 2007; Brown, 2007; Reed, 2008; Walker, 2011). There are many unarticulated assumptions that underpin this position, including that community engagement reliably translates into more acceptable decisions (Adams & Hess 2001) while also delivering better environmental outcomes (Ford-Thompson et al. 2012; Pattberg & Widerberg, 2015; Visseren-Hamakers, 2013).

While the influence of these assumptions is often unarticulated, they share an intuitive belief in the role of community in environmental governance (Dellinger, 2012; Pattberg & Widerberg, 2015). Grounded in the belief that communities of individuals can be meaningfully involved in determining the form and substance of decisions that will affect them, community engagement has become a common

phrase for a wide range of participatory processes (Eversole, 2011; Koontz & Thomas, 2006).

A broader rights-based view connects community engagement with self-determination, democratic practices and more resilient communities (Boyd, Nykvist, Borgström, & Stacewicz, 2015; Evans & Reid, 2014; Fischer, 2005). Engagement theory and practice is embedded with varying assumptions that range from the intrinsic (human right to participate) to the instrumental (achieving cost-effective action on environmental issues) (La Camera, 2013). These assumptions suggest an inherent value for including community in environmental governance (Dellinger, 2012; Pattberg & Widerberg, 2015). It is possible that some claims about the 'virtue' of community engagement have been bolstered by neo-liberal ideals of decentralisation, small government and faith in the free market (Cohen & McCarthy, 2015).

2.1.2 Who is 'the community?'

Community may exist at the local level or be nationally organised (Whitman, 2008). Variations include affiliations of local landholders, volunteer activity groups, regional networks, and organisations whose membership may not be regional but based on shared interests such as industry associations, political parties, and non-government organisations (Harrington, Curtis, & Black, 2008; Walker, 2011).

Communities are also increasingly found in the virtual world with online delivery creating dispersed communities of interest (Souter, 2012). Non-government organisations may formalise communities of interest, coalescing individuals around specific issues and coordinating community activism (Dellinger, 2012). Thus definitions of community must pay attention to a wide range of factors including 'location, social interactions, and the relationships between the resource and the individuals' (Hillman et al., 2005).

Irrespective of what type of community is being considered, it is clear that they are informed by factors that may not be visible to those outside and bring knowledge of specific contexts to difficult issues (Irvin & Stansbury, 2004; Larson & Brake, 2011). Community perspectives at all scales of organisation may generate innovative ways of framing a problem as well as suggesting solutions grounded firmly in existing

networks and capacity for action (Johnson et al., 2004). The factors that enable these innovative responses are often invisible and are not easily 'scaled-up' and replicated at higher levels of governance (Marshall, 2011). The higher levels of governance have their own norms and the normative power of the status quo may distort the innovative responses and enforce compliance (Eversole, 2011).

2.1.3 Exploring community engagement in natural resource governance

The complexity of natural resource management is compounded by the level of uncertainty that accompanies human interactions with the environment, and creates a classic 'wicked problem' (Curtis et al. 2014; Martin et al., 2012; Rittel & Webber, 1973); that is, complex, difficult to define problems that are resistant to simple policy fixes (Australian Public Service Commission, 2007; Lawrence, 2010). Natural resource issues, such as environmental degradation and resource-scarcity across land tenures, challenge short-term thinking and familiar decision-making processes (Allan, 2008; Wallis & Ison, 2011). Close attention to natural resource governance structures is necessary to understand the extent to which they inhibit, or enable, the capacity of policy makers and the community alike to find new ways of framing complex environmental issues and envisioning possible pathways to change (Cohen & McCarthy, 2015; Dovers; 2010; Hordijk, Sara, & Sutherland; 2014; Wallis & Ison 2011).

Much of the literature reviewed for this research is based in a western liberal tradition and conceives of governance within this framework (Bevir, 2011). Concepts of representative government, the rule of law, and citizen rights are employed to frame discussion of citizen relationships with the environment (Stoker, 2013). Scholarship from countries with different political traditions and experiences, however, reveals the heterogeneous nature of natural resource governance (Haglund, 2015; Hordijk et al. 2014). Degrees of transparency, devolution of power, and the ability to challenge government decision making are seen to vary with the political traditions of each country (Ortas et al., 2015). Authoritarian regimes struggle to release power through greater community participation (Chen, Qian, & Zhang, 2015). Emerging democracies wrestle with issues such as corruption and nepotism in government (Bahauddin, 2014). Historical patterns of conflict and political instability can

undermine attempts to build regional responses to natural resource issues (Everatt, 2010).

Considering these influences is particularly important when questions of power distribution, citizen participation and accountability are raised in natural resource governance (Marshall, 2013; Ostrom, 2009). Institutional arrangements can exert an unseen influence on attempts to generate innovative policy responses, resulting in a disconnect between the stated objectives of policy initiatives and the way that these are operationalised (Prager et al., 2015; Robins & Kanowski, 2011). Research demonstrates that 'institutions can work to embrace, moderate or exacerbate uncertainty' (Mehta, Newell, Scoones, Sivaramakrishnan, & Way, 1999). Scholars and practitioners strive to understand how these dynamics influence community participation in natural resource governance (Cohen & McCarthy 2015; Hordijk et al. 2014; Ortas et al., 2015). This interest in how decisions are made and voices are heard (Boyd et al. 2015; Cohen & McCarthy, 2015), is based on ideas of governance as incremental, mundane and co-created during implementation (Colebatch, 2009; Bevir & Rhodes, 2006).

Structures and rules of governance are themselves subject to messy, ongoing ontological constitution. ... structures are continuously invoked, made, re-made, questioned, and redeveloped through actions of mundane governance. (Woolgar & Neyland, 2013)

This view of governance can be criticised for permitting injustice to persist rather than pro-actively pursuing human rights to participate in environmental decisions that affect them (Cohen & McCarthy, 2015; Hordijk et al., 2014). Frustration with 'slow and steady' change provokes calls for reform to alter existing patterns of power and advantage (Pattberg and Widerberg 2015; Boyd et al. 2015), and suggests that designing successful reform requires attention to these existing patterns and their influence on participatory processes in practice (Parola 2013; Taft 2014).

2.1.4 The Australian natural resource management context

Community engagement is a feature of democratic governance and appears in many existing legislative arrangements and organisational policies in Australia (Dellinger, 2012; Lambropoulos, 2010). Socio-legal scholars note the fundamental influence of different legal and political cultures in determining how a state conceives of public

participation, pointing out that the ideological heritage of modern liberal democracies, such as Australia, Britain and the United States, entitle the individual to exert influence in decisions that concern them (Fisher Lange, Scotford, & Carlarne, 2009; Gunningham, 2009a; Dellinger, 2012).

Australia is one of the most urbanized countries in the world (World Health Organisation, 2015), with its relatively small national population concentrated along the coastal fringe and the majority of the landmass sparsely populated (Hugo, 2015). Farming communities express concern that the interests of the urbanised population increasingly dominate political decisions about Australia's natural resources (Brown, 2014; Keogh, 2014). Participatory processes designed by legislation do not adequately address the specific conditions faced in rural Australia, such as small populations, vast distances and a reduced pool of capable and available participants (Curtis, Ross, Marshall, Baldwin, et al. 2014).

Since colonisation, Australia's economy has been fuelled by the exploitation of natural resources through harvesting of timber, mining of mineral resources and production of food and fibre for the export economy (McLean, 2012). Often these resources are closely located in the landscape and this can lead to community disputes about the value of competing resources, and the impact of exploitation on the social and economic fabric of the community (for example in cases when mining of coal and gas affects farming activities in agricultural landscapes) (Woods, 2014; Hasham, 2014, Taft, 2014). Such conflict is exacerbated when demand increases for one or other resource.

These conflicts and frustrations pose serious challenges for the future of natural resource governance in Australia. Farming communities see natural resource legislation and policy as ill-informed (Keogh, 2014). Sites of conflict over natural resources are increasing in Australia, with serious implications for the social fabric of the communities involved (Guilliat, 2014). As a consequence, many rural communities are increasingly dissatisfied with government attempts to regulate the use of natural resources (Woods, 2014); in effect they are challenging the legitimacy of natural resource governance. Improving community engagement through better designed and implemented participatory processes may help to improve natural resource governance in rural Australia (Cohen & McCarthy 2015).

2.1.5 International underpinnings of community engagement in Australia

The Rio Declaration on Environment and Development is a high level agreement that was developed at the United Nations Conference on Environment and Development 1992 (United Nations General Assembly, 1992). The declaration takes the form of 27 principles that form the basis for international norms of environmentally sustainable development. Australia is a signatory to the Declaration.

The need for transparency, access to information and opportunities for equitable participation are the key objectives of relevance in charting the development and evolution of normative expectations for community's role in environmental governance.

Principle 10, commonly referred to as the Access Principle, states:

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level.

It goes on to specify that *access to information* is the core indicator of this ability to participate.

Agenda 21 also emerged from the UN Conference on Environment and Development, and further develops the principles of the Rio Declaration, expanding and fleshing out the implementation considerations and the implications these may have. Described as establishing a "global partnership for sustainable development", it was ratified by Australia as a member of the United Nations (United Nations Environment Program, 1992).

Agenda 21 details program areas considered essential to achieving a global response to environmental and social problems. These include environmental and social programs. Agenda 21 can be seen to set a strong normative framework for ideals of better environmental management, that addresses both economic and human rights in principles of equity, devolution of responsibility, access to information and coordination between hierarchies of government. These objectives are integrated across key environmental programs. Participation is addressed within each specific environmental program, and in Section 3 addressed comprehensively, as specific sectors are outlined, and the preamble states

23.2. One of the fundamental prerequisites for the achievement of sustainable development is broad public participation in decision-making.

This includes “all social groups” and goes on to specific sections dealing with women, children and youth, indigenous groups, non-government and local government, workers and industry; etc.

Agenda 21 not only has a clear commitment to the environment and public participation, it makes explicit the importance of action at all levels of government, from the international to the local.

This is stated clearly in the objectives of Program 10, ‘Integrated approach to the planning and management of land resources’:

d) To create mechanisms to facilitate the active involvement and participation of all concerned, particularly communities and people at the local level, in decision-making on land use and management,

10.10 ... establish innovative procedures, programmes, projects and services that facilitate and encourage the active participation of those affected in the decision-making and implementation process.

And is specifically concerned with equity in access to these participatory processes

10.10... especially of groups that have, hitherto, often been excluded, such as women, youth, indigenous people and their communities and other local communities.

When examining the program area in entirety, other significant clauses are identified that relate to the empirical framing of the research question. These include concepts of devolution in governance, which could be presented as a form of increasing avenues for community engagement:

10.6 (e) Encourage the principle of delegating policy-making to the lowest level of public authority consistent with effective action and a locally driven approach.

Statements of capacity building and institutional strengthening to enable coordination between local and all other levels of government. The importance of increasing participation in decision-making for sustainable development is identified as a ‘cross-sectoral’ issue.

Australia, as a signatory to Agenda 21, accepted a responsibility to implement strategies for achieving both the environmental and social principles of the framework. Australia's Constitution institutes a division of powers and responsibilities between the Commonwealth government and the States and Territory governments, in a form of cooperative Federalism. While environmental responsibilities traditionally lie with the States, the Commonwealth retains the power to ensure compliance with international agreements. A need to integrate these national responsibilities with the operational hierarchy of government in Australia necessitated a form of cooperative implementation based on the pre-existing Council of Australian Governments (COAG).

The Intergovernmental Agreement on the Environment (COAG, 1992) was developed to formalise the responsibilities for governments at all scales of the federal system. This included local governments, which although not formally recognised in the Australian Constitution, were represented in negotiations by the Local Government Association. While the Agreement includes the phrase 'ecologically sustainable development', a set of Environmental Policy principles are ratified in the Agreement make no specific mention of participation in itself. Access to information and processes of consultation are included in reference to specific environmental management concerns.

This saw the development of the *National Strategy for Ecologically Sustainable Development* which was endorsed by the Council of Australian Governments December, 1992 (Australian Government, 1992), and states as it's primary goal

Development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends.

The guiding principles include:

decision making processes should effectively integrate both long and short-term economic, environmental, social and equity considerations;

decisions and actions should provide for broad community involvement on issues which affect them.

This National Strategy emerged from a process of consultation and negotiation based on the Commonwealth's commitment to the principles embedded in the Rio

Declaration and Agenda 21, and the Intergovernmental Agreement on the Environment.

The strategy is seen as setting a broad framework for both government and civil society, and begins to drive an expectation that policy will embrace the principles expressed in the international agreements.

The Strategy plays the critical role of setting the scene for the broad changes in direction and approach that governments will take to ensure that Australia's future development is ecologically sustainable. (Australian Government, 1992)

The principle of participation is addressed specifically in chapter 32, in the context of developing and implementing the Strategy itself. Raising awareness, providing information, promoting communication and inviting consultation are the stated objectives.

Policies addressing principles of free, prior and informed consent (FPIC) also emerged from the development of Agenda 21. The development and implementation of these policies, which are focused on improving indigenous peoples participation in decision making processes, is slowly increasing as signatory countries to the UN Declaration on the Rights of Indigenous Peoples (such as Australia) accept an obligation to implement FPIC (United Nations, 2007; Hartley 2014). In Australia, requirements to embed FPIC have been left to the aboriginal land rights legislation of each state and territory. However the interaction of these policies with other governing rules and the possibility of Federal override present challenges to authentic implementation (Altman 2010; Minerals Council of Australia, 2014).

2.2 The 'rules of engagement'

The literature reveals a variety of arguments for increased community engagement in governance regimes. These range from the positivist/rational pursuit of institutional legitimacy to the constructivist/interpretive desire for more empowered communities (Guttentag, Porath, & Fraidin, 2008; Mehta et al., 1999; Moynihan, 2003; Poteete & Ostrom 2008). These perspectives are situated at opposite ends of linear models such as Arnstein's ladder of citizen's participation (1969), illustrated in Figure 2.1,

presenting diverse aspirations and expectations of community engagement in natural resource governance.

Alternative models offer a more dynamic interaction between features of community action and the legitimacy of power structures, suggesting that community and governance are engaged in an interdependent and evolving discourse (Bevir & Rhodes, 2006; Fischer, 2005; Fung, 2006). This diversity of views focuses attention on the need for clarity of purpose in any consideration of community engagement as an element of natural resource governance. What is the substantive purpose: active citizens, on-ground outcomes, or more easily enforceable regulation?

Current public policy does not adequately distinguish between these perspectives. Legislation may require *community consultation* at the same time as policy statements promote concepts of *localism*. Terminology is ambiguous and regularly evolving. *Engagement* is often considered synonymous with *participation* or *consultation*. As a result, expectations are diverse and this has implications for implementation.

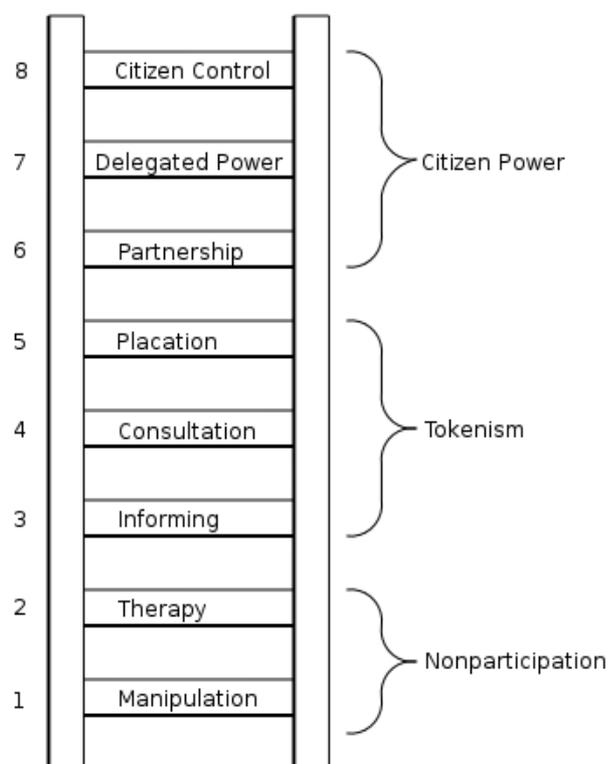


Figure 2.1: Arnstein's (1969) Ladder of participation: a foundation work for understanding different purposes and practices of community participation

In order to progress the study of community engagement as a tool for natural resource governance, research must first address the problematic ambiguity of the phrase. Participatory planning theorist, Margaret Munro-Clark, successfully articulated a dilemma that applies equally to the phrase *community engagement*

'Citizen participation' is an ambiguous term with positive overtones ... the term does not specify the nature of the interaction. It belongs among those terms which in effect empty the human relations they refer to of political content. ... In this sense its function is largely ideological: it confers a stamp of approval on whatever it names. (Munro-Clark, 1992, p.13)

2.2.1 Guiding principles for community engagement

Many of the claims about community are normative claims, about community giving meaning and a sense ... community becomes a source of coherence and a bastion of stability in a world of change and uncertainty. (Adams & Hess, 2001, p.17)

The diverse claims about the value and meaning of community create a wide range of expectations that are attached to the term in public policy contexts. This plurality can lead to confusion about the purpose of bringing community into a participatory process.

Attempts to address this confusion and clarify expectations have resulted in best practice guidelines for community engagement (see, e.g. Australian Wind Energy Association (Auswind), 2006; Central Office of Information, 2009; Gardner, Dowd, Mason, & Ashworth, 2009; Kruger, 2011; Programs Committee of the Natural Resource Management Ministerial Council, 2002; Scottish Community Development Centre, 2005). These guidelines draw on decades of research from participatory planning and democratic decision-making, and often take the form of principles that can be used to inform governance arrangements (Bottrill & Cordonier Segger, 2005; International Association for Public Participation, 2012). These principles apply across scales, from the local to the international, and provide normative guidance for well-run procedures and processes (Fisher, 2006; IUCN Environmental Law Centre, 2009).

The values embedded in these principles are well researched and established through good practice, however they do not carry the weight of substantive rules and are, therefore, vulnerable to influence by the status quo (Ross, 2010; Toth, 2010; Wiersema, 2008).

The international legal norm for public participation in environmental governance is the *Aarhus Convention* (United Nations European Commission on the Environment, 1998), established in 1998 by the Environmental Policy arm of the United Nations, and emerging from the *1992 Rio Declaration and Agenda 21*. The *Aarhus Convention* is formed around three main principles: public participation, access to information, and access to justice (Toth, 2010). The overriding focus of the Aarhus Convention is to encourage the transparency of decision-making processes and promote access to these processes. The internationally recognised Institute for Public Participation (IP2) (2012) usefully extends these principles to articulate how engagement should ideally interact with decision-making processes. The IP2 principles have been used to evaluate engagement processes and activities (Herriman, 2011), as have a range of principled policy methodologies based on principle 10 of *Agenda 21*, also known as the 'access principle' (Banisar, Parmar, deSilva, & Excell, 2011).

Governance scholars with a specific focus on natural resource governance have sought to develop similar principles that could be applied to community engagement (see Table 2.1). These principles provide normative guidance for the establishment of good-practice, multi-level natural resource governance (Lockwood et al., 2009), however there is a limited examination of how these principles are substantively represented in current governance arrangements (Gunningham 2009a; Innes, 2004; Kirk & Blackstock, 2011).

Table 2.1: Principles of community engagement for natural resource governance

<i>Aarhus Convention</i>	IP2	New governance
Public participation	Public should have a say	Legitimacy
Access to information	Promise of influence	Transparency
	Recognise and communicate with all participants	Accountability
Access to justice	Seek and facilitate affected publics	Inclusiveness
	Participant input to design of processes	Fairness
	Provide necessary information	Integration
	Communicate how input has influenced decisions	Capability
		Adaptability

2.2.2 Switching off: The risks of community (dis)engagement

If there is no clear impact on the decision making cycle, community disillusionment and disengagement is likely and participation is reduced (Koontz, 2005; Peterson, 2011). Claims about the rewards of participation have rarely been empirically tested and unrealistic expectations, often based on unarticulated assumptions, carry a real risk of disconnection and cynicism about the purpose and value of community engagement in natural resource governance (Prager, 2015; Reed 2008; Shackleton, 2010).

Community engagement often occurs in way that makes little sense and fails to meet the complex needs of natural resource governance (Brackertz & Meredyth, 2009; Hindmarsh, 2010; Larson & Brake, 2011). This is expressed by disenchantment as communities begin to understand that their 'own ways of working and the institutional arrangements that support them tend to become invisible to government' (Eversole, 2011, p. 63). Research into factors of non-participation describe this as a response to exclusionary practices operating under the guise of engagement (Besley, 2012), such as manipulation of invitation lists, distribution of information and, importantly in the public policy context, non-implementation of decisions resulting from engagement activities (Halvorsen, 2006; Peterson, 2011).

This is recognised most clearly in environmental activism across a range of sensitive environmental issues such as the siting of waste facilities, wind farms and other development (Hall, 2012a; Lewicki, 2003). Community opposition reveals a lack of

trust between the community and the policy makers (Beierle, 1999; Gross, 2008). The perverse outcome of this distrust is a breakdown of legitimate governance and a reduced capacity to act in cases of environmental uncertainty and complexity (Lewis, 2008; Marshall 2007).

2.2.3 Who controls community engagement?

Controlling the definition of a problem, setting an agenda for addressing a problem, resourcing a process and framing the terms of evaluation are all ways that power can be exerted in a procedural fashion (Black, 1997), supporting and reinforcing power dynamics (Boxelaar et al., 2006; Smith, 2000). The hegemonic control wielded by taking early and guiding control of the engagement agenda includes the subtle expression of discretionary power (Black, 1997; Shepherd & Martin, 2011). This concept refers to the power of those charged with implementing a policy directive or institutional reform, and includes the way that guidelines for participation, representation and consultation may be manipulated in practice (Howlett, 2009; Lewis 2008). This phenomenon is commonly recorded as a significant feature of community engagement programs that operate under the auspices of administrative bureaucracies such as government departments and private industry groups (Moynihan, 2003; Wallington & Lawrence, 2008; Whitman 2008).

A lack of attention to interactions between governance and community increases the risk of disenfranchising the community and creating a negative response to policy reform (Allan, 2008; Brugnach et al., 2011). This can lead to a scenario of unintended or perverse consequences as policy interventions and accountability mechanisms reduce community action and inhibit innovative responses (Connell & Grafton, 2008; Marshall, 2007; McKinney & Kemmis, 2011; Taylor, 2007).

2.2.4 Who instigates community engagement?

Referred to as 'drivers', 'sponsors', 'catalysts' or 'facilitators', instigators may be located within organisations charged with implementing engagement processes (procedural power), or they may become influential through the design of the process itself (process power) (Buchy & Race, 2001). Research suggests that instigation is an important factor in how a process is implemented and evaluated (McKinney & Field, 2008; Taylor, 2007). Instigators can display an unsettling lack of

awareness as to the purpose of the engagement or the value of the process (Moynihan, 2003; Nabatchi & Farrar, 2011). While typologies have been developed to assist instigators identify and overcome this obstacle (Margerum, 2008; Smith et al. 2005), there is little research to demonstrate how these are used in practice. This lack of certainty combined with cynicism increases the likelihood of disengagement by both the instigator and the community being addressed, as there is little evidence to suggest that there is a meaningful intersection between engagement and decision-making cycles (Berner et al., 2011; Brackertz & Meredyth, 2009).

2.2.5 Legitimacy

Institutions require the trust of the community and the stamp of legitimacy in order to operate successfully with minimal opposition (Whitman, 2008). Julia Black (1997) observes:

Organizations develop structures and procedures not because of their instrumental value in achieving efficient outcomes, but because they can thus communicate to observers that the decisions being made are legitimate and should therefore be supported. (p. 60)

Legitimacy can be claimed by both public displays of support or a lack of visible opposition (Arnold & Gunderson, 2014; Arnstein, 1969). Participatory processes can be seen as procedural quests to achieve legitimacy, translating participation in structured activities into a form of tacit approval by community, commonly referred to as a 'tick the box' approach (Nabatchi & Farrar, 2011; Ross, 2010). This raises serious questions about representation, justice and fairness (Fung, 2006), and potentially increases the risk of disengagement (Peterson, 2011) when community members feel disenchanted by unsatisfactory processes (Arnstein, 1969). Pursuing legitimacy as an objective in itself limits attention to the possible impact these procedures may have on achieving better environmental outcomes and complicates our understanding of the purpose of community engagement (Bishop & Davis, 2002; Black, 2001; Smith, 2003).

2.3 Implications for the study of community engagement

2.3.1 Stasis in the field

Typologies are common in the study of community engagement. While they usefully describe the processes of participation, they rarely include consideration of the epistemological foundations of the classification (Bishop & Davis, 2002). This may have implications for progressing empirical knowledge of community engagement in natural resource management (Brackertz & Meredyth, 2009; Reed, 2008).

The study of exclusion (as opposed to participation) critiques typologies that fail to recognise barriers to engagement (Innes, 2004; Lingard, 2012; Taylor, 2007). These critiques are useful for developing more nuanced understandings about how community engagement works in practice (Peterson, 2011). This includes discussion of power dynamics and their influence on the way that processes can be designed to include dominant perspectives and exclude minority voices, through procedural technicalities of limited time frames, restricted opportunities to comment, privileging 'expert' opinions and other subtle reinforcements of existing inequities (Adler, 2005; Arnstein, 1969; Fischer, 2005). These routine features can compromise the power sharing possibilities of best practice community engagement (Woolgar & Neyland, 2013).

This suggests one reason why the community engagement literature is so heavily focused on describing process and practice: descriptive case studies can record the diversity of engagement activities without getting bogged down in broader ontological confusions. This focus on process contributes a useful body of knowledge about what techniques have worked in a range of scenarios, and serves to draw out the important elements of developing good practice (Harrington et al., 2008; Fung, 2006). However, there is often a confusion between the quality of the process, and a pragmatic assessment of whether the objectives of the process were achieved (Holley, 2010; Koontz, 2005; Koontz & Thomas, 2006). As a result, there is a certain amount of stasis in the study of community engagement that impedes understanding of community engagement as an element of environmental governance.

2.3.2 Understanding effectiveness

In order to better understand how community engagement can contribute to improved natural resource governance, the literature calls attention to a lack of empirical evidence (Evans & Reid, 2014; Irvin & Stansbury, 2004; Kirk & Blackstock 2011; Mitchell, Curtis, Sharp, & Mendham, 2012; Rowe & Frewer 2004; Walker, 2011). Scholars discuss the difficulties of building an evidence base, pointing to the confusion of terminology, assumptions of purpose and varying conceptualisations of what community engagement is and expectations of what it can contribute to natural resource governance.

Understanding how institutional norms influence concepts of effectiveness encourages attention to the development of indicators, how data is collected and different concepts of effectiveness in regard to community engagement (Allan, 2008). Different interpretations of effectiveness are linked to underlying assumptions and versions of engagement.

Ostrom (2010) argues that institutional responses should be required to 'bring out the best in humans' and encourage the development of indicators focused on

[I]nnovativeness, learning, adapting, trustworthiness, levels of co operation of participants and the achievement of more effective, equitable and, sustainable outcomes at multiple scales. p. 25

This perspective links concepts of effectiveness to a democratic, empowerment version of community engagement and supports indicators that look for the possible transformational impacts of engagement processes on the capacity of individuals and communities to become more active (Taylor, 2007; Weber, 2003). Such indicators of effectiveness extend beyond the natural resource issue to a broader agenda of social change, community ownership and innovative responses generated by communities themselves (Marshall, 2011; Gaventa & Barrett, 2012).

Other indicators of effectiveness include participant satisfaction, an indicator that may be applied to consideration of the process alone, or include satisfaction with the outcome on the ground (Ford-Thompson et al., 2012). Arguing that substantive outcomes are difficult to evaluate, as direct causal links are elusive, Beierle (1999) supports a focus on social goals that rest at the transformational end of the engagement spectrum. A consistent theme in the literature is the lack of indicators

attached to the way that community engagement activities actually link to decision-making (Brackertz & Meredyth, 2009), suggesting that the elements of power, trust, legitimacy and accountability are not adequately addressed in concepts of effectiveness (Koontz & Thomas, 2006).

Development of a 'transparency' indicator linked to sustainable development principles connects community engagement with international norms of public participation (Bottruell & Cordonier Segger, 2005; Goepel, 2010; Hillman et al. 2005). Such indicators could aid the articulation of the dimensions of justice described in the literature (Markell, 2006) concerned with procedural, distributive, informational and environmental justice (Besley, 2012; Dellinger, 2012). Indicators could refer to the perceived fairness of a process, access to information, and equitable impacts on the communities involved (Lewanski, 2013; Rowe & Frewer, 2004; Tyler, 1988) as well as the potential for substantive reform of environmental governance through the exercise of procedural community participation (Dellinger, 2012; Lambropoulos, 2010).

Recognition of how specific context factors influence concepts of effectiveness is a common theme in the literature (Koontz, 2005). Contextual factors include recognition of the pre-existing dynamics in a community (including institutional relationships) (Flynn & Kröger, 2003) as well as the way a process is designed and implemented, and also the wider network for change that exists within the natural resource context (Eversole, 2011; Harrington et al., 2008). Differing concepts of effectiveness can complicate the process of evaluation (Koontz & Thomas, 2006) and may slow development of a strong empirical base (Rowe & Frewer, 2004). However standardised indicators can conflict with the pluralistic, fluid and evolving nature of community engagement as described in this review (Eversole, 2011; Margerum, 2008).

2.3.3 Clarity of purpose

Confusion emerges as a consistent theme within the literature of community engagement, both in the meaning of the phrase and the way that different participants understand it. Multiple interpretations of seemingly well-known terms can disguise an often-incompatible mix of expectations and intentions (Holley, 2010; Shepherd & Martin, 2011). To build evidence, there needs to be a better

understanding of what assumptions are operating under a range of engagement paradigms (Adams & Hess, 2001). When confusion of purpose combines with confusion of terminology, it becomes difficult to collect evidence that looks beyond the procedural and process elements to the substantive value of community engagement within complex natural resource arenas (Brugnach et al. 2011; Lewis, 2008).

It is important to acknowledge the utility of multiple meanings in contexts where it enables those with different agendas to sit at the same table or participate in the same process to address complex and possibly combative issues without delving into the detail (Brugnach et al., 2011; Dellinger, 2012; Lewis, 2008). However, this tactic is best employed as a diplomatic tool to gain broad accord. Confusion of purpose has no advantage at the implementation phase and only compounds the influence of discretionary power (Power, 2010), creating unanticipated outcomes for community engagement activities as well as muddying the waters of effective evaluation (Brackertz & Meredyth, 2009; Johnston, 2010).

2.3.4 Outputs versus outcomes

Evidence that confuses outputs with outcomes results in meaningless cataloguing of products that do not address the stasis in the field of community engagement scholarship.

Outputs are often the subject of evaluation as they produce tangible items such as newsletters, brochures and websites that are easy to document but do not provide evidence of meaningful social or environmental outcomes. Outcomes are the effects of these outputs on environmental and social conditions, decisions or legislation, reflecting a substantive change in these factors (Koontz & Thomas, 2006).

Making a genuine distinction between outcomes and outputs is difficult. Previous research suggests that the normative power of the bureaucratic process (Eversole, 2011) encourages a shift in focus from outcomes to outputs as these are more easily quantified and provide a measure that may more comfortably fit with the expectations and pressures of organisational culture (Boxelaar et al., 2006; Wallington & Lawrence 2008). Evaluating outputs can reduce complexity and

present a reassuringly positivist approach to assessing community engagement (Bishop & Davis, 2002).

This tendency to focus on outputs rather than outcomes diverts attention from the influence of the status quo in matters of power, trust, legitimacy and accountability (Barr, 2011; Fischer, 2005). Outputs are easy to define and provide a tangible, non-complex indicator of some kind of activity within a program (Woolcock & Brown, 2005), without delving into difficult questions about the functional outcomes. It is important that indicators of effectiveness reflect either a desire to record change and innovation, or are clearly linked to the 'prevailing ways' (Boxelaar et al., 2006). This avoids the tendency to confuse stated objectives with actual required outcomes, and can assist in building an evidence base for community engagement in natural resource governance (Marshall, 2011).

2.4 Research outcomes of this literature review

Institutions are the vertical dimension of social capital. (Torgler et al., 2010, p. 42)

Climate change, water management, erosion and human resource consumption challenge existing governance arrangements in addressing the complex and uncertain nature of these issues. Theories of new environmental governance or next generation resource governance have begun to emerge (Gunningham, 2009b; Holley 2010; Martin et al. 2012). New governance scholars suggest that governments must address power imbalances and information asymmetry in designing community engagement (Gross, 2008; van Tol Smita et al., 2015). Complexity in governance arrangements, lack of transparency and inadequate articulation of community pathways to influence change have significant impacts on social justice, economic effectiveness and environmental sustainability (Gunningham, 2009a; Holley, 2010; Hordijk et al., 2014).

This review suggests that there is a problematic stasis in the field of community engagement research that reflects a pervasive ambiguity about its role in natural resource governance. This complicates the collection of empirical evidence and leads to a research field dominated by a repetitive focus on process-based, best-practice analysis. It is time to move beyond a focus on theory building to empirical

research aimed at integrating disciplines, breaking down barriers and creating innovative responses (Pattberg & Widerberg 2015; Rowe & Frewer, 2004).

Governance studies that focus on environmental or natural resource issues can provide valuable insights to a range of other complex public policy areas (Pattberg & Widerberg, 2015). While legal, organisational, political and economic frameworks supply the institutional context for community action, this review suggests that they have been under-researched (Black, 1997; Prager et al., 2015).

Clearer articulation of the institutional drivers for community engagement will go some way towards addressing the confusion of purpose that hinders our understanding of effectiveness. Building better evidence about the role of community in natural resource governance requires establishing boundaries and clarifying expectations at the outset, addressing disillusionment and disengagement, and improving linkages with legal and policy dynamics (Clayton, Dovers, & Harris, 2011). The question of whether community engagement is an effective tool for natural resource governance requires a study design which allows multiple interpretations of key terms such as community, engagement and effectiveness, while paying attention to both the stated and implied objectives (Herriman, 2011). A study of effective community engagement must recognise that a 'one-size-fits-all definition of effectiveness is incomplete...[and] rather think of effectiveness as having multiple dimensions' (Berner et al., 2011, p.153), operating across different spatial and temporal scales (Cohen & McCarthy 2015; Dovers, 2010) and embedded within diverse knowledge systems and worldviews (Aslin & Blackstock, 2010; Prager et al., 2015).

2.5 Summary

This chapter concludes the literature review and should be read in conjunction with published paper one. The review suggests that the conceptual framework introduced in Published paper one that distinguishes between the substantive-procedural-practice elements of governance could usefully be applied to current natural resource governance regimes. This approach can identify the substantive purpose of engagement as it is described or defined at all levels of governance. The framework can also provide a simple analytical tool for legislators, policy makers, operational staff and community audiences to understand the purpose of the engagement, the

objectives, the intersection with decision making and the outcomes that are expected. This would enable strategic reform proposals that can move the debate from a repetitive focus on how to run a good process of engagement to a better understanding of the how community engagement can contribute most effectively within natural resource governance regimes.

Published paper two:

Howard, T. (2014). From international principles to local practices: A socio-legal framing of public participation research. *Environmental Development and Sustainability (Springer)* **Volume 17, Issue 4 (2015), Page 747-763**. doi 10.1007/s10668-014-9572-3

From international principles to local practices: a socio-legal framing of public participation research

Tanya Howard

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Abstract Natural resource management (NRM) is a complex public policy field, which challenges conventional governance structures. Increasing the role of community in the protection, restoration and management of natural resources is a stated priority of ecologically sustainable development (ESD) principles. Despite a proliferation of legal requirements for public participation and non-legal guidelines that promote community access to environmental decision-making at both the international and national scale, implementation is often unsatisfactory and difficult to evaluate. There is a need to develop methodologies that can improve the design, implementation and evaluation of community engagement. Australia is a member of the United Nations and has participated in the development of international principles for public participation, most notably agreeing to the Rio Declaration and Agenda 21. The terminology of ESD appears in much environmental legislation developed at the national and intra-national level. This paper examines the role of international legal and non-legal frameworks in driving national reform. This paper suggests that existing international frameworks can connect social norms of public participation with legal norms of procedural justice to provide a pathway for improving governance in this complex area. The need to develop robust socio-legal methodologies that can assess implementation of ESD principles provides the impetus for this paper. A possible methodology is outlined, and early empirical results described.

Keywords Public participation · Ecologically sustainable development · Community engagement · Environment · Natural resource management · Socio-legal methodology

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1 Introduction

The process and practice of community engagement are well described in the environmental assessment, public participation and natural resource management (NRM) literature. While best-practice guidelines and principles of good engagement continue to be developed in both the academic and practitioner literature, there is limited attention to how legal requirements and policies connect to the practical experiences of implementation. While new opportunities for public participation have emerged since the Rio Declaration on Environment and Development in 1992, there has been little systematic research on how these translate into legal frameworks and how they are applied (McGee et al. 2003; Fisher et al. 2009).

This paper considers international frameworks for community engagement and how these frameworks can inform a methodology for socio-legal analysis of existing community engagement arrangements and possible reforms.

This paper is informed by socio-legal concepts of ESD governance as illustrated in Fig. 1. This perspective directs attention to the different elements of governance, particularly the interaction between *substantive* definitions of duties and rights, and *procedural* enforcement of these duties.

2 Community engagement and public participation

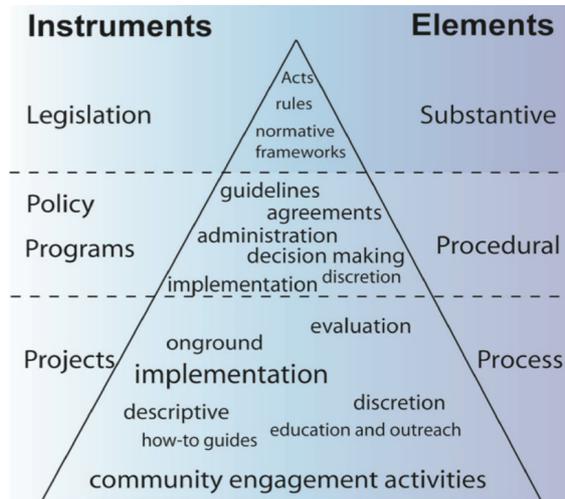
The study of community engagement reveals two significant sources of confusion: a confusion of *terminology* and a confusion of *intention* that fails to adequately distinguish between process and outcomes. Terms such as participation, consultation, collaboration, partnership, public, citizen and community appear throughout the literature and are often used synonymously (Whitman 2008; Berner et al. 2011).

Engagement activities also show a confusion of purpose, often conflating *outputs* with *outcomes*. This impedes strong empirical evaluation of effectiveness (Koontz and Thomas 2006). Additional confusions are the diverse expectations held by those involved at various stages in the design, implementation and participation of engagement activities (Brugnach et al. 2011; Barr 2011). These confusions often reflect the differing worldviews that are embedded in concepts of engagement at the institutional, organisational and individual level (Brackertz and Meredyth 2009), and have significant implications for empirical evaluation of community engagement outcomes.

Within this paper, the term *community engagement* is used as synonymous with *public participation*. This reflects an interaction between the Australian vernacular of public policy and the international terminology of ESD principles. Both phrases carry an assumption that non-expert members of an affected population have a right to contribute to the design of solutions or strategies to address complex NRM issues (Bottrill and Cordonier Segger 2005).

Community engagement holds the promise of enriching existing or emerging democratic values by addressing the limitations of representative governance (McGee et al. 2003). Engagement theory and practice are embedded with varying assumptions that range from the intrinsic (human right to participate) to the instrumental (achieving cost-effective action on environmental issues) (La Camera 2013). While the influence of these assumptions is often unarticulated, they share an intuitive belief in the role of community in environmental governance (Dellinger 2012). A pragmatic approach suggests that the characteristics of ESD, such as complexity, uncertainty, varying temporal and spatial

Fig. 1 The conceptual framework presents a socio-legal view of environmental governance, suggesting that different norms of public participation are embedded in each strata



scales and the possibility of irreversible environmental consequences, are best met by participatory approaches that promote a problem-solving methodology within the wider context of sustainable development objectives (van den Hove 2000).

Public participation is a significant feature of international environmental governance, emerging from a human rights agenda and articulated in principles of transparency, access to information and procedural justice (Bottriell and Cordonier Segger 2005; Banisar et al. 2011). Environmental governance often bears the hallmarks of wicked problems: difficult to define, complex, uncertain (van den Hove 2000; Australian Public Service Commission 2007) and featuring a public dimension (Batie 2008) that generates community concern and interest in the issue. To improve community engagement in NRM, there is need to understand how existing governance regimes address this issue, and what role international principles of public participation can play.

3 International principles/international frameworks

The principles of Ecologically Sustainable Development (ESD) emerged from the Rio Declaration on Environment and Development in 1992, and have been formalised in international agreements such as Agenda 21, the Convention on Biological Diversity, the United Nations Framework Convention on Climate Change and the Statement of Forest Principles.¹ The Rio Declaration also introduced the Precautionary Principle, another tool for international environmental governance, which invokes transparency in decision-making processes. Although principles of ESD are not legally binding of themselves, by incorporating them into national legislation, a government creates an interesting legal dynamic that directs attention to the way these principles are then enacted at the national and intra-national level (Maurer et al. 2003; Banakar and Travers 2005).

Principle 10, known as the ‘access principle’ of the Rio Declaration, states that ‘environmental issues are best handled with participation of all concerned citizens, at the relevant level’ (United Nations General Assembly 1992). Determining the relevant level

¹ For a comprehensive list of International treaties and declarations addressing elements of engagement see Bottriell and Segger.

becomes a key question in understanding how community engagement can best be institutionalised within environmental governance.

The International Law Association has examined the ‘Access Principle’ in the context of established and emerging legal commitments to the broader principles of ESD (Bottrill and Cordonier Segger 2005). This examination adopts a rights-based definition of Principle 10, requiring transparency in decision-making, access to information and justice mechanisms that will uphold these rights. Although the development of ESD principles emerged from environmental concerns, principles of public participation are seen as essential to human rights across the entire spectrum of governance (Kravchenko 2010; IUCN Environmental Law Centre 2009).

The lead up to the Rio + 20 conference in 2012 saw a flurry of international work documenting and appraising international progress towards the objectives of Agenda 21. This scrutiny suggested that the significance of Article 10 was in isolating the principle of public participation from other ambitions of Agenda 21.² A series of reform proposals emerged from this analysis that echo common findings from the community engagement literature, such as the importance of clarity with regard to expectations, terminology and definitions, and related to this, a clear role for the public and its representative organisations in setting agendas and sitting at the table when power-brokers are gathered. These reform suggestions are focused on creating opportunities for wider participation to exert power and influence decisions within the environmental governance cycle (Werksman and Foti 2011).

4 Focusing on the access principle: an ESD reform agenda

Scholars and advocates of ESD suggest that the biggest challenge to effective public participation is the historical separation of policy areas and a reluctance to embrace reform that enables integration of norms across a wide range of portfolios (Banisar et al. 2011; Bottrill and Cordonier Segger 2005; Steelman 2010). This lack of integration enables progress in one area, such as environmental legislation or urban planning, to be quarantined, hindering a broad shift in concepts of public participation as part of new governance models. It also enables resistance to change to flourish, facilitating the maintenance of a culture of non-participation and providing experiences that continue to discourage, frustrate and disengage those that encounter them (Dernbach and Mintz 2011; Steelman 2010).

Analysis of governance regimes from the international arena has identified that power to set the agenda and determine the content of any particular meeting is the least transparent aspect of current community engagement procedures, and has called for greater opportunity for the public to participate ‘upstream’ of conventional governance mechanisms (Werksman and Foti 2011). Suggested reforms include increasing the role of civil society organisations or non-government organisations (NGOs), to enhance the practice of representative democracy and participatory forums (McGee et al. 2003). NGOs offer a form of community engagement that can, at best, fill the gaps of existing government regimes (Werksman and Foti 2011; Dernbach and Mintz 2011), by strengthening the voice of marginalised interests, monitoring governance performance and compliance with obligations (Batie 2008).

² Several other principles in the Rio Declaration complement the intention of Principle 10. For a good discussion of these see Banisar et al. (2011).

Many of these reforms are concerned with issues of legitimacy and accountability, and see existing laws as an avenue to enable more rapid progress (Ross 2010) towards institutionalising new norms of community engagement Becker (2010). Responses to the significant efforts of the public to participate in governance must be prioritised to ensure that the best advantage and learning are gained from these responses, but also to ensure that there is an ongoing rationale for making this effort, as it is generally agreed that ‘disillusionment is a potential risk with processes that... generate disappointing results’ (Werksman and Foti 2011).

Decentralisation and devolution of decision-making responsibility to the lowest possible rung of governance can be conceived as a key mechanism for increasing public participation (McGee et al. 2003; Marshall 2007), although a lack of integration with, or reform of, existing governance structures can compromise the effectiveness of this reform (Lockwood and Davidson 2010).

5 Considering a socio-legal analysis

In order to understand how principles of community engagement are expressed and experienced in environmental governance, a socio-legal analysis can be useful for exploring the influence of both legal and non-legal norms.

Norms may be expressed through statements of principle, which once articulated can direct governance by formalising preferences for agreements and strategies for implementation (Segger 2004). Principles that embody agreed norms also provide strategic leverage by creating new ideas of what is possible and acceptable, and can encourage social change by sending a powerful signal to the wider community about the legitimacy of a particular issue (Maurer et al. 2003).

The complex nature of environmental governance introduces other normative considerations that are highlighted by socio-legal analysis. Intuitive support for community engagement can be challenged by political and bureaucratic norms that stress the complexity, costs, inefficiencies and outcomes of engagement. Understanding how a variety of social, institutional and individual normative beliefs influence the design and implementation of engagement processes (Fisher et al. 2009; McGee et al. 2003), enables articulation of the tensions between social values of participation and economic-rationalist policy settings (Steelman 2010). While consideration of legal norms is a first step in understanding how competing perceptions, definitions and expectations all interact to create a challenging reform agenda, these other norms are also worthy of consideration as they can ‘provide moral suasion for particular types of behaviour or serve as steps towards the development of substantive legal norms’ (Bottrill and Cordonier Segger 2005).

6 Legal frameworks

Legal frameworks are a key element of institutional analysis and can be described as a bundle of laws, guidelines and policies operating at a variety of scales (McGee et al. 2003). Legal frameworks provide the researcher with a source of documentary evidence about how society defines key concepts, directs implementation and enacts compliance (Fisher et al. 2009). The socio-legal approach accepts that consideration of social, cultural and political context can be equally important for governance reform (Martin and Gunningham 2011).

In assessing how a legal framework can enable or obstruct community engagement, distinctions are often made between substantive or procedural instruments, and associated concepts of both ‘hard’ and ‘soft’ law. These distinctions may not be productive in practice, and there is an argument for a less polarised consideration, recognising that ‘institutions with widely varying forms and levels of legal authority can make valuable contributions to sustainability law and policy’. Abbott and Marchant (2010) and that how a law or policy is implemented is as important as the encoding and ratification of the law itself (McGee et al. 2003).

These intersecting and interdependent ‘rules’ operate across different scales, from the international to local arena (McGee et al. 2003). Rules embody the intentions, expectations and aspirations of society, and can exert a normative pressure on the way that a community is governed (Segger 2004). Legal framework analysis draws attention to the role of legal norms in delivering social or cultural change by formalising mechanisms of governance (Ross 2010). Thus, while policy is an essential aspect of governance, there is also a need to pay attention to the ways that legal frameworks can institutionalise norms of public participation (McGee et al. 2003).

7 Procedural and substantive considerations

Moving beyond the realm of intentions and expectations is a serious challenge for implementing ESD principles (Gunningham 2009; Martin et al. 2012). Inadequate reform can create a focus for frustration and increase the risk of community disengagement by providing a quantity of opportunities to observe but not to determine or drive the change that might be necessary (Banisar et al. 2011; Lewanski and Florida 2011).

While achieving a substantive commitment to community engagement may offer a seductive promise of meaningful change, there are nuances that complicate the impact of this reform agenda. A brief discussion of the pros and cons of substantive versus procedural reform suggests that both have limitations that reflect the realities of complex governance.

A common characteristic of substantive commitments is that they are worded as high-level statements that convey an intention, but devolve responsibility for interpretation and implementation to the procedural arms of governance. Enhancing substantive commitments with specific definitions of key terms or central organising principles could address this discretionary leeway by establishing common understanding and reducing the potential dilution of intentions. The other side of this argument is that a lack of substantively defined terminology enables discretion, flexibility and in the most optimal sense, the room for governments to move in step with current evolutions of meaning and expectations (Ross 2010; Abbott and Marchant 2010).

Where substantive declarations are not accompanied by clear definitions, it can be argued procedural reforms are more effective, as these are prescriptive, enforceable and drive on ground progress through implementation (Abbott and Marchant 2010; Dellinger 2012). The benefits of establishing procedural rights to community engagement are seen to be rapid adoption and the ability to circumvent establishment of a substantive right: that is, by enabling public scrutiny and participation through procedural avenues, the need for a specific substantive law is reduced (Lambropoulos 2010; Abbott and Marchant 2010; Ross 2010). Thus, procedural reform is considered strategic in achieving normative change through incremental practical experience (Dellinger 2012).

Reporting on attempts to enact the principles of sustainable development in the UK, Ross argues that adopting a staged approach between procedural and substantive reforms may be most pragmatic (Ross 2010). In this model, a stated commitment to principles of community engagement becomes a central organising principle to guide all aspects of law and policy development. This commitment strengthens procedural requirements with high-level expectation and obligation, and provides a visible framework for the public to assess government performance against this ideal. This staged approach reflects the real-world interaction between substantive and procedural elements of the socio-legal framework and provides legitimacy for public advocates to apply pressure in holding government accountable, working from the bottom up to effect change (Dellinger 2012).

8 The Australian experience

The discussion so far has outlined a conceptual distinction between the *substance* of engagement and the *process* of implementation. Previous research in the Australian context has suggested that while procedures of environmental governance may be embedded in legislation, implementation tends to reinforce existing power imbalances (Holley 2010). The difficulty of distinguishing between the stated intention and the actual outcome is a recurrent finding (Margerum 2008) that stresses the need for more nuanced understanding of concepts of community, representation and participation (Rockloff and Moore 2006), terms that regularly overlap in environmental governance discourses (Lane 2005). This ‘governance gap’ institutionalises uncertainty at the highest level, by omitting to address how community engagement can be operationalised as a mechanism of environmental governance. This article outlines a possible methodology that draws attention to the interaction between expectations of community engagement at higher levels of governance and the practical experiences of community on the ground. To flesh out this discussion, the rest of this article describes a possible methodology and early results from its application in research currently underway in Australia, with the aim of building empirical knowledge around this complex issue.

9 A methodology for assessing national progress on ESD principles

Paying attention to the role of international principles in driving change requires a methodology that evaluates existing legal arrangements and policy instruments for explicit or implicit links to such principles. Such methodologies need to consider both substantive and procedural expressions of principles. This will increase understanding of where to focus reform efforts to increase not just the *quantity* of community engagement, but most importantly, the *quality*.

International frameworks such as ecologically sustainable development work towards changing norms of behaviour regarding community’s role in environmental governance at the national level. This paper suggests that these international frameworks can also inform analytic tools to assess how community engagement is progressing in national legal policy and practice. The literature reveals several attempts to convert established principles into methodologies for reviewing existing laws and policies, as well as focusing attention to the balance between both substantive and procedural expressions of these principles. This approach facilitates socio-legal research around participation principles and collection of data. An overview of these methodologies is provided in Table 1.

Table 1 Existing methodologies for progress in implementing Principle 10 of Agenda 21

The Access Initiative toolkit	Principled policy assessment—the Delhi declaration	World Resources Institute indicators—adapted from TAI	Logolink—frameworks synthesis
140 indicators based on the 3 principles of...	Does the law/policy provide for <i>public consultation and genuine engagement</i> , in both its provisions and implementation?	Explicit institutional statement(s) recognise the need for or relevance of <i>public participation</i> in their own decision-making processes	Historical context and regime types
<i>Transparency</i>	Does it specifically provide for transparency and access to information for concerned citizens, local communities and others who might be affected?	Institutional documents and/or policies state that they undertake general <i>information exchange and consultation</i>	Constitutional frameworks and rights—National laws specifically relating to <i>citizen participation</i>
<i>Accountability</i>	Does it provide avenues for appeal and redress for citizens, communities and others?	Institutional documents and/or policies state that they seek expert and technical advice from <i>civil society groups/representatives</i>	Accountability measures
<i>Citizen participation</i>		Institutional documents and/or policies include examples of institutional collaborations or <i>partnerships with civil society</i> to accomplish specific objectives	Local governance
Methodology	Desktop study followed by guided questionnaire with key experts	Environmental unit/office specifies how it implements public participation	Desktop—comparative study
Scale	National or intra-national scale	Desktop—comparative study	International—cross nation
Units of analysis	Law, policies and programs; <i>expert informant interviews</i>	International—cross nation	Documentary evidence: law, policy, program material; websites; statistics

The Access Initiative (n.d.), Goepel (2010), Maurer et al. (2003), McGee et al. (2003)

10 Fit for purpose: a mixed methods, multiple case study design

To investigate the connection between legislated requirements for public participation and experiences on the ground, it is important to access perspectives that are informed by real-world cases. Case studies provide the opportunity to obtain personal perspectives from participants at each level of the conceptual framework about expectations and experiences of community engagement in natural resource governance (Yin 2009). The research described here applies a ‘vertical slice’ approach to the selection of case studies suitable for qualitative interview and documentary analysis. This approach provided a consistent template for data collection and is illustrated in Table 2.

11 Case study selection

To implement the ‘vertical slice’ methodology, case study selection began with identification of legislation that stated a role for community in the objectives and/or definitions. Wind farm development under the State Government planning framework presented the opportunity to compare two different governance mechanisms for implementing the community engagement objectives of the relevant legal and policy settings. Data collection has been completed at the time of writing, and early findings are described here.

12 Wind farm development and the community engagement framework

Both case studies are located in a region, which has been explored for wind resources, with several sites under development and a gradual increase in developer interest in the area. Negative media has surrounded some developments in the region, prompting heated public meetings, personal attacks on landholders, active opposition groups and a corrosive impact on trust between the local community and any wind farm project. This has led to a sense of trepidation amongst developers about public opposition and an unfortunate feeling of unease about the viability and integrity of the sector.

Research has shown that communities are often divided over the perceived and actual benefits of these developments, with some landholders benefitting financially from a proposed development, while others in the surrounding region feel disadvantaged (Hall et al. 2013; Hindmarsh 2010). This dynamic has resulted in an active and politically prominent opposition movement developing. The high visibility of wind farm turbines across the landscape provides a focus for dissatisfaction, and opposition movements rely on controversial and contested claims of wind farm impacts from turbine noise, glint and vibration (Hindmarsh 2010; Chapman 2013).

At the same time, regional areas and landholders with a good wind resource are likely to receive economic benefits from wind farm development (Clean Energy Council 2012), which provides a possible income stream for landholders with manageable impact on current land uses (GHD for the NSW Farmers Association 2012). Development and operation of a wind farm bring employment and income benefits Climate Institute (2011) as well as diversifying the industrial profile of a rural area. Supporting and developing a ‘clean and green’ industry can be a powerful motivating driver for communities in good wind resource areas (AMR Interactive 2010; Hall et al. 2012).

Table 2 A 'vertical slice' of data collection

Vertical slice: from legislation to implementation	
Case study context	Legislation, policy, program or project documentation; governance model description and features; meeting minutes, correspondence, publicly available documents
<i>Interview questions</i>	
Background information and personal context	Personal and professional journey to the current case; self-identification of role played in current case
Purpose and expectations	Exploring perceptions of community engagement in this context and expectations of what it will achieve
Concepts of community engagement and environmental governance	Understanding of key concepts, external to case study context; Awareness of how community engagement fits into the governance model
Understanding of institutional arrangements relating to the case study	Awareness of legal and policy settings; description of governance model including boundaries
Concepts of implementation	Exploring perceptions of how institutional arrangements interact with expectations and personal experience
Suggestions for improvement	Exploring ideas for reform through legislation, policy or practice.
Evidence for improvement	Exploring concepts of effectiveness and evaluation of community engagement

13 The institutional context

Australia is a constitutional monarchy, with close colonial links to Britain. The country is governed as a Federated coalition of individual states that are united under the foundation law of the Australian Commonwealth, the Constitution (1900). Australia has three tiers of government at the national, state and local scales. Legislative responsibilities for complex natural resource issues often intersect between all three tiers of government, and can lead to overlapping and sometimes contradictory policy contexts. The Constitution does not include any substantive human rights of participation, beyond establishment of a representative democratic electoral system.

The Federal Government has ratified the principles of sustainable development as set out in Agenda 21 (United Nations Environment Programme 1992), which states that

23.2. One of the fundamental prerequisites for the achievement of sustainable development is broad public participation in decision-making.

The New South Wales State Government retains responsibility for legislation and policy that provide the context for wind farm development in the State. Several key pieces of legislation and policy intersect in these case studies. Wind farms over a certain size are subject to approval under the NSW Environmental Assessment and Planning Act 1979. The Act formalises a responsibility for government

(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment. (Part 1 Preliminary: Objects 5)

During the research period, the Act has been subject to review and repeal, and a new Planning Bill was drafted in 2013. It is likely that this Bill will pass legislative approval in 2014. The stated purpose of the legislative review was to reduce complexity and 'red tape' in planning matters.

Two key distinctions are relevant for the purpose of this analysis: the removal of the phrase 'ecologically sustainable development' (ESD) from the objects of the new Bill, and the inclusion of a Community Participation Charter, comprising of seven principles that reinforce concepts of access to information, transparency and the right to participate (Planning Bill 2013 2013).

Legislative objects become a core organising feature of legislation when decisions are challenged and can also determine the legal grounds for decision makers when considering development applications (Bates 2010). The removal of the word 'ecologically' from the Exposure Bill's definition of sustainable development (SD) frames the possible terms of legal decision-making and reduces the scope of objection to development by diluting concepts derived from the Rio Declaration such as the precautionary principle and inter-generational equity (Montoya 2013).

In terms of a substantive requirement for community participation, it appears that the commitment to the 'Participation Charter' is not integrated with the decision-making structures of the proposed Act; there is no reference to how compliance, or otherwise, with the principles of the Charter will be assessed. Ministerial discretion is applied to grant public hearings, which are a key process for objection; however, it is unclear whether a failure to meet the principles of the Charter would be adequate grounds for objection. The ancillary provisions of Schedule 2 create a vision of community participation that is grounded in information transmission, and could be more correctly designated as community *notification*. The inclusion of the Charter may address the conceptual loss of public participation signified by the contraction of ESD to SD; however, the objects of the new

Bill fail to accord priority or weighting to community participation requirements in considering the legal implementation of the planning system. If the Charter is to guide procedural forms of participation, it is possible that failures may be subject to challenge. This remains to be tested.

The key policy driver for increasing both renewable energy and community engagement is a high-level State-wide policy *NSW 2021* (Government 2011). Nested under this policy is a Renewable Energy Action Plan that commits to build community support for renewables by ‘engaging communities early and effectively in renewable energy projects’. (Government 2013). Additionally, Draft Wind Farm Guidelines have been developed that provide detail about the steps involved in developing a wind farm and achieving project compliance under the planning framework (Department of Planning & Infrastructure 2011).

These Guidelines prioritise community consultation, requiring that

proponents must undertake a comprehensive and genuine community consultation and engagement process (Part b)

The requirements for consultation are outlined as compliance measures aimed at attaining project development approval. While the executive summary of the guidelines clearly focuses on community consultation stating that ‘the purpose of the guidelines is to outline clear processes for community consultation for wind farm developments’ (Department of Planning and Infrastructure 2011), the document goes on to associate *consultation* with *engagement*, without any clear definitions or criteria to inform a distinction between these terms. The language then returns firmly to consultation. Checklists of stakeholders are provided, and an overview of consultation concepts includes key methods for different stages of the development. These tools are presented in a similar format as existing typologies such as Arnstein’s ladder (Arnstein 1969), moving in a linear fashion from ‘inform’ to ‘discuss’.

14 Industry

The interaction between legal obligations and policy directions is complicated further by the development of industry-specific guidelines that focus on improving community engagement (Clean Energy Council n.d). The guidelines are entirely voluntary, and as such, the concept of compliance is not relevant. While they may strive to establish a norm, or confidence in community engagement processes, without legislative backing they are only as powerful as the companies that adopt them.

15 Mechanisms

One of the key mechanisms for community engagement in wind farm development is the formation of a representative governance body. The NSW Draft Wind Farm Guidelines outline the required features of a Community Consultative Committee (CCC) and describe it as ‘a forum for open discussion between representatives... on issues directly relating to the...wind farm’ (Department of Planning & Infrastructure 2011). The industry guidelines list Community Reference Groups as one of the tools suitable for wind farm projects, noting that ‘while these groups are not decision-making bodies, they can act as a bridge between community and developers’ (Clean Energy Council n.d p. 63).

Both cases examined for this research took different approaches to the establishment of this governance mechanism.

16 Case one: a community consortium model for environmental governance

Case one is a community initiative established by a group of volunteers and run by a consortium of key stakeholders. The consortium emerged from the intersection of two key drivers: the development of a regional sustainability strategy and the announcement of the NSW government's renewable energy target '20 % by 2020' (NSW Government 2012) and subsequent establishment of renewable energy precincts through the Officer of Environment and Heritage (Heritage n.d.).

Seed funding was provided through this precinct program to undertake an extensive feasibility study across the region. The key output was the development of *design principles* to guide the planning and operation of a potential community owned wind farm. These principles have become a significant touchstone for the community consortium, conveying a sense of legitimacy and carrying duties of accountability to the 'community' of the region. These principles also create expectations for the project that challenge the capacity of the consortium as it attempts to move from project design to project realisation (Table 3).

While community is at the centre of this project design, the difficulty of meeting technical requirements and working within a changing policy context saw respondents struggling at a personal level to reconcile project values with commercial requirements. This personal struggle was intensified by a sense of responsibility to the community and the visibility that goes with public engagement.

In this case, the generation of community-designed governance principles has created a suite of expectations that are not connected to the legal requirements of wind farm project development. It is unclear whether the work done so far will satisfy the requirements of the NSW Planning Act and the Wind farm Guidelines. Respondents did not see their community engagement activities as related to legal compliance in any way, but as being core to the social and environmental objectives of the project.

17 Case two

Case two is a private development instigated by a small start-up company. Focused on achieving project approval in order to sell on the development as a going concern, the proponent has established a Community Consultative Committee in line with the requirements of their approval, issued under the Draft Windfarm Guidelines. A key feature of this case is the difficulty of appointing an independent Chairperson as specified by the Guidelines; the proponent had to contract out this role, incurring operational costs and creating a debate within the committee about the integrity of the mechanism. Difficulty in determining both the purpose and scope of the Committee, combined with this question of integrity, has resulted in an atmosphere of suspicion and distrust within the committee members. Respondents were unsure of their purpose, questioned the influence of their participation and when asked, demonstrated little awareness of formal frameworks that could guide the practice of community participation.

Table 3 Community wind farm design principles developed from the feasibility study

Majority regional ownership	Benefit sharing
Transparent and accountable	One member—one vote
Financial viability	Quadruple bottom line accounting
Accessibility investment structure	Working for energy sustainability

18 Discussion

This brief overview of a research design and early results reveal several challenges. Firstly, how best to present ‘principles to practice’ research? The quantity of documentary analysis combined with qualitative case study data challenges the researcher to find concise forms for reporting, without losing the complexities of the issue under examination. Secondly, the difficulty of maintaining the conceptual strata proposed by the heuristic that forms the basis of this approach: the interaction between legal and non-legal norms can be endless in an applied policy context and requires a conscious effort to bound this enquiry to keep it within the realms of the possible.

However, the ‘vertical slice’ approach as outlined here does draw attention to the importance of context in considering how community interests and aspirations are realised in practice. The interaction between legal and policy settings, community governance principles and expectations ranging from the transformational to the pragmatic, are all made visible when viewed through this conceptual lens. By framing the case study and data collection in this way, the tension between formal rules and implementation is highlighted, and key factors such as capacity, expectations and values become visible, requiring serious consideration when designing policy reforms or legislative triggers for community engagement.

19 Conclusion

As previously discussed, attempts to institutionalise principles of ESD indicate that ultimately ‘institutional reform and substantive norm development must proceed hand-in-hand’ (Abbott and Marchant 2010).

This paper suggests that international frameworks for public participation can provide a pathway for assessment of environmental governance (La Camera 2013). The unique advantage of this approach is recognising the existence of competing norms that operate across the socio-legal framework. This interrogates implementation within the context of culture, economy and power dynamics. The importance of exploring how differing worldviews inform community engagement is a recurring theme in the literature from this field

Examining how international norms of ecologically sustainable development may influence national or local laws and policies requires consideration of issues of scale: the need for more finely grained reform increases as the level of locality intensifies (Dernbach and Mintz 2011; Ross 2010). Combining this awareness with the principled policy analysis methodology may enable articulation of the range of normative frameworks interacting in environmental governance and the role of international principles for community engagement within this context. In the Australian context, applying the Principled Policy

methodology can guide analysis of whether procedural aspects of community engagement in environmental governance are sufficiently developed to encourage a focus on a substantive reform agenda.

The study of community engagement is notable for a persistent lack of clarity in both terminology and expectation; this confusion extends beyond the academic study into the practical aspects of engagement in design, implementation and evaluation. Where community engagement intersects or overlaps with complex environmental and agricultural concerns, the characteristics of a classic wicked problem emerge, revealing a messy context that challenges existing governance arrangements. A lack of conceptual clarity may be experienced at varying scales and can see differing expectations of community engagement existing within the same broad overarching framework. The development of ESD principles represents high-level attempts to address this conceptual confusion. These principles reflect extended negotiations across diverse contexts to focus attempts on developing an agreement, rather than a singular definition.

The association of environmental concerns with the human right to participate provides a rich context for future research. The challenge faced by attempts to formalise principles of participation into a legally meaningful mechanism is to create a framework that is feasible and effective, not overloaded with symbolic procedures of engagement that do not connect meaningfully with outcomes. Further research is needed to consider existing norms for community engagement in environmental governance, and what role international principles can play in driving reform and assessing progress towards the institutionalisation of community engagement within a national context.

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References

- Abbott, K., & Marchant, G. (2010). Institutionalizing sustainability across the federal government. *Sustainability*, 2(7), 1924–1942. doi:[10.3390/su2071924](https://doi.org/10.3390/su2071924).
- AMR Interactive. (2010). Community attitudes to windfarms in NSW. In C. C. a. W. N. Department of Environment (Ed.). Sydney: NSW Government.
- Arnstein, S. R. (1969). A ladder of citizen participation. *Journal of the American Institute of Planners*, 35(4), 216–224. doi:[10.1080/01944366908977225](https://doi.org/10.1080/01944366908977225).
- Australian Government. (1900). Commonwealth of Australia Constitution Act.
- Australian Public Service Commission. (2007). Tackling wicked problems: A public policy perspective (A. G. s. Department, Trans.). *Contemporary Government Challenges*. Canberra: Commonwealth of Australia.
- Banakar, R., & Travers, M. (Eds.). (2005). *Theory and method in socio-legal research*, (1 ed., Oñati international series in law and society). Oxford: Hart Publishing.
- Banisar, D., Parmar, S., deSilva, L., & Excell, C. (2011). Moving from principles to rights: Rio 2012 and ensuring access to information, public participation, and access to justice for everyone. In T. A. I. A. 19 (Ed.), *The access initiative*. World Resources Institute.
- Barr, N. (2011). I hope you are feeling uncomfortable now: Role conflict and the natural resources extension officer. In D. J. Pannell & F. Vanclay (Eds.), *Changing land management: Adoption of new practices by rural landholders* (p. 206). Melbourne: CSIRO publishing.

- Bates, G. (2010). *Environmental law in Australia* (7th ed.). Chatswood: LexisNexis Butterworths.
- Batie, S. (2008). Wicked problems and applied economics. *American Journal of Agricultural Economics*, 90(5), 1176–1191.
- Becker, M. A. (2010). Russia and the artic: Opportunities for engagement within the existing legal framework. *American Universities International Law Review*, 25, 225.
- Berner, M. M., Amos, J. M., & Morse, R. S. (2011). What constitutes effective citizen participation in local government? Views from city stakeholders. *Public Administration Quarterly*, 35(1), 128–163.
- Bottrill, K., & Cordonier Segger, M. (2005). The principle of public participation and access to information and justice. In *Recent developments in international law related to sustainable development*. Oxford, UK: Centre for International Sustainable Development Law.
- Brackertz, N., & Meredyth, D. (2009). Community consultation in victorian local government: A case of mixing metaphors? *Australian Journal of Public Administration*, 68(2), 152–166. doi:10.1111/j.1467-8500.2009.00627.x.
- Brugnach, M., Dewulf, A., Henriksen, H. J., & van der Keur, P. (2011). More is not always better: Coping with ambiguity in natural resources management. *Journal of Environmental Management*, 92(1), 78–84. doi:10.1016/j.jenvman.2010.08.029.
- Chapman, S. (2013). New study: Wind turbine syndrome is spread by scaremongers. <http://theconversation.com/new-study-wind-turbine-syndrome-is-spread-by-scaremongers-12834>. Accessed 19 Dec 2013.
- Clean Energy Council. (2012). Economic benefits of wind in Australia.
- Climate Institute. (2011). Clean energy jobs snapshot: New England tablelands (f. b. N. OEH, Trans.). In C. Institute (Ed.), *Clean energy Jobs snapshot*. Sydney: Climate Institute.
- Dellinger, M. (2012). Ten years of the aarhus convention: How procedural democracy is paving the way for substantive change in national and international environmental law. *Colorado Journal of International Environmental Law & Policy*, 23(2), 309–366.
- Department of Planning & Infrastructure. (2011). *Draft NSW planning guidelines: Wind farms*. Sydney: State of New South Wales.
- Dernbach, J. C., & Mintz, J. A. (2011). Environmental laws and sustainability: An introduction. *Sustainability*, 3(3), 531–540.
- Fisher, E., Lange, B., Scotford, E., & Carlame, C. (2009). Maturity and methodology: Starting a debate about environmental law scholarship. *Journal of Environmental Law*, 21(2), 213–250.
- GHD for the NSW Farmers Association. (2012). Wind farm guide for host landholders. In N. F. Association (Ed.). NSW Farmers Association.
- Goepel, M. (2010). Formulating future just policies: Applying the Delhi sustainable development law principles. *Sustainability*, 2, 1694–1717. doi:10.3390/su2061694.
- Government. (2011). NSW 2021: A plan to make NSW number 1 NSW Government.
- Government. (2013). Renewable energy action plan. NSW Government.
- Gunningham, N. (2009). Environment law, regulation and governance: Shifting architectures. *Journal of Environmental Law*, 21(2), 179–208.
- Hall, N., Ashworth, P., & Devine-Wright, P. (2013). Societal acceptance of wind farms: Analysis of four common themes across Australian case studies. *Energy Policy*, 58, 200–208. doi:10.1016/j.enpol.2013.03.009.
- Hall, N., Ashworth, P., & Shaw, H. (2012). Acceptance of rural wind farms in Australia: a snapshot. In C. S. i. S. Group (Ed.), *CSIRO national research flagships energy transformed*. Canberra: CSIRO.
- Heritage, O. o. E. a. (n.d.). Renewable energy precincts. <http://www.environment.nsw.gov.au/climatechange/renewableprecincts.htm>. Accessed 27 Oct 2013.
- Hindmarsh, R. (2010). Wind farms and community engagement in Australia: A critical analysis for policy learning. *East Asian Science, Technology and Society: an International Journal*, 4, 541–563.
- Holley, C. (2010). Public participation, environmental law and new governance: Lessons for designing inclusive and representative participatory processes. *Environmental and Planning Law Journal*, 27(5), 360–391.
- Clean Energy Council. (n.d). Community engagement guidelines for the Australian wind industry.
- IUCN Environmental Law Centre. (2009). Conservation with justice. A rights-based approach. In T. Greiber (Ed.), (pp. xiv + 118 pp). Gland, Switzerland: International Union for Conservation of Nature and Natural Resources.
- Koontz, T. M., & Thomas, C. W. (2006). What do we know and need to know about the environmental outcomes of collaborative management? *Public Administration Review*, 66(6), 111–121.
- Kravchenko, S. (2010). Procedural rights as a crucial tool to combat climate change. *Georgia Journal of International and Comparative Law*, 38(3), 613–648.

- La Camera, F. (2013). Economy, ecology and environmental democracy. In M. Pallemaerts (Ed.), *The aarhus convention at ten: Interactions and tensions between conventional international law and EU environmental law* (Avosetta Series). Groningen, Amsterdam: Europa Law Publishing.
- Lambropoulos, V. (2010). What can Australia learn from the Europeans about public participation? Article 6 of the Aarhus Convention and environmental impact statements. *Environmental and Planning Law Journal*, 27(4), 272–293.
- Lane, M. B. (2005). Public participation in planning: An intellectual history. *Australian Geographer*, 36(3), 283–299. doi:10.1080/00049180500325694.
- Lewanski, R., & Floridia, A. (2011). The challenges of institutionalizing deliberative democracy: The ‘Tuscany laboratory’. *Journal of Public Deliberation*, 9(1), 1–6.
- Lockwood, M., & Davidson, J. (2010). Environmental governance and the hybrid regime of Australian natural resource management. *Geoforum*, 41(3), 388–398.
- Margerum, R. D. (2008). A typology of collaboration efforts in environmental management. *Environmental Management*, 41(4), 487–500. doi:10.1007/s00267-008-9067-9.
- Marshall, G. (2007). Nesting, subsidiarity, and community-based environmental governance beyond the local scale. *International Journal of the Commons*, 2(1), 75–97.
- Martin, P., & Gunningham, N. (2011). Leading reform of natural resource management law: Core principles. *Environmental and Planning Law Journal*, 28(137), 21.
- Martin, P., Kennedy, A., & Williams, J. (2012). Creating next generation rural landscape governance: The challenge for environmental law scholarship. In P. Martin, L. Zhiping, Q. Tianbo, A. Du Plessis, & Y. Le Bouthillier (Eds.), *Environmental governance and sustainability (IUCN Academy of Environmental Law Series)*. London: Edward Elgar.
- Maurer, C., Ehlers, S., & Buchman, A. (2003). Aligning commitments: Public participation, international decision-making, and the environment. In W. R. Institute (Ed.), *Issue brief*. Washington: World Resources Institute.
- McGee, R., Bazaara, N., Gaventa, J., Nierras, R., Rai, M., Rocamora, J., et al. (2003). Legal frameworks for citizen participation: Synthesis report. In L. I. o. C. P. a. L. Governance (Ed.), *Research report series* (pp. 84). Logolink.
- Montoya, D. (2013). NSW planning reforms: sustainable development. In N. P. R. Services (Ed.), *Briefing paper*. Sydney: NSW Parliamentary Research Services.
- NSW Government. (2012). Strengthen our local environment and communities. In *NSW 2021: A plan to make NSW number one*. Sydney: NSW Government.
- Planning Bill 2013 (2013). NSW Government.
- Rockloff, S. F., & Moore, S. A. (2006). Assessing representation at different scales of decision making: Rethinking local is better. *Policy Studies Journal*, 34(4), 649–670. doi:10.1111/j.1541-0072.2006.00196.x.
- Ross, A. (2010). It’s time to get serious—Why legislation is needed to make sustainable development a reality in the UK. *Sustainability*, 2, 1101–1127. doi:10.3390/su2041101.
- Segger, M.-C. C. (2004). Significant developments in sustainable development law and governance: A proposal. *Natural Resources Forum*, 28(1), 61–74. doi:10.1111/j.0165-0203.2004.00072.x.
- Steelman, T. A. (2010). *Implementing innovation: Fostering enduring change in environmental and natural resource governance*. Washington: Georgetown University Press.
- The Access Initiative. (n.d.). The Assessment Toolkit. <http://research.accessinitiative.org/?module=main>. Accessed 29 Apr 2013.
- United Nations Environment Programme. (1992). Agenda 21. <http://www.unep.org/documents.multilingual/default.asp?documentid=52>. Accessed 31 May 2013.
- United Nations General Assembly. (1992). Rio declaration on environment and development. <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>. Accessed 28 Mar 2013.
- van den Hove, S. (2000). Participatory approaches to environmental policy-making: The European Commission Climate Policy Process as a case study. *Ecological Economics*, 33(3), 457–472. doi:10.1016/S0921-8009(99)00165-2.
- Werksman, J., & Foti, J. (2011). Improving participation in international environmental governance. In W. R. Institute (Ed.), *Perspectives*, United Nations Environment Program.
- Whitman, D. (2008). “Stakeholders” and the politics of environmental policymaking. In J. Park, K. Conca, & M. Finger (Eds.), *The crisis of global environmental governance: Towards a new political economy of sustainability* (pp. 163:193, Environmental Politics). New York: Routledge.
- Yin, R. (2009). *Case study research: Design and methods* (4th ed.). California: Sage.

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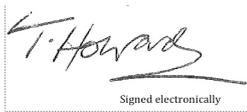
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Chapter 3: Methodology

This methodology chapter states the research problem and defines the central research question of this research. The chapter also outlines the secondary and tertiary research questions and presents the epistemological context and methodological choices that informed the research design.

3.1 Introduction

The methodology described in this chapter:

includes an awareness of the social-political context within which social research is embedded, the place of social research in the broader ... community ... and assumptions about social reality and knowledge creation on which social research rests. (Neuman, 2011, p. vii)

This research was guided by the researcher's social science background, Drawing on career and life experience in community engagement and environmental policy, the researcher is committed to achieving strategic public policy research outcomes. The research is grounded in the overarching context of the Next Generation Rural Landscape Governance research program, a cross-disciplinary research program focused on improving natural resource law and institutions. This component of the program focused on community engagement as an element of natural resource governance, and was supported with a scholarship from the Australian Cotton Research and Development Corporation (CRDC).

The methodology is cross-disciplinary, embracing legal terminology, applied social science (particularly public policy perspectives) and utilising a range of methods to obtain and analyse the data (Bammer, 2012; Evely, Fazey, Lambin, Lambert, Allen, & Pinard, 2010;). In order to demonstrate the integrity of the research methodology, this chapter presents:

- a brief outline of the philosophical foundations of the research;
- a discussion of the conceptual framework, its origin and evolution into an investigative framework;
- the specific methods used to collect data; and

- the possible limitations of the research design.

3.2 Cross disciplinary research

Addressing wicked problems presents a challenge to the researcher as much as the policy maker. Beierle writes:

Because of their complexity, many ... problems are not conducive to centralized hierarchical decision-making. Rather, they often require the knowledge, commitment, and action of multiple levels of government, special interests, and the general public over long periods of time. (Beierle, 1999, p. 77)

This call for multiple perspectives suggests an important role for cross-disciplinary research that combines different bodies of knowledge to address complex natural resource issues (Bammer, 2012; Brugnach et al. 2011; Hillman et al., 2005). Cross-disciplinary research challenges conventional research strategies by inviting uncertainty into the research process as researchers explore productive synergies between varying academic methods (Howard & Lawson, 2015; Lawrence, 2010; Neef & Neubert, 2011).

Cross-disciplinary research requires a willingness to explore significant epistemological differences while constantly looking for potential overlaps in both subject matter and methodological approaches (Martin, Williams, Stone, & Alter, 2010). The limitations of conventional research in addressing issues such as natural resource governance and community engagement suggest that using cross-disciplinary research is important for generating new and strategic knowledge (Bammer, 2012; Batty 2006; Prager et al., 2015). Nevertheless, it is necessary to pay attention to the persistence of entrenched knowledge systems which may favour research methods and outcomes that reflect well-established norms, rather than new and innovative approaches (Dovers, 2010; Flyvberg, 2001; Hendriks, 2010).

3.2.1 Socio legal perspectives

In order to explore how community engagement functions within natural resource governance systems, it is necessary to combine learning from varied scholarships in the social sciences with legal perspectives concerning legislative arrangements and institutional mechanisms. Socio-legal research focuses on aspects of procedural justice, such as enhanced legitimacy of decisions (Gross, 2008; Markell, 2006),

access to justice (Tyler, 1988), and increased understanding of how people perceive and interact with the law (Holley, 2010; Martin & Gunningham, 2011; Tyler, 2006).

Scholars note that environmental socio-legal research has not been well developed despite the specific and useful contribution that this knowledge makes to environmental studies (Fisher et al., 2009; Musheno & Maynard-Moody, 2009; Pattberg & Widerberg 2015). Scholars propose that social science provides a robust and well-developed set of theories, methodologies and data sets that can be usefully applied to questions of legal and institutional concern (Hillyard, 2007; Hutchinson, 2010; Williams, 2009).

3.3 Research frameworks

3.3.1 Conceptual framework

A key component of the research design was the development and application of a conceptual framework that could be applied to the research problem. The concepts and terminology used in this framework is borrowed from legal theory and public policy, and were motivated by the findings of the literature review, particularly:

- Confused expectations and definitions of community engagement
- Limited evidence of effective outcomes
- A focus on process and activity rather than institutional reform
- Repetition and stasis in the current body of literature.

The framework provided an organising conceptual structure for the research design, guiding the research through the vast field of research concerning public participation, community engagement, citizen action and democratic theory. The desire to apply a structured framework to the research problem was driven by recognition that governance is comprised of both an overarching *structure* and composite *elements*, and that to address the core research problem of improving community engagement in natural resource governance, the research design must recognise that

It is not that the 'rules' are simply what constitute the game, since the rules themselves depend upon the elements ... to which those rules make reference,

even as those elements are given definition through the rules (Malpas, 2001, p. 133).

The framework utilises existing concepts of current environmental governance (Fisher et al., 2009; Hordijk et al. 2014; Pattberg & Widerberg, 2015). It is based on the researcher's belief that community engagement is shaped by both legal and non-legal discourses, and the intersection of community with natural resources, resulting in

a shifting subject which is the product of constant negotiation, attempting to resolve conflicting interests and exercise administrative discretion ... [and] only exists as a subject of legal concern inasmuch as it is the space in which the human subject lives, breathes or works. (Goodie, 2001, p. 80)

The conceptual framework was useful for organising the research design, however it was not a theoretical construct and '[does] not establish any system of truths as such, but only a method for deciding on what is to be held true' (Malpas, 2001, p. 138).

The conceptual framework described here was informed by previous work that adopted a principal-agent perspective of the development and implementation of policy (Howlett, 2009; Howlett, Ramesh, & Perl, 2009; Poth & Selck, 2009). Researchers reporting on how concepts of individualisation were realised in employment negotiations found it useful to emphasise the distinction between *substantive* individualisation and *procedural* individualisation (Brown, Deakin, Hudson, Pratten, & Ryan, 1998). Further iterations of this distinction introduced a *process* element that encouraged attention to the implementation of both legislation and policy elements (Kennedy, 2006; Waring, 2001).

In adapting this research terminology for the purpose of improving community engagement in natural resource governance, the *substantive* is taken as referring to the explicit objective of achieving community involvement in governance. This is perceived as a core intention of the legal instrument, and could, indeed, be the central organising principle of legislation. This element has been re-named 'legislation'.

The *procedural* element concerns community engagement as participatory processes that could be seen to operationalise engagement, without being the core organising principle of the legal or policy document. This element was re-named 'policy'.

The *process* element describes the implementation and delivery of participatory processes. This element is the interface between high-level statements of intention and practical implementation. This element is re-named 'practice'.

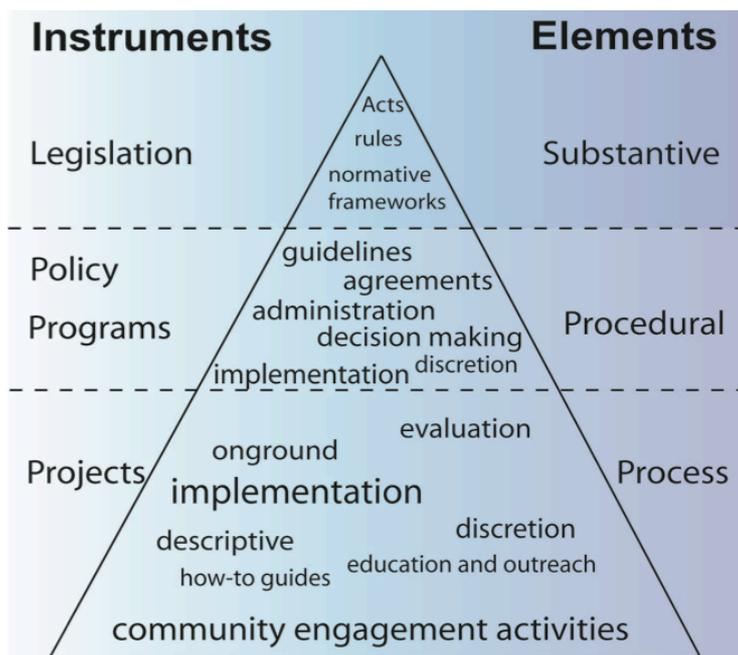


Figure 3.1: The conceptual framework for this research

While the framework is appealingly parsimonious, there is a risk that it is insufficient for addressing the messy and complex world of real life community engagement and natural resource governance. However the framework echoes terminology and theoretical constructs found in other research from public policy and economic theory (Colebatch, 2009; Kim, 2011; Howlett, 2009; Ostrom & Cox, 2010), suggesting that the conceptual division would be usefully broad ranging in its application

The conceptual framework used in this research suggests that confusion across the levels of the framework could impact on community participation in natural resource governance. Making an explicit connection between the way that institutional architectures interact with implementation of legislation, policy and practice would assist in the design of better governance structures.

However this linear analysis excludes consideration of how evaluation, evidence and change can be included in a socio-legal perspective (Arnold & Gunderson, 2014; Martin & Gunningham 2011). To address these deficiencies, the research design described in this chapter extends the conceptual framework to include the additional elements: ‘evidence’ and ‘reform’, leading to the investigative framework described below.

3.3.2 The investigative framework

The investigative framework supported a research design that could trace the intention to engage from on-ground, project level activities (PRACTICE elements) through to reporting mechanisms and organisational guidelines, funding requirements and managerial level program design (POLICY elements). The framework points to a gap in governance arrangements that support meaningful community engagement in natural resource governance (LEGISLATION elements). The impact of this ‘governance gap’ on the collection of empirical evidence about the role of community engagement in natural resource governance is considered (EVIDENCE elements), as is the design of possible improvements and alternatives in line with the Next Generation research agenda (REFORM elements).

Table 3.1: Elements of the investigative framework, building on and extending the conceptual framework

Legislation	Content/ substance
Policy	Mechanisms/ requirements
Practice	Implementation
Evidence	Evaluation for improvement, change
Reform	Consideration of alternatives

3.4 Research questions

The central research question is informed by the broad intention of the Next Generation Rural Landscape Governance research program to develop *improved institutional mechanisms for community engagement in resource governance*. Highlighting key terms in this statement lead to an identification of the core intention of the research, which includes a strong institutional reform agenda, and the derivation of the central research statement:

Improving the 'rules of engagement': Understanding the expectations, definitions and purposes of community engagement in Australian natural resource governance.

Key terms derived from this statement informed the parameters of the literature review, which traversed a wide range of research on community engagement, public participation, governance, decision making, public policy, and democratic theory. The diverse and pluralistic field of engagement literature became an area of research significance and was explored in Published paper one (Howard, 2015a).

3.4.1 Primary research question

Formulating a robust research question is a necessary step in designing a research study that can pursue a realistic and productive outcome (Bridger & Alter, 2006; Cooksey & McDonald, 2011). Research questions can also be useful for signposting key theoretical directions and flagging conceptual frameworks that inform the research (Agee, 2009; Rapley, 2007). Thus the research questions were developed recognising that

first iterations of questions are tentative and exploratory but give researchers a tool for articulating the primary focus of the study (Agee, 2009, p. 433)

The primary research question began this iterative process by connecting the concept of *institutional reform* with broader concepts of *community engagement and public participation* in natural resource governance. The research question was informed by a comprehensive literature review that ranged across intersections between public policy and natural resources, and diverse versions of 'community engagement' in this context.

As the research problem came into focus, the broad terminology was tightened to focus on *participatory process* as a form of community engagement. The research question took a step back from normative assumptions about the assumed benefits of increasing legal and administrative requirements for community engagement, and asked:

How are participatory processes currently defined and experienced in Australian natural governance; and how could they be improved?

This primary research question provided the overarching focus for the study. To articulate the key research components, secondary and tertiary questions were also developed⁸. These questions guided the design of the research project, ensuring that the overall question was addressed (Johnson & Christensen, 2008).

3.4.2 Secondary research questions

The secondary questions followed the structure of the investigative framework that emerged from the literature review and described in Published paper one (Howard, 2005a) (see Figure 3.2). This framework connects the research to public policy scholarship that explores the intersection between institutional and social norms (Bishop & Davis, 2002; Black, 1997; Gottweis, 2008) and how these are given form in both the *creation* and *delivery* of policy (Brody, Godschalk, & Burby et al., 2003; Howlett et al., 2009; McGee et al., 2003).

The secondary questions were linked to the articulation of key assumptions underpinning the research objectives. These assumptions were articulated to demonstrate the origin of the research questions and to acknowledge their influence on the researcher in developing the overall research design (Holloway & Jefferson, 2000; Kearney & Hyle, 2006; Neuman, 2011), in line with the underpinning commitment to critically reflective scholarship.

While these assumptions might have exerted a deductive influence on the research design as outlined in this chapter, it is important to note that they did not serve as testable hypotheses within a positivistic paradigm. As described later in this chapter, this research pursued a post-positivist path utilising qualitative research methods. There was no intention to test these assumptions for causal relationships but rather to map the complex and dynamic interaction of variables that exist within the natural resource governance context (Cooksey & McDonald 2011; Johnson & Christensen, 2008; Malpas, 2001).

⁸ The research questions are detailed in Appendix Two.

Table 3.2: Research questions and associated assumptions

Secondary research question	Underpinning assumptions
RQ1: What expectations and definitions of community engagement are embedded in current natural resource legislation , and what substantive guidance is provided for their implementation through participatory processes?	A1: Community engagement is an ambiguous term which encompasses diverse expectations and confused objectives. A2: Community engagement requires substantive definition and clearly articulated expectations to improve its role in natural resource governance.
RQ2: What expectations and definitions of community engagement are embedded in current natural resource policy , and how are these implemented in participatory processes?	A3: Ambiguity at the substantive level increases the influence of discretionary/ administrative power in the design and implementation of participatory processes. A4: There is a tension between functional and transformational perceptions of community engagement.
RQ3: What expectations and definitions of community engagement are embedded in current natural resource practice , and how are these experienced through implementation of participatory processes?	A5: Practical experiences are disconnected from substantive and procedural definitions and expectations. A6: A tension between functional and transformational perceptions is present throughout the investigative framework.
RQ4: How do definitions and expectations of participatory processes differ, and what are the evidence implications for improving community engagement as an element of natural resource governance?	A7: Confusion of intention and ambiguity of definitions leads to a focus on outputs rather than outcomes, and lack of empirical evidence for participatory processes as a governance tool, which makes it difficult to improve beyond the process level. A8: An understanding of the functional/transformational divide will improve community engagement across the investigative framework.
RQ5: What alternative rules could improve participatory processes in natural resource governance and what are the barriers or enablers to achieving this reform ?	A9: Participants in existing participatory processes can envision effective reform.

3.4.3 Tertiary research questions

Continuing the iterative nature of developing a research agenda and design, considerable time and thought was devoted to developing a series of tertiary questions. These questions guided consideration of the data required to answer the secondary questions, and ensured that the design met requirements of feasibility and relevance with regard to answering the primary research question. These questions were more detailed and numerous, and were linked to a set of clear research objectives and accompanying research outcomes, which enabled a

process of cross-referencing to existing questions. This structured approach resulted in the identification of unnecessary questions and the need to develop additional questions and research objectives to complete the design process. The tertiary questions provided important guidance for selection of the research methods undertaken in this study and are attached at Appendix Two.

The following section presents the research objectives and expected research outcomes.

3.4.4 Research objectives

The variety of ways that community can be described and defined combined with the multiple arenas of possible actions creates many valid research directions.

Community participation in research, citizen activism in politics, public interaction with private interests, and community-led initiatives are just some of the many contexts that could frame investigation for improved Next Generation rural landscape governance. In order to formulate a feasible research proposal the researcher was guided by the central research question:

How are participatory processes currently defined and experienced in Australian natural governance; and how could they be improved?

A series of related research objectives were developed to ensure a clear articulation of the data requirements for this study and subsequently inform the choice of data capture methods that would be suitable. Altogether, these elements formed a comprehensive outline of the research design and provided a guide to completion. An overview of the research objectives, related outcomes, data sources and capture methods are summarised in Table 3.3.

Table 3.3: Research objectives and outcomes

Research objectives	Data required	Data capture method	Research outcome
1. Understanding of existing community engagement definitions and expectations in natural resource legislation and policy (including international frameworks)	Current natural resource legislation; Australian and international agreements; legal and non-legal frameworks.	Document-based strategies: content analysis of legislation; literature review.	Identification of international frameworks for community participation; Development of vertical methodology rationale; Selection of case studies.
2. Map evolution of definitions and expectations through the strata of the investigative framework in multiple case studies.	Data that includes a participatory process requirement at both the policy and practice level; Case studies; Policy documents; Practice documents; Perspectives from participants at the policy and practice levels.	Content analysis; Interviews.	Definitions and expectations at policy level; Definitions and expectations at practice level; Compile with legislation and analyse.
3. Explore implications for evaluation and evidence/ improvement of community engagement in practice and policy.	Case study data.	Content analysis; Utilise secondary data Interviews	Analysis of how definitions and expectations are expressed in case study data.
4. Develop a criteria for balancing competing versions/ norms in reform proposals.	Outcome from objective 3.		Link these definitions to the institutional drivers as expressed in the investigative framework/ develop a criteria for prioritising norms in this framework.
5. Propose possible reforms and at which level of the investigative framework.	Examples from other jurisdictions/ best practice literature.	Literature review.	Peer reviewed publication.

3.5 Research positioning

Several key assumptions influenced the framing of the research. The central importance of institutional reform drove the focus on the structural features of the research problem, encouraging a connection between diverse concepts of ‘community engagement’ and the decisions and relationships that make up the institutional scaffold (Martin et al. 2012; Peters, Alter, & Schwartzbach, 2010). The cross-disciplinary approach of the project also encouraged a hybridisation of possible theoretical and methodological approaches, guided by a pragmatic focus on

the applied value of the research to community, government and industry research partners. As such, the research was not driven by an entrenched epistemological belief but considered the dominant research paradigm and selected the most appropriate methodology for the research question.

3.5.1 A reflective research choice: Post-positivism

The value of undertaking cross-disciplinary research with an applied focus is best realised with consideration of the values and beliefs that influence both institutional and social behaviour in the real world (Evely et al., 2010; Strang, 2009). Adopting a reflective approach to the research process enables a critical balancing of common elements of the post-positivist and constructivist philosophies of research (Agee, 2009). Emerging from the absolute rationalism of the positivist tradition, post-positivism accepts the influence of external subjectivities on not just the research subject but also the individuals involved in the research design and implementation (Guba & Lincoln, 2005).

These commonalities include a conscious recognition of the influence that personal values exert in research decisions and consideration of how the process and practice of research contribute to the co-creation of knowledge (Guba & Lincoln, 2005; Lal, Suto, & Ungar, 2012). A reflective research philosophy formalises the role of critical thinking when considering how intellectual or cultural beliefs inform the viewpoints (Agee, 2009) of research participants and researchers (Chambers, 2003; Gray, 2003; Simons, 1981). Acknowledging the role that personal and external influences may play in the research process does not lead to rejection of the desire for uncovering a version of the truth but, rather, suggests a critical realist approach to exploring and declaring the presence of these influences (Fisher et al., 2009; Neuman, 2011; Ritchie & Spencer, 1994).

A post-positivist perspective is supported by the view that research methodologies include a commitment or expression of theoretical preferences, based on fundamental conceptualisations of existence and ontological understandings of existence (Malpas, 2001; Williams, 2009; Woolgar & Neyland, 2013b).

This approach can usefully address the significant tension recorded by researchers between the constructivist nature of community engagement as it occurs in practice

and the interaction with organisational and institutional dynamics that are informed by positivist notions of objective outcomes (Boxelaar et al., 2006; Brackertz & Meredyth, 2009; Wallington & Lawrence, 2008). While post-positivism may suggest a way to address competing perspectives within an institutional framework, it does not prescribe particular research methods; it does provide a flexible philosophical foundation to explore the suitability and applicability of the investigative framework proposed in this research design (Moynihan, 2003; Torgler, Garcia-Valinas, & Macintyre, 2010; Walters; 2006).

This chapter will now progress to describing the research design in more detail. Informed by the investigative framework, combining terminology and organising concepts from legal research with social science perspectives, the design aimed to explore the inherent subjectivity of expectations and definitions of key concepts concerning community engagement in natural resource governance.

3.6 Research methods

While a post-positivist research approach enables the use of both qualitative and quantitative techniques, the methods selected for this research were largely qualitative. These methods were deemed most suitable in terms of the questions being asked, the skills of the researcher and the underpinning epistemological position.

3.6.1 Research design

As previously outlined, the research was guided by a socio-legal framing that distinguished between the *substantive-procedural-policy* elements of natural resource governance; this could also be described as the *legislation-policy-practice* elements.

Informed by philosophical underpinnings, feasibility considerations and, above all, the needs of the research questions, the research design described in this chapter adopted a multiple case study approach, utilising qualitative research methods compatible with these requirements (Feagin, Orum, & Sjoberg, 1991; Simons, 1981; Sjoberg, Williams, Vaughan, & Sjoberg, 1991; Yin, 2009). Based on the investigative framework, the design included an exploration of how multiple meanings attached to concepts of community engagement may exist across the elements of the

framework; examined how legal and social norms interacted within the design and implementation of community governance mechanisms; and considered how acknowledgement, articulation and reconciliation of these norms can be addressed in governance reform.

The research design outlined in this section applied this theoretical framing to examine how community was defined in two pieces of Australian natural resource legislation (*Catchment Management Authorities Act 2003* No104 (NSW); *Environmental Planning and Assessment Act 1979* No 203 (NSW)). The investigative framework drew attention to how the *legislation* guided *policy* documents and directions, how this definition translated into implementable *processes* and how it was experienced in *practice*.

As a researcher I was interested in how community understood natural resource decision-making and the role of participatory processes. The research included an equal focus on administrators, project staff, managers, legislators and other actors that operate within government, industry and community.

The research design is described in the following sections and illustrated in the flow chart shown in Figure 3.2.

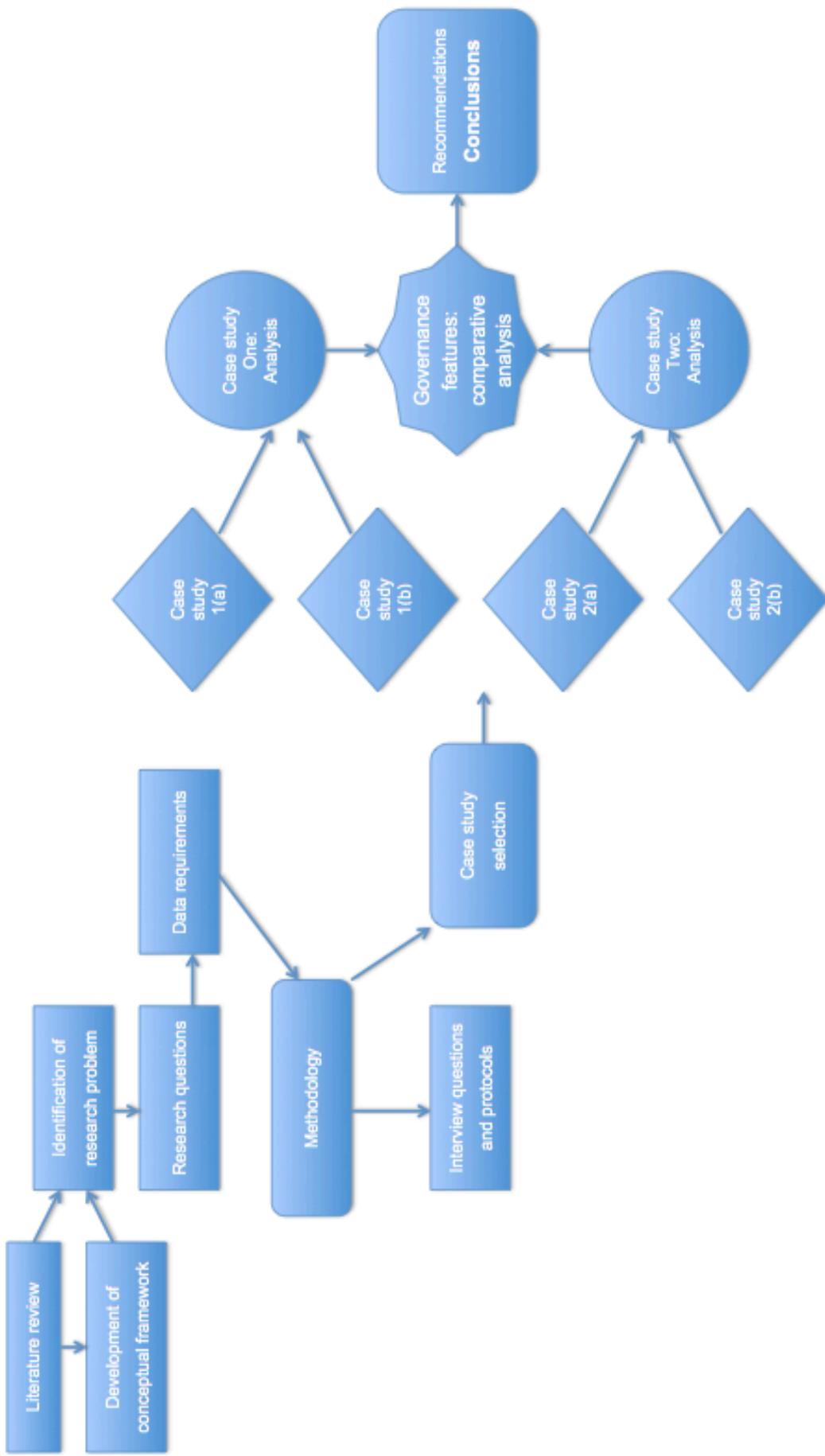


Figure 3.2: Diagram of research design

3.6.2 A mixed methods, multiple case study design

The complex interaction of community engagement with natural resource governance introduces a range of variables to the research environment. To investigate the connection between legislated requirements for community engagement and experiences of participatory processes, it was important to access perspectives informed by real world cases. This required a research design that engaged with context to explore the details and nuances of natural resource governance in accordance with the researcher's belief that subjective truth is a valid source of data (Agee, 2009; Holloway & Jefferson, 2000). That is, multiple versions of engagement and definitions of community have a significant role to play in improving our understanding of natural resource governance, and the influence of legal requirements in this subjective research space.

The case study approach was considered a suitable choice for this research project as it concerned

- A 'how' or 'why' question ... about
- A contemporary set of events
- Over which the investigator has little or no control (Yin, 2009).

Case studies provide the opportunity to obtain personal perspectives from participants, at each level of the investigative framework, about their expectations and experiences of participatory processes in natural resource governance. Utilising a multiple case study design allows comparisons between legal frameworks, natural resource issues and participatory processes (Johnson & Christensen, 2008; Patton, 2002). Case studies provide a lens for qualitative research that seeks to understand the complex and messy real world experiences that may inform a research question (Neuman, 2011).

The research design applied a 'vertical slice' approach to the selection of case studies suitable for qualitative interview and documentary analyses (Bratspies, 2011; McGee et al., 2003). This examined how legislated requirements for participatory processes translated into policy and practice, to reveal how substantive and procedural requirements are implemented and experienced. The data collection paid particular attention to legal requirements and clarity of outcomes from these

requirements. The 'vertical slice' of data collection is described in more detail in the following section.

3.7 Data sources

The researcher collected data concerning community engagement in natural resource governance along a continuum of legislated objective(s) to the experiences of implementation (McGee et al., 2003). This approach to data collection followed the vertical axis of the investigative framework and could be described as taking a 'vertical slice' of data. This vertical axis is as illustrated in Figure 3.3.

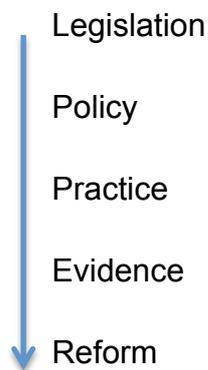


Figure 3.3: The vertical axis of the research design

The vertical axis provided a consistent template for data collection as illustrated in Table 3.4.

Table 3.4: Template for data collection

Vertical slice: from legislation to implementation

Case study context	Legislation, policy, program or project documentation; governance model description and features; meeting minutes, correspondence, publicly available documents
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Interview questions

Background information and personal context	Personal and professional journey to the current case; self-identification of role played in current case.
Purpose and expectations	Exploring perceptions of community engagement in this context and expectations of what it will achieve.
Concepts of community engagement and environmental governance	Understanding of key concepts, external to case study context; Awareness of how community engagement fits into the governance model.
Understanding of institutional arrangements relating to the case study	Awareness of legal and policy settings; description of governance model including boundaries.
Concepts of implementation	Exploring perceptions of how institutional arrangements interact with expectations and personal experience
Suggestions for improvement	Exploring ideas for reform through legislation, policy or practice.
Evidence for improvement	Exploring concepts of effectiveness and evaluation of community engagement.

3.7.1 Documentary data

This section describes the data sources in more detail, and is followed by discussion of the main analytic approaches applied. To understand implementation of community engagement across the elements of the investigative framework, document-based strategies were employed in the research design. These included content analysis of legislation, policy documents, practitioner guidelines, grant applications and funding agreements, evaluation templates and a range of associated text-based materials such as website content (Johnson & Christensen, 2008).

Documents provide a relatively 'clean' source of data whose content cannot be influenced by the researcher (Lange, 2005; Rapley, 2007; Silverman, 2010).

However, interpretation remains reliant on the research perspective applied. This requires transparent reporting of how data is analysed and presented, inviting alternative interpretations of the research (Bernard & Ryan, 2010; Peters et al., 2010; Ritchie & Spencer, 1994).

3.7.2 Case studies

Two cases were selected in order to complete the research in a timely fashion.⁹ Two examples were selected per piece of legislation (see Table 3.5). The aim was to explore differences between cases operating under the same legal settings, as well as considering the influence of the natural resource issue, and the different participatory processes being implemented. Detailed descriptions are included in Papers four and five, and Chapters 4 and 5.

Table 3.5: Four participatory processes selected for qualitative analysis

	Legislation	Activity	Participatory process	Interview participants
Case Study One	NSW - Environmental Planning and Assessment Act 1979 No 203 (1979)	Wind farm governance	Community consultative committee	5
			Community consortium	5
Case Study Two	NSW - Catchment Management Authorities Act No.104 (2003)	Catchment planning	Collaborative governance steering group	6
			Community reference panel	5

Data collected for these case studies included:

- Semi-structured interviews;
- Documents (meeting minutes, governance records, legal and policy documents, project outlines, websites, press releases etc.);
- Participant observation records; and
- Video recordings of public meetings.

⁹ To strengthen the research design, it would have been valuable to include a case that did not have legislated objectives referring to community, to see what alternative explanations could have been drawn. However this theoretical replication was beyond the time and resource constraints of the research.

3.7.3 Case study selection

The case study selection criteria were adapted from previous work in socio-legal studies concerned with assessing transparency, sustainability principles and global governance (Access Initiative, n.d.; Bottriell & Cordonier Segger, 2005; Goepel, 2010; Inter-departmental Liaison Group on Risk Assessment, 2002; IUCN Environmental Law Centre, 2009; Maurer, Ehlers, & Buchman, 2003; Werksman & Foti 2011). These methodologies are detailed in Published paper two (Howard, 2014), Table 1.

Selection was based on:

1. Current natural resource issue (no older than five years)
2. Geographically accessible to researcher
3. Operating under natural resource legislation
4. A specific role for community in the objectives of the Legislation
5. An established participation process already in place
6. Access to data such as reports, websites, policy papers, guidelines
7. Willing participants
8. 'Run of the mill' examples - not extraordinary cases¹⁰

3.7.3.1 Case study interviews

A semi-structured interview protocol was developed from previous examples provided by my supervisors and the academic literature (Holloway, 2000; Simons, 1981; Rapley, 2007). University ethics clearance was obtained. The protocol is outlined here and copies of the interview guide, the information sheet for participants and consent to publish form are attached at Appendices Four, Five and Six.

The interview guide was pilot tested on a non-case study volunteer who worked in natural resource management and was familiar with the broad area of the research. This pilot test showed that there were too many questions and they were too detailed. The next iteration reduced the questions from thirty-one to ten. These were open-ended questions accompanied by conversation prompts. The instrument was

¹⁰ The principled policy methodology suggests that examining non-extraordinary cases is the best way to assess how policy works in a run-of-the-mill, everyday way (Goepel, 2010). By exploring the apparently mundane, 'non-exceptional' case, it is possible to build nuanced understanding of common implementation dynamics (Flyvberg, 2001; Woolgar & Neyland; 2013).

then tested in the first formal interview and demonstrated that it was suitable for eliciting personal observations in a conversational manner. This approach allowed each participant to provide observations of relevance to the research objectives.

The researcher made contact with potential participants via email or telephone, outlining the research project and the requirements for participation. A copy of the ethics documentation and outline of the research project was then sent out. Once participants agreed to the interview being recorded, an interview time was arranged. Interviews were usually conducted face-to-face, with two conducted over the telephone. Interviews were recorded and the audio files were transcribed by a professional transcription service.

Participants signed a consent outlining the purpose of the research, the expected outputs and a 'permission to publish'. This was administered prior to the interview with the proviso that they could withdraw permission at any time. Participant responses were coded for anonymity. At no stage in the reporting of the research were individuals identified by name. The analysis and reporting were designed to reduce any possible identification through the case study narratives.

3.7.3.2 Participant selection

Participant selection was guided by the following criteria:

Inclusion:

- Involvement in a selected case study
- Experience with the legislated requirement
- Willingness to participate and provide consent to publish
- Aged over eighteen

Exclusion:

- No direct experience of the legislated requirement
- Unwillingness to participate or provide consent

Using a combination of purposive and snowball sampling, the researcher sought to ensure that participants were selected from the *legislation-policy-practice* strata of the investigative framework (see Table 3.6). Selection attempted to access at least

one key stakeholder voice from each strata, categorising these accordingly as legislators (or policy makers); program implementors; and participants (see Table 3.7).

Participants were asked questions that addressed the *evidence* and *reform* elements of the investigative framework.

In total, twenty-one in-depth interviews were transcribed for data analysis. To ensure that data was collected and analysed in a timely fashion, the number of interviews were limited by pragmatic considerations of time and researcher resources.

Table 3.6: Interview participants mapped to three strata of the investigative framework.

Case study	Legislation	Policy	Practice
1(a)	**	**	**
1(b)	**	**	***
2(a)	***	**	***
2(b)	***	**	*

Red indicates interview subjects that provided data about more than one case.

Tables that display the coding for each set of case study participants and their location in the investigative framework are included in Papers four (Howard, 2015c) and five (Howard, in review).

Table 3.7: Interview participants mapped to three strata of the investigative framework.

Case code	Key informant role - Windfarms	Category
Case 1	State Renewable Project officer	Policy
Case 1	Elected MP, Renewable Energy Secretary	Policy
Case 1	Peak body representative	Policy
1a	Proponent of the project	Implement
1a	Community representative on the committee	Participant
1a	Community representative on the committee	Participant
1a	Consortium member - Chairperson	Implement
1b	Local government representative	Participant
1b	Independent chairperson	Implement
1b	Landholder representative	Participant
1b	Proponent of the project	Implement

Case code	Key informant role – Catchment Management Authorities	
Case 2	Natural Resources Commission staff	Policy
Case 2	Natural Resources Commission staff	Policy
Case 2	Peak body representative	Policy
2a	Collaborative governance committee member	Participant
2a	Community project proponent	Participant
2a	Catchment Management Authority (CMA) officer	Implement
2a	CMA collaborative governance project officer	Implement
2a	CMA Planning manager	Implement
2b	CMA Strategic planning manager	Implement
2b	CMA Community reference panel project officer	Implement
2b	Community reference panel member	Participant

3.7.3.3 Interview technique

The interviews were between one- and two- hours. The research interest in subjective expectations and experiences of community engagement in a natural resource governance case study encouraged an approach to opening up a dialogue with the respondent. A semi-structured interview style provided flexibility in the phrasing and timing of pre-designed questions, enabling rapport to develop between the interviewer and the subject (Herda, 1999; Hollway & Jefferson, 2000). Informed by an interest in narrative techniques, the semi-structured interview instrument was designed to take advantage of story-telling devices and to explore the suitability of this instrument for delivering research outcomes (Clandinin & Connelly, 2000; Goodson, Biesta, Tedder, & Adair, 2010).

Narrative transfers the power of the interview to the narrator, by lessening the control of the researcher through the setting of interview questions and the language used to guide the conversation. Rather than seeking to answer questions that will satisfy the needs of the interviewer, narrative techniques leave the responsibility for 'making the relevance of the telling clear' to the narrator (Bauer, quoted in Hollway & Jefferson, 2000, p. 31). This approach takes full advantage of the benefits of qualitative research, to offer a context-rich and subjective response to the research topic (Flyvberg, 2001). In this research method, there is acceptance that the human subject is not always a 'rational, information-processing subject' (Hollway and Jefferson, 2000, p. 36) and thus their answers to even a standardised questionnaire

will be dependant on their level of self-knowledge, relation to the subject matter and familiarity with the research format itself.

3.7.3.4 Transcripts

To save time and expedite data analysis, the audio recordings of the interviews were transcribed by an external provider. To ensure that the transcript accurately captured not only the words that were said but also the important pauses, silences, laughs and sighs, the text was checked and corrected by the researcher while listening to the original audio recording.

In order to improve the reliability of the transcript data, the corrected and detailed transcripts were then forwarded to the interview subject (noting that some had declined this option) for their verification (see Table 3.8). The subject was invited to revisit the transcript, add or remove any part, and contribute additional comments. The purpose of this was to both ensure the accuracy of the record and to maintain a research dialogue with the subject (Johnson & Christensen, 2008; Musheno & Maynard-Moody 2009). This strategy had another advantage in providing clarification on particular points raised in the conversation, such as links to particular documents or key events (Lange, 2005). This member-checking process added a valuable layer to the data and was undertaken by over half of the participants.

Table 3.8: Member checking information (n=21 from Case Study 1 & 2)

11 verified transcript
6 declined
4 non-respondents

Several respondents were uncomfortable with the 'warts and all' nature of the transcripts, which recorded grammatical errors, pauses and overlaps verbatim. This 'uncomfortable experience' (Goodson et al., 2010) is a feature of narrative enquiry and several respondents expressed concern about the usefulness of their response:

- It was quite interesting to go back over it and see what I'd said. Kinda weird too! (Email response, 2a_13)
- I found it pretty painful reading my waffle, so good luck with it!! (2b_21)
- This is such a literal translation that it was rather embarrassing to read! (1a_4)

- Well that was an interesting read! I can see there's a lot of grammatical errors or words that don't quite fit and I don't think that all of them were mine! (1b_9)

3.7.4 Participant observer records

During the data collection phase of the case study research, the researcher attended some meetings and recorded participant observer notes (Neuman, 2011; Johnson & Christensen, 2008). These notes were focused on observations about the procedural details of the meetings and how the meetings addressed the objectives of the participatory process. These notes became part of the overall case study data archive (Rapley, 2007; Yin, 2009).

As an observer, the researcher did not contribute actively to the meetings beyond introducing the research project and the research protocols.

- Case study example 1a - attended two meetings
- Case study example 2a - attended four meetings of the steering group; one tele-conference of the community engagement sub-committee.

(Time frame: August 2013-December 2014).

3.7.5 Field notes

Field notes were also written up directly after each interview (Silverman, 2010; Simons, 1981). These field notes were based on hand-written notes taken during the interview, including practical details about the venue and time, as well as reporting observations regarding body language and inter-personal connection (Yin, 2009). Preliminary thoughts about the interview, how it informed the case study and general conclusions about the contribution to the overall research were also recorded in these field notes. These notes provided a useful device for a reflective research practice. Reflecting on how the interview had gone encouraged thinking about possible pre-interview biases or feelings that may have been influential (Ritchie & Spencer, 1994). This reflection also helped prepare for future interviews by raising awareness of these personal and subjective factors, and how they may influence the collection of data (Jerit, 2008). The field notes then became part of the data archive for the case study design.

The case study data archive also included field notes from conversations with various contacts in and around the case study areas. Trying to identify the exact pathway for the analysis required contacting different people, introducing the research interest, querying their suggestions and perspectives and, oftentimes, engaging in a long (30 minutes or so) conversation that yielded interesting and relevant context material or observations about the issues at hand. These observations were then written up in the form of a case note; if the material seemed substantial, it was sent back to the subject with an information and consent form. In this way, the formal data of the participant interviews became grounded in a larger data archive (Rapley, 2007).

3.8 Data analysis

This section briefly outlines the analytic approaches employed in this thesis. To ensure that duplication is kept to a minimum, links are provided to more detailed descriptions in the relevant published papers.

3.8.1 Thematic analysis

Thematic analysis is a useful way to empirically test intuitive responses to the literature, by repeatedly interacting with the data to find recurring ideas, terms and references (Bernard & Ryan, 2010; Joffe, 2012; Neuman, 2011). As key terms and concepts emerge from this process, the results are re-examined for indications of what might be missing to establish whether additional references need to be sought out (Muir-Cochrane & Fereday, 2006). Published paper one (Howard, 2015a) describes the process of thematic analysis in more detail.

3.8.2 Content analysis

The research undertook qualitative content analysis of secondary documentary data to examine how different expectations and definitions were represented in the content. The analysis explored connections between the investigative framework and implementation dynamics. This research strategy drew on theories of institutional analysis that describe content analysis as a tool for recognising the centrality of common experiences, shared understandings, and shared perceptions (Fisher et al., 2009; Bernard & Ryan, 2010). This perspective supports a close attention to

terminology through 'institutional statements [that] are spoken, written or tacitly understood in a form intelligible to actors' (Crawford & Ostrom, 1995, p. 583).

3.8.3 Transcript analysis

Participant identifiers were removed from the text file. Transcripts were imported into the qualitative analysis software MaxQDA.

A two-stage analysis was conducted. Combining inductive and deductive strategies, the data was initially coded using the investigative framework. This provided a set of initial codes within the *legislation-policy-practice-evidence-reform* framing. Chunks of data, in the form of quotations and surrounding context, were coded and compiled into case-by-case narrative archives. Other chunks that raised new themes or suggested important research directions were also coded for revisiting.

The transcription analysis process is briefly described below:

1. First cut – apply framework deductive codes; code for 'other'
2. Compile a case narrative of quotes from the first cut
3. Read narrative and code in more detail
4. Begin to craft a story from the quotes – let the voices speak
5. Second cut – revisit 'other' code and consider what it says about the narrative already compiled
6. Develop inductive codes
7. Third cut – recode the compiled narrative combining both sets of codes.

3.8.4 Narrative enquiry

Narrative enquiry was selected as an appropriate way to explore human experience in the complex and changing context of natural resource governance (Webster & Mertova, 2007). The narrative approach combined findings from the literature, documentary analysis and case study interviews in an iterative process of analysis. Early analysis began with a descriptive account of each case, written at the end of data collection, and combined with field notes and participant observer records. This early analysis developed a narrative record of possible significant ideas, connections in the data and intuitive responses to what was being observed (Piore, 2006; Ritchie & Spencer, 1994), supporting the observation that

Narrative research often starts with experience-based exploration and analysis alongside critical appraisal of its emerging ideas through other recent and relevant literature.(Bold, 2012, p. 38).

The narrative enquiry drew attention to the way participants *subjectively* connected ideas, concerns and key themes. The subjective connection provided a rich point of data for research concerned with implementation dynamics.

3.9 Methodology: Limitations and strategies

Every research design involves choices that have implications for the validity and integrity of the research (Gray, 2003). This chapter has attempted to make these choices visible in accordance with the post-positivist positioning of the research. This section highlights some limitations of the research methodology and the strategies used to address these.

3.9.1 Researcher positioning

A post-positivist paradigm acknowledges that researcher epistemology exerts a powerful influence on the design of a research project. A strategy of critical reflection was employed in order to address possible limitations and impact of researcher choices on the selection and analysis of data, and the overall presentation of the wider research project (Gubrium & Holstein, 2009). Critical reflection extends beyond the creation of the narrative, to include consideration of how researcher choices have shaped the narrative before analysis, during analysis, and in preparation and presentation of the data (Chambers, 2003; Gubrium & Holstein, 2009). Field notes and participant observer records were loaded into the same qualitative database as the case study transcripts, making them available as part of the data archive.

3.9.2 Conceptual and investigative frameworks

While the conceptual and investigative frameworks were useful for defining the boundaries of the research design and assisting in data collection and analysis, it was possible they could also conceal and exclude data by restricting attention to pre-defined categories (Anfara & Mertz, 2006). In order to remain transparent about the limitations of the frameworks, it was necessary to articulate assumptions embedded in the selection or formulation of the framework, as previously outlined in Table 3.3 (Secondary research questions). Another risk is that the conceptual 'bounding' of the

research might have limited interest in, or awareness of, findings that did not fit this frame.

Strategies to address this inherent limitation included a comprehensive literature review that developed a conceptual pathway for the research design (see Published paper one (Howard, 2015a). The conceptual framework informed the selection of cases and research participants, and the evolution into an investigative framework was transparently documented in Published paper two (Howard, 2014). Research questions were tied to the investigative framework and guided the first cut of the data analysis. By combining deductive and inductive approaches, the analysis attempted to avoid artificial imposition of the investigative framework on the data. This led to critical and reflective questioning about the suitability of the framework for applied policy analysis, and was productive for the research because it encouraged regular revisiting of the data and the underpinning assumptions captured in the research questions (see Appendix Two).

3.9.3 Narrative enquiry

Interviews can be described as a form of conversational narrative where the role of the interviewer is to open up space for stories and use prompts to encourage and develop a collaborative narrative (Gubrium & Holstein, 2009). As a result, the empirical data must be seen as the product of questions framed and analysed by the researcher (Lal, Suto, & Ungar, 2012). Although narrative enquiry attempts to transfer responsibility for making meaning to the respondent (Holloway & Jefferson, 2000) this must be tempered by awareness that a story's meaning is co-created (Bold, 2012) through the signposts of active listening (encouraging, questioning, affirming), design and timing of questions (Webster & Mertova, 2007). Critical reflection, transparent data management, strongly articulated conceptual and investigative frameworks and awareness of limitations were strategies used to improve the overall integrity of the narrative enquiry approach to the case study analysis.

3.9.4 Maintaining anonymity and transparency: A difficult balancing act.

Although individual names and case study project titles were coded during data analysis and reporting, the reliance on case study project materials compromised

these efforts at maintaining anonymity. Bibliographic references still included the project names and this, combined with information about the geographic location, made it possible to identify the projects under discussion. To avoid this in the future, it would be necessary to code all of the bibliographic references, however this might not meet reviewers' standards of transparency in the data. Another strategy could be to include a clear disclaimer in the citations to reassure both reviewers and participants that the anonymity of the documentation did not compromise the accessibility of the data for those that were interested.

3.10 Conclusion

The purpose of this chapter has been to describe and defend the research design selected to address the central research question:

How are participatory processes currently defined and experienced in Australian natural governance; and how could they be improved?

The philosophical foundations of the study have been discussed and the purpose of the study has been grounded in the overarching context of the Next Generation rural landscape governance research program. The primary and secondary research questions have been detailed, and the logic linking these questions to research objectives has been explained. The research design, interview questions and ethics protocols are attached as Appendices.

The conceptual framework introduced in Published paper one (Howard, 2015a) has been discussed in more detail. The application of this framework has been demonstrated through articulation of the research objectives and development of an investigative framework. The investigative framework was used to collect empirical data. Some of this content is replicated in the methodology sections of Published papers one (Howard, 2015a), two (Howard, 2014) and four (Howard, 2015b) and Submitted paper 5 (Howard, in review).

The research design outlined in this chapter provides a clear and transparent blueprint for the progression of this research project to completion.

Published paper three:

Howard, T., & Teles da Silva, S. (2015). Possible legal obligations to consult. In Paul Martin and Amanda Kennedy (Eds.), *Implementing Environmental Law*. **The IUCN Academy of Environmental Law Series**. Edward Elgar publishing, United Kingdom.

Implementing public participation: Australia and Brazil

Tanya Howard and Solange Teles Da Silva¹

Public participation is an increasingly important feature of environmental governance. Obligations upon government or project developers to consult appear in legislative arrangements and government policies of many countries. Environmental law and social justice scholars propose that consultation or community engagement (which we collectively term 'public participation') as ways to adjust power imbalances, particularly for marginalized and Indigenous people, ensures better informed decisions, and improves communication between power-holders and citizens.² The extent to which these aspirations are achieved through the implementation of legal obligations is an important environmental and social justice question, given the significance of the aims and the sometimes vulnerability of those whose interests are involved.

In this chapter we explore some challenges of ensuring effective public participation through legal requirements. We consider the problem of

¹ The authors acknowledge the advice and assistance of Professor Paul Martin in the preparation of this paper.

² David Adams and Michael Hess, 'Community in Public Policy: Fad or Foundation?' (2001) 60 *Australian Journal of Public Administration* 13; Robyn Eversole, 'Community Agency and Community Engagement: Re-theorising Participation in Governance' (2011) 31 *Journal of Public Policy* 51; Michael Lockwood and others, 'Governance Principles for Natural Resource Management (2009)' 23 *Soc Nat Resour* 986; Cameron Holley, 'Public participation, environmental law and new governance: Lessons for designing inclusive and representative participatory processes' (2010) 27(5) *Environmental and Planning Law Journal* 360.

ensuring integrity and effectiveness given a high degree of variability that is due in part to the imprecision of terminology and in part to the concealed flexibility in the methods that might be used to implement any legal requirements. We also consider the relationships between dominant democratic structures that give decision-making power to elected government and its institutions, and an aspiration for local participative democracy. We consider the issue of variability and challenges of safeguarding integrity by considering case studies in two jurisdictions, Brazil and Australia.

1 Participative concepts and their implications for governance

Terms such as participation, consultation, collaboration, partnership, public, citizen and community are often used synonymously.³ 'Public participation' and variants like 'consultation' or 'engagement' mean many different things, depending on circumstances and processes.⁴ When these words appear in legislation, policy documents or implementation guidelines, they are rarely specified in detail or given a conceptual

³ Darrell Whitman, "'Stakeholders' and the politics of environmental policymaking' in Jacob Park, Ken Conca and Matthias Finger (eds), *The Crisis of Global Environmental Governance: Towards a new political economy of sustainability* (Routledge 2008); Maureen M. Berner, Justin M. Amos and Ricardo S. Morse, 'What constitutes effective citizen participation in local government? Views from city stakeholders' (2011) 35 *Public Administration Quarterly* 128.

⁴ Nicola Brackertz and Denise Meredyth, 'Community Consultation in Victorian Local Government: A Case of Mixing Metaphors?' (2009) 68 *Australian Journal of Public Administration* 152; Richard D. Margerum, 'A Typology of Collaboration Efforts in Environmental Management' (2008) 41 *Environmental Management* 487.

framework.⁵ Scholars who research these different terms are most likely to come from linguistic or sociological disciplines, and the debates are often esoteric in terms of the application of a legal instrument.⁶ However in fundamental issues of empowerment and integrity of decision-making, it is worth taking the time to consider how these synonymous terms might impact on legal requirements to bring community voices into natural resource governance.

Arnstein's Ladder of Citizen Participation is the foundation work for classifying and theorizing community participation, and highlights eight levels, grouped in three categories: non-participation, tokenism and citizen control.⁷ Although the academic field has moved on, the 'classification still proves a useful correction to naive and untempered enthusiasm for public participation',⁸ and reminds us that 'citizen participation is a categorical term for citizen power'.⁹

This question of citizen power is a significant policy consideration for designing processes that range from 'manipulation' (an exercise of power upon people), through 'consultation' (shared power), to 'citizen control'

⁵ Berner, Amos and Morse (n 3); Brackertz and Meredyth (n 4).

⁶ M. Brugnach and others, 'More is not always better: Coping with ambiguity in natural resources management' (2011) 92 *Journal of Environmental Management* 78.

⁷ Sherry R. Arnstein, 'A Ladder Of Citizen Participation' (1969) 35 *Journal of the American Institute of Planners* 216.

⁸ Archon Fung, 'Varieties of Participation in Complex Governance' (2006) 66 *Public Administration Review* 66.

⁹ Arnstein (n 7).

(citizen holding power).¹⁰ Another way to assess how citizen power is codified in policy design is by asking whose interests are being prioritized?

A related consideration is the choice of participatory techniques, and how they are implemented.¹¹ Each has implications for power relationships, and information flows. This can covertly privilege particular 'voices' and interests. A failure of the legal system to require that the substantive purposes of participation are respected can mean that *procedures* and *compliance* become the focus, leading to a 'tick the box' mentality.¹² With inadequate clarity or inappropriate processes the status quo can be reinforced even if power transfer is a policy goal that has driven participation requirements.¹³

Related to this are the possible risks of participative processes, for citizens as well as proponents. For proponents of a development, community empowered processes involve the potential that their preferred initiatives will be set aside, or significantly modified. Citizens who participate genuinely in a deep engagement process may invest hours, days or weeks

¹⁰ Fung (n 8); John S. Dryzek, 'Liberal democracy and the critical alternative' in *Deliberative democracy and beyond: liberals, critics, contestations* (Oxford University Press 2000).

¹¹ Gene Rowe and Lynn J. Frewer, 'A Typology of Public Engagement Mechanisms' (2005) 30 *Science, Technology & Human Values* 251; Patrick Bishop and Glyn Davis, 'Mapping Public Participation in Policy Choices' (2002) 61 *Australian Journal of Public Administration* 14.

¹² Thomas C. Beierle, 'Using social goals to evaluate public participation in environmental decisions' (1999) 16 *Review of Policy Research* 75; Renee A. Irvin and John Stansbury, 'Citizen Participation in Decision Making: Is It Worth the Effort?' (2004) 64 *Public Administration Review* 55.

¹³ Elizabeth A. Kirk and Alison D. Reeves, 'Regulatory Agencies and Regulatory Change: Breaking out of the Routine' (2011) 13 *Environmental Law Review* 155; Derek Bell and others, 'Re-visiting the 'social gap': public opinion and relations of power in the local politics of wind energy' (2013) 22 *Environmental Politics* 115.

in the process, and this time and emotional commitment is diverted from alternative 'investment'. Should the outcome not satisfy their needs, this good faith investment is wasted.¹⁴ Given the contingencies of process design and potential manipulation, community politics, and the emotional costs that can be involved, the citizen risks of participating in an engagement process around a contentious issue can be very high.

If community members find their expectations disappointed, this increases the likelihood of withdrawal from legal processes, perpetuation of conflict and undermining of the 'virtuous' principles that public participation rests upon.¹⁵ These implementation dynamics raise questions of environmental and social justice.¹⁶

How can environmental law address these systemic problems? This article suggests that by balancing procedural and administrative requirements with substantive commitments to public participation, gradual changes to practices can be strengthened by a shift in expectations and norms.¹⁷

¹⁴ David L. Markell, 'Understanding citizen perspectives on government decision making processes as a way to improve the administrative state' (2006) 36 *Environmental Law* 651; Nicole Peterson, 'Excluding to include: (Non)participation in Mexican natural resource management' (2011) 28 *Agriculture and Human Values* 99.

¹⁵ Tomas M. Koontz and Craig W. Thomas, 'What Do We Know and Need to Know about the Environmental Outcomes of Collaborative Management?' (2006) 66 *Public Administration Review* 111; Mark Reed, 'Stakeholder participation for environmental management: A literature review' (2008) 141 *Biological Conservation* 2417.

¹⁶ Paul Martin and Mark Sheppard, 'What is meant by the social license?' in Jacqueline Williams and Paul Martin (eds), *Defending the Social License of Farming: Issues, challenges and new directions for agriculture* (CSIRO publishing 2011); Catherine Gross, 'A Measure of Fairness: An Investigative Framework to Explore Perceptions of Fairness and Justice in a Real-Life Social Conflict' (2008) 15 *Research in Human Ecology* 130.

¹⁷ Elizabeth A Kirk and Kirsty L Blackstock, 'Enhanced Decision Making: Balancing Public Participation against 'Better Regulation' in British Environmental Permitting Regimes' (2011) 23 *Journal of Environmental Law* 97; Ingrid J. Visseren-Hamakers, 'Partnerships and Sustainable Development: the Lessons Learned from International Biodiversity Governance' (2013) 23 *Environmental Policy and Governance* 145; Steve Woolgar and

International principles of public participation and environmental governance provide overarching frameworks for negotiating this balance, and should be used as roadmaps for reform.¹⁸

This paper examines how international frameworks are influencing institutional responses in Australia and Brazil, using case studies of national and intra-national legislation. The analysis takes a vertical slice of legislation, policy and practice, to see how principles are translated into on-ground experiences.¹⁹ It concludes with suggestions for future developments that could improve the integrity of existing natural resource governance mechanisms for public participation.

2 The case study countries

Australia and Brazil provide interesting contrasts on this topic, sharing similarities of political design but with different formal rules for public participation and indigenous recognition. Both countries are members of the United Nations and have signed Agenda 21, the Rio Declaration on the Environment and the recent re-statement of these goals at Rio+20.²⁰

Daniel Neyland, 'Structures of governance' in Steve Woolgar and Daniel Neyland (eds), *Mundane Governance* (Oxford University Press 2013).

¹⁸ J Jendroska, 'Public participation in environmental decision-making: interactions between the Convention and EU law and other key legal issues' in Marc Pallemmaerts (ed), *The Aarhus Convention at Ten: interactions and tensions between conventional international law and EU environmental law* (Europa Law Publishing 2013); Dellinger M, 'Ten Years of the Aarhus Convention: How Procedural Democracy Is Paving the Way for Substantive Change in National and International Environmental Law' 23 CJIEL&P 309; Jacob Werksman and Joseph Foti, *Improving Participation in International Environmental Governance* (Perspectives, 2011).

¹⁹ Tanya Howard, 'From international principles to local practices: a socio-legal framing of public participation research' (2014) *Environment, Development and Sustainability* 1.

²⁰ United Nations Environment Programme, 'Agenda 21' (*United Nations*, 1992)

Politically, the countries are federated systems with representative democratic procedures of elections and referenda. The countries have similarities of history and politics, experiencing European colonialism, immigration and significant impacts on indigenous populations. Both countries are geographically vast. Australia is an island continent with a sparse population, and a largely arid environment. Brazil is world renowned for the Amazon rainforest and its environmental and cultural biodiversity. It has actively promoted the role of civil society through global leadership.²¹

The environmental issues of both countries are linked to their colonial past and conditions of international trade. A reliance on natural resources to drive economic growth has seen both countries embrace land clearing, pastoral production and mineral extraction, with associated environmental impacts upon biodiversity, erosion and water pollution. The social and cultural impacts of these natural resource issues are experienced differently and the institutional framework of each country informs how community voices are heard in decision making around these issues. This chapter draws on a tradition of comparative analysis to examine the different ways that emerging modern democracies such as

<<http://www.unep.org/documents.multilingual/default.asp?documentid=52>> accessed 31 May 2013; United Nations General Assembly, 'Rio Declaration on Environment and Development' (1992) <<http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>> accessed 28 March 2013; United Nations General Assembly, 'Rio+20: The Future We Want' (2012) <<http://www.un.org/en/sustainablefuture/>> accessed 03 October 2014

²¹ United Nations General Assembly, 'Rio+20 concludes with big package of commitments for action and agreement by world leaders on path for a sustainable future' <<http://www.un.org/en/sustainablefuture/>> accessed 22 June 2012.

Australia and Brazil deal with issues such as resource management, conflict, corruption and social and environmental justice.²²

3 Environmental public participation in Australia

Australia is a constitutional monarchy, with colonial links to Britain. The country is governed as a Federated coalition of six States and two Territories that are united under the foundation law of the Australian Constitution.²³ In terms of community participation, the federated system and the role of local government institutionalizes a politically decentralized approach.²⁴ Such decentralization is seen by some as a strategy for increasing community participation,²⁵ suggesting that a federal system can be a pathway for more local participatory governance. However, critical constitutional analysis suggests that this may also create multiple veto points for reform, obscure lines of accountability, and privilege organized "representative" lobbies rather than the citizenry.²⁶

²² J B Wogan, 'Lessons in Gun Control from Australia and Brazil' <<http://www.governing.com/topics/public-justice-safety/gov-gun-control-lessons.html>> accessed 10 November 2014; C Fountain, P Libânio and G Lane, 'Differences between the engineering cultures of Australia and Brazil' (MetPlant Conference, Perth, August 2011); A. Berndt and N. W. Tomkins, 'Measurement and mitigation of methane emissions from beef cattle in tropical grazing systems: a perspective from Australia and Brazil' (2013) 7 s2 Animal 363; Rocha C, 'Globalization of Spiritism: Tracking Flows between Australia and Brazil in John of God Religious Movement' (2014) 52 RDA 571; Sérgio Baxter Andreoli and others, 'Age-at-first-registration in schizophrenia: A comparison of mental health registers from Australia and Brazil' (2002) 54 Schizophrenia Research 277.

²³ Commonwealth of Australia Constitution Act (1900).

²⁴ Toddi A Steelman, *Implementing innovation: fostering enduring change in environmental and natural resource governance* (Georgetown University Press, 2010).

²⁵ Elinor Ostrom and Michael Cox, 'Moving beyond panaceas: a multi-tiered diagnostic approach for social-ecological analysis' (2010) 37(4) Environmental Conservation 451.

²⁶ Lisa L Miller, '(Mis)Understanding American Federalism: on constitutions, collective action, competition and quiescence' (The Foundation for Law, Justice and Society, 2012).

The Australian Constitution does not contain a Bill of Rights. There are no protections for the community's role beyond participation in democratic processes, such as referendum, plebiscite and compulsory voting in elections at all levels of government. Thus, legal requirements for participatory processes arise (if at all) in specific legislation, generally at a state level. There is no over-arching legal principle of participation nor is there a history of legal enforcement of good quality participatory process in Australian law.²⁷ Although "community" is regularly referred to in the objects of legislation there is seldom a precise identification of the specific "community", nor substantive or procedural rights to address unsatisfactory community participation other than the limited rules under administrative law.

As a signatory to Agenda 21, Australia has made a formal commitment to strategies for achieving the environmental and social principles of the framework. In 1992 the Intergovernmental Agreement on the Environment was developed to formalise environmental responsibilities for governments across the federation.²⁸ While the Agreement incorporates '*ecologically sustainable development*', the Environmental

²⁷ Recent events in NSW have seen community consultation requirements become a trigger for suspension and revocation of controversial coal seam gas exploration licenses, this suggests an important development in the institutional framework which requires ongoing attention. See: AAP, "Degrees in activism' put brake on growth' *The Australian* (Melbourne, 15/10/14) <<http://www.theaustralian.com.au/news/degrees-in-activism-put-brake-on-growth/story-e6frg6n6-1227090673642> > accessed 16/10/14; Hasham N, 'Coal seam gas company licence cancelled after alleged breaches' *The Sydney Morning Herald* (Sydney, 15/10/14) <<http://www.smh.com.au/business/mining-and-resources/coal-seam-gas-company-licence-cancelled-after-alleged-breaches-20141014-115tqr.html#ixzz3GGxdwTxC>> accessed 16/10/14

²⁸ Council of Australian Governments, *Intergovernmental Agreement on the Environment* (Australian Government. 1992)

Policy principles ratified in the Agreement make no mention of participation.

After a period of around 2 decades of historically record investments in the environment, Government funding for natural resource management is declining. National conservation and environmental management programs are under review, with a growing emphasis on market based strategies.²⁹ Conflict over land use has resulted in tensions between government, community and private industry over policy and resource developments.³⁰ Recent investigations have linked vested interests with development decisions that have serious environmental impacts, where community concerns were overridden by corrupt administrative action.³¹ Attempts to manage natural resources across jurisdictional boundaries have been challenged by politicisation and community opposition,³²

²⁹ Australian Government, 'Caring for our Country Review' (*Australian Government*, 2014) <<http://www.nrm.gov.au/about/caring/review/index.html>> accessed 16 September 14; Australian Government, 'Have your say on the National Landcare Programme' (*Australian Government*, 2014) <<http://www.nrm.gov.au/funding/nlp/index.html>> accessed 16 September 2014.

³⁰ Lucy Barbour, 'No new money for Landcare groups' *ABC Rural* (ABC online, 30 May 2014) <<http://www.abc.net.au/news/2014-05-30/landcare-grants-no-money/5488998>> accessed 16 September 2014; Guilliat R, 'How a row over land clearing left compliance officer Glen Turner dead' *Weekend Australian* (Melbourne, 13/9/14) <<http://www.theaustralian.com.au/news/features/how-a-row-over-land-clearing-left-compliance-officer-glen-turner-dead/story-e6frg8h6-1227055190971>> accessed 16/9/14; Patrick Woods, 'Residents lock the gate on coal' *The Gympie Times* (Gympie, 10/09/14) <<http://www.gympietimes.com.au/news/residents-lock-the-gate-on-coal/2381379/>> accessed 16 September 2014.

³¹ Sean Nicholls, 'ICAC: mining licence corruption 'almost inevitable' in NSW' *The Sydney Morning Herald* (Sydney, 30 October 2013) <<http://www.smh.com.au/nsw/icac-mining-licence-corruption-almost-inevitable-in-nsw-20131030-2wf2y.html>> accessed 16 September 2014; ABC News, 'Metgasco referred to ICAC' *ABC News* (ABC online, 15 May 2014) <<http://www.abc.net.au/news/2014-05-15/government-suspens-metgasco-licence-at-bentley/5454442>> accessed 16 September 14.

³² Janice Gray, 'Water Trading and Regulation in Australia' in A Saddy and A.M Linares (eds), *Infrastructure Law: a study of regulated markets* (Lumen Juris 2011); K Hussey and Steve Dovers (eds), *Managing water for Australia: the social and institutional challenges* (CSIRO 2007).

limiting the ability of government to deliver natural resource management outcomes.³³

This latter point is important to note at three levels. First, we should recognize that local decision-making can compete directly with the decision making structures of formal democracy. Second, local participation processes may lack the integrity mechanisms and safeguards of formal democratic processes. Third, sometimes what the local citizenry wants may run counter to the interests of the broader community or the environment.

In contrast to Brazil, the pre-settlement presence of Australia's indigenous Aboriginal people is not recognised in the Constitution. At the time of settlement prevailing British legal principles categorized Australia as being un-owned (*Terra nullius*). Gradually, through constitutional change in 1967 and High Court rulings³⁴ the legal status of Australian Aboriginal people has been elevated. However, whilst there are *sui generis* obligations to consult with Aboriginal people over issues such as mining on their lands or on disturbance of cultural heritage, there is as yet no Constitutional recognition of the first Australians, nor any over-arching requirements to consult or respect their interests.

³³ National Water Commission, *Murray–Darling Basin Plan implementation: initial report* (National Water Commission, 2013); Jason Rawlins, Emilie Gramenz and Nance Haxton, 'Wild rivers declarations for Stewart Basin, Archer and Lockhart ruled invalid' *ABC News* (ABC online, 17 June 2014) <http://www.abc.net.au/news/2014-06-17/queensland-government-wild-rivers-declarations-declared-invalid/5529148?WT.mc_id=newsmail> accessed 16 September 2014

³⁴ *Mabo and others v Queensland (No 2)* (1992).

Nationally and in each state there are legal arrangements to ensure access to information. The Federal Freedom of Information Act (1982) rests on the belief that *“a community that is better informed can participate more effectively in the nation’s democratic processes”*. In line with commitments made under Agenda 21, transparency and information provision are entrenched in legislation at both the Federal and State level, with additional mechanisms for investigation into corruption or issues of public importance (for example the Royal Commissions Act 1902 (Cth)).

Public consultation periods, invitations to make submissions, online discussion forums or public display of plans are commonly required public participation processes.³⁵ Although these activities provide information to the public and offer (restricted) channels for feedback, it is often unclear what impact these processes have on decision-making.³⁶ The required processes generally sit at the instrumental or functional end of community engagement scales,³⁷ and do not tend towards the transformational or empowerment strategies from participatory democratic theory.³⁸ Deeper engagement processes, while being more

³⁵ Gene Rowe and Lynn J. Frewer, 'Evaluating Public-Participation Exercises: A Research Agenda' (2004) 29(4) *Science, Technology & Human Values* 512.

³⁶ Nicola Brackertz and Denise Meredyth, 'Community Consultation in Victorian Local Government: A Case of Mixing Metaphors?' (2009) 68(2) *Australian Journal of Public Administration* 152.

³⁷ Marlène Buchy and Digby Race, 'The Twists and Turns of Community Participation in Natural Resource Management in Australia: What is Missing?' (2001) 44(3) *Journal of Environmental Planning and Management* 293; Bishop and Davis (n 11).

³⁸ Bishop and Davis (n 11).

time-intensive, unpredictable and expensive are considered to be best suited for addressing complex issues.³⁹

In Australia there is limited recourse for community members who wish to challenge the integrity or quality of a public participation process. While some legislation may require administrative review of processes, this is largely a procedural compliance requirement. For example, development applications under the New South Wales (NSW) planning system⁴⁰ must evidence public notification, display and comment periods, and in some cases establishment of community consultative committees. As another example, under the NSW Local Land Services Act 2013⁴¹ external third party audits allow assessment against community ownership and customer satisfaction criterion, however this function cannot be triggered by community members.⁴²

4 Environmental public participation in Brazil

Brazil is a federal presidential constitutional republic, formed by the union of 26 federal states and the Federal District, and 5570 municipalities. Similar to Australia its political and administrative organization comprises the Union, the federal states, the Federal District and the municipalities, all of them autonomous. The Constitution addresses fundamental

³⁹ Ostrom and Cox (n 25).

⁴⁰ Environmental Planning and Assessment Act 1979 No 203.

⁴¹ Local Land Services Bill 2013.

⁴² The Local Land Services Bill 2013 replaced the Catchment Management Authority Act 2003 resulting in new regional land management bodies commencing 1st January 2014. The oversight and audit function provided by the Natural Resources Commission in the previous Act has been adapted to meet the needs of the new Local Land Services organisations.

principles, rights and guarantees; the organization of the State and the powers (legislative, executive and judicial); defense of the State and democratic institutions; rules for taxation and budget; economic and financial order; social order; general provisions and temporary constitutional provisions.⁴³

The Constitution was adopted after a period of military dictatorship (1964-1979) and a democratic transition period (1979-1988). It enshrined the principle of participatory democracy⁴⁴ and incorporated provisions that promote participatory governance.⁴⁵ The Constitution includes mechanisms of popular participation such as plebiscite and referendum. It also creates a popular mechanism to draft laws (art. 14, inc. III) and cooperation between associations in municipal planning (art. 29, inc. XII). Public participation is required by the Constitution in social security, health and education.

Under the 1988 Constitution, the Union (Federal level), Federal States and Federal District have the concurrent authority to legislate on environmental matters. Specific issues – water, energy, mining and nuclear activity – are reserved to the Union, that can, however, allow

⁴³ This constitution has also 83 amendments (till 5 August 2014).

⁴⁴ Daniel Reis, 'A ditadura faz cinquenta anos: historia e cultura politica nacional-estatista' in Daniel Reis, Marcelo Ridenti and Rodrigo Motta (eds), *A ditadura que mudou o Brasil: 50 anos do golpe de 1964* (Zahar 2014). See the documentary movie: *O Dia que Durou 21 Anos*, Camilo Tavares and Flavio Tavares, Pequi Filmes, [2012]

⁴⁵ For example, paragraph 3 of art. 37 state that "*the law shall regulate the forms of participation of users in governmental entities and in entities owned by the Government*". Leonardo Avritzer, 'Instituições participativas e desenho institucional: algumas considerações sobre a variação da participação no Brasil democrático' (2008) 14(1) *Opin Publica* 43.

States to legislate. Municipalities can legislate on local issues and territorial planning; they can also supplement federal and state legislation. In this sense Federal law establishes a minimum standard that can be reinforced at the State or Municipal level, dealing with regional or local specificities.

Mechanisms of environmental public participation were established at the Federal level under Law 6938/81, the National Environmental Act. This law created The National Environment Council (*“Conselho Nacional do Meio Ambiente”* – CONAMA), a consultative and deliberative organ of the National Environment System that made popular participation possible in federal environmental policies.⁴⁶ CONAMA, as a deliberative organ, approved a number of resolutions defining environmental norms and standards at the Federal level that must be observed for all the federal entities– states, Federal District and municipalities – as minimum standards. It has also approved resolutions establishing environmental impact assessment and public hearings.

Public participation has increased alongside growth in the number of environmental associations. The National Front of Ecological Action at the National Constituent Assembly (NCA) activated to insert the right to a balanced environment in the Federal Constitution of 1988 (art. 225). It also enshrined new indigenous rights (arts. 231 and 232), including the duty to consult indigenous communities in the case of exploitation of

⁴⁶ Álvaro Luiz Valery Mirra, *Participação, processo civil e defesa do meio ambiente* (Letras Jurídicas 2011) 67.

water resources or mines in their territories (art. 231, par. 3). Brazil has ratified ILO Convention 169, a legally binding international instrument that deals with the rights of indigenous and tribal peoples. It requires consultation of these people on issues that affect them, such as development projects and also questions of governance.⁴⁷

Under some federal laws, public access to environmental information is guaranteed – Federal Law n. 10.650 of 2003 – and social participation in the environmental field is required. Two mechanisms of social participation are used in pursuit of these laws: a) collegiate bodies to ensure public participation such as CONAMA; the National Council of Water Resources (*Conselho Nacional de Recursos Hídricos*) and the National Technical Commission of Biosecurity (*Comissão Técnica Nacional de Biossegurança*);⁴⁸ and b) public participation in the drawing up of plans and programmes: for example, the National Plan of Waste or Urban Master Plans.

In order to strengthen mechanisms for dialogue between the state and civil society, the federal government has adopted a *National Policy of Social Participation*.⁴⁹ This policy aims to embed social participation as a method of government and it organizes bodies and mechanisms of social participation. It defines civil society as citizens, social groups (“*coletivos*”),

⁴⁷ Christian Courtis, ‘Notes on the implementation by Latin American countries of the ILO Convention 169 in indigenous peoples’ (2009) 6(10) *Sur, Rev int direitos human* 52.

⁴⁸ There are structural differences between these councils and also different quorums for approval of their decisions.

⁴⁹ Federal Decree n. 8.243 2014 s () () .

social movements (institutionalized or not), their networks and their organizations.

In environmental protection, the Constitution creates a legal regime (article 225) that imposes upon Government and the community the duty to defend and preserve the environment. In this sense it also creates a platform for public participation.⁵⁰ For exploitation of water and minerals on indigenous lands, the Constitution establishes a mandatory procedure for decision-making participation by affected communities.

However, despite constitutional guarantees and other legislation intended to ensure participation, there are still implementation questions about the *quality* of participation achieved, the *impact* of this participation on government decisions and community satisfaction with the outcomes. While procedures for participative natural resource governance are legislated, community participation is affected by economic and social restrictions, also concentrating power in existing elites.⁵¹ Case studies suggest that participation depends on the social and economic situation of the affected community, as well as on the quality of environmental resources and the characteristics of the properties located nearby the project.⁵²

⁵⁰ Mirra (n 47) 101-121.

⁵¹ Igor Fonseca and Marcel Bursztyn, 'A banalização da sustentabilidade: reflexões sobre governança ambiental em escala local' (2009) 25 *Sociedade e Estado* 17.

⁵² Francisca Assunção, Maria Augusta Bursztyn and Teresa Abreu, 'Participação social na avaliação de impacto ambiental: lições da experiência da Bahia' *Confins – Revue Franco-brésilienne de géographie* 2010 <<http://confins.revues.org/6750>> accessed 20th October 2014.

5 Implementation case studies

The preceding sections have outlined some challenges of participatory process in natural resource management, and have described the legal frameworks in Australia and Brazil. We have suggested that:

1. Regardless of jurisdiction, there is a significant conceptual and practical gap between the aspirations of public participation and the implemented reality achieved through the law. This is in part because the terms used have many possible interpretations, and in part because the choices of processes and process quality (which are largely left unspecified in legislation) leave a great deal of latitude for the proponents of proposals to shape the process. It is also in part because of the lack of detailed integrity mechanisms in either jurisdiction, for legal oversight and continuous improvement to take place.
2. Within any democratic system, there is a potential tension between the authority of elected parliaments and their executive agents and the aspiration for local participatory decision-making. There are significant issues of process and integrity that can arise. The two jurisdictions have taken a different structural approach to embedding community participation in environmental decision-making. Brazil has well developed structures requiring and implementing public

participation in many environmental decisions or in decisions impacting upon first nations peoples, though there is still substantial latitude for variation in implementation even whilst following formal requirements. Australia does not have the same depth of institutional formalization of requirements for public participation, relying largely upon specific provisions in particular issue legislation. It allows a substantial degree of latitude in how the many different forms of participatory requirement are implemented.

Given these conclusions we now consider how structural concerns impact "at the front line" upon public participation. Our aim is only to illustrate the extent of variation that is possible in both jurisdictions, in terms of process choice and substantive participation by citizens. The case studies are not intended to prove whether the processes used do or do not result in effective participation, or whether the law guarantees integrity in the design and implementation of public participation. A more in-depth, larger study would be needed to explore these issues. We believe the case studies do illustrate that existing legal arrangements allow a great deal of proponent discretion in the choice and implementation of process. In each case the specific participatory requirements arise from laws related to a particular environmental issue, and it is necessary to describe the specific framework of rules within which the participatory requirement is embedded.

An Australian case study: rural wind farm development

This case study contrasts examples of community participation approaches for the same natural resource issue (wind farm development) within the same state planning system.

Wind farm development is regulated under the Environmental Planning and Assessment Act 1979 No 203. Nested within the Act are the draft NSW Wind Farm Guidelines which

have been prepared to ensure effective consultation with local communities and to deliver improved consistency, transparency and rigour in the planning assessment process. {Department of Planning & Infrastructure, 2011 #314}

Beyond information provision through display and notification requirements, a Community Consultative Committee (CCC) is the specific community participation mechanism prescribed by the Guidelines. The governance requirements focus on transparency procedures such as publishing minutes online and the responsibilities of members and the proponent. The proponent bears all costs associated with running the committee, and must appoint a neutral, independent chair. The Guidelines specify minimum procedural requirements for community engagement, and how compliance with these conditions will be assessed. Appendix D (*Information to include in an EIS*) suggests that '*effective*' consultation will result in clear documentation of the procedures undertaken, embedding a procedural compliance version of what constitutes '*effective consultation*'.

Two case studies of these community participation mechanisms for wind farm developments illustrate the extent to which process choices and substantive commitments to community engagement are interdependent.

The first case was a volunteer community initiative run by a Consortium of stakeholders, to develop a community wind farm. Seed funding was obtained for a feasibility study. A key output was community negotiated design principles for the planning and operation of a potential community owned wind farm. These principles have become significant for the Consortium, providing legitimacy but involving duties of accountability to the “community” of the region. The community has been fully involved in the design of the project principles, and has shaped the major decisions without an external proponent ‘forcing’ a design upon the community.

However, this deeply participative process has created expectations for the project that challenge the capacity of the Consortium as it attempts to move from project design to project realisation. These expectations are not connected to the legal requirements of wind farm project development. Whilst in a substantive sense the approach seems to reflect genuine and authentic levels of community participation, it is unclear whether this will satisfy the procedural requirements of the NSW planning system and the wind farm Guidelines. The Consortium members did not see their community engagement activities as matters of legal compliance, but as core to the social and environmental objectives of the project.

The alternative example is a case where community engagement is viewed as a compliance requirement rather than as part of a philosophical commitment. It involves a small energy business focused on achieving development approval in order to sell on a viable wind-farm project. The proponent established a Community Consultative Committee in line with the requirements of their approval, issued under the Guidelines. Due to difficulties in finding a suitable independent Chairperson (required by the Guidelines), the proponent contracted a consultant to fill this role, incurring operational costs but also creating a debate within the committee about the integrity of the mechanism. Difficulties in determining the purpose and scope of the Committee, and this question of integrity, have resulted in suspicion and distrust within the Committee. Committee participants interviewed were unsure of the purpose, questioned their actual influence, and demonstrated little awareness of frameworks for effective community participation.

These 2 case studies reinforce our observations that under the rubric of "engagement" or "participation" there is an enormous variety of possible processes. These allow for a great variation in the substantive outcomes of the process. It is interesting to observe that in these examples, the more deeply engaged approach may not satisfy the procedural legal requirement, whereas as the compliance approach is most likely to allow the proponent to jump the legal hurdle. Embedding participatory practice in legislation and policy may suggest a changing culture of engagement,

but implementation is the key test of whether a new norm of community engagement is realised. Mere procedural requirements seem unlikely to adequately address the implementation issues illustrated by these examples: a compliance culture, diverse processes of engagement, and a focus on project approval. However, formalising minimum procedures can focus attention on principles of transparency, inclusiveness and accountability, and possibly contribute to more effective community participation. The examples suggest that legal procedural requirements are necessary but far from sufficient to ensure substantive community participation.

6 Brazilian case study: troubled implementation

Recent developments in Brazil suggest tension between advancing ideals of community consultation and a desire to pursue government and economic development agendas. The aim of the 2014 National Policy of Social Participation is, among others, to consolidate social participation as a “method of government” and to develop mechanisms for social participation accessible to social groups historically excluded and vulnerable. It organizes participatory mechanisms that already exist. The decree defines as mechanisms of public participation: a council of public policies, a committee of public policies, national conferences, a federal public ombudsman, a table of dialogue, forum inter-councils, public hearings, public consultations, and a virtual environment for social participation. It also establishes that the organs and entities of the federal

government should prepare an annual implementation report for this policy. However there is pressure from conservative sectors of Congress to stop implementation of this decree.⁵³ The National Policy was adopted by Federal Decree n. 8.243 of 2014 and the conservative bloc argues that this policy could not be adopted by a decree. The Chamber of Deputies has already approved the project canceling this federal decree on 28th October 2014, and this project will be voted on the Senate.

In Brazil some participative mechanisms have a deliberative character and a binding force. For example, at federal level, CONAMA, a structured council that has an important role in developing environmental policy, demonstrates *“its democratic character and its significant social representation”*.⁵⁴ Nevertheless at the local level, Brazilian Institute of Geography and Statistics (IBGE) show that in 2008 47.6% Brazilian Municipalities had municipal environmental councils, a key mechanism for community participation. However this procedural step (establishing a municipal environmental council) does not necessarily translate into actual participation. Only 33.8% have met at least once in the last 12 months.⁵⁵ In reality the functioning of these councils depends on the degree of democratization at the Municipality level. The composition and operating rules for such institutional arrangements are also significant for

⁵³ At the National Congress the opposition is trying to approve the Project of Legislative Decree n. 1491 2014 to stop the application of the Federal Decree n. 8.243 2014.

⁵⁴ Silvia Cappelli, 'Acesso à justiça, à informação e participação popular em temas ambientais no Brasil' in Morato Leite and Marcelo Dantas (eds), *Aspectos Processuais do Direito Ambiental* (Forense Universitária 2003) p.288.

⁵⁵ Instituto Brasileiro de Geografia e Estatística IBGE, *Perfil dos municípios brasileiros: gestão pública 2008* (Rio de Janeiro: IBGE, 2008).

the effectiveness of participation, including issues of balance and representation of interests, and how deliberation process operate.⁵⁶

There are also participative mechanisms that are consultative, and have no binding force. These generally involve public hearings and consultation. The National Policy of Social Participation seeks to integrate participation and decision-making, proposing that there be a commitment to respond to the proposals received.

For both types of process, if the decision-maker does not follow the legal procedures for social participation a judge can annul the decision that may result from the flawed process.

However, having such a legal requirement does not necessarily mean that decision-makers will comply automatically with the requirement. As a result, the community may be either disenfranchised or forced to take legal or political action to see their rights enforced. An example is citizen participation in the approval of genetically modified crops. The National Technical Committee of Biosecurity (*“Comissão Técnica Nacional de Biossegurança”* – CTNBio) can hold a public hearing before genetically modified crops are approved for commercial release. In November 2013 CTNBio denied the request for a public hearing in the case of commercial release of genetically modified corn and soybeans resistant to the herbicide 2,4-D, requested made by the Federal Prosecutors, Brazilian

⁵⁶ For example, at the National Technical Committee of Biosecurity the quorum for approving the genetically modified organisms has changed from a qualified majority of 2/3 to an absolute majority.

Consumer Defense Institute (IDEC) and the representatives of consumers on this committee.

The Brazilian examples have indicated that even when there are reasonably strong formal requirements in place, achieving substantive decision-making involvement for the community is far from guaranteed. As with the Australian instances, legal requirements tend to enforce procedural compliance rather than moving processes upwards along Arnstein's notional ladder. The challenge of improving the implemented quality of participatory processes, and in particular to ensure that these processes do translate into influence on decisions, remains.

7 Conclusion

Moving beyond good intentions to realized outcomes is a serious challenge for most aspects of natural resource governance, including achieving effective community participation.⁵⁷ Ineffective reform can create frustration and increase the risk of community disengagement by generating apparent opportunities to participate that do not in practice shape decisions or drive change.⁵⁸ There continues to be great difficulty in

⁵⁷ Neil Gunningham, 'Environment Law, Regulation and Governance: Shifting Architectures' 21 *Journal of Environmental Law* 29 Martin, Paul, Amanda Kennedy and Jacqueline Williams, 'Creating next generation rural landscape governance: the challenge for environmental law scholarship' in Paul Martin et al (eds), *Environmental Governance and Sustainability*, IUCN Academy of Environmental Law Series (Edward Elgar, 2012)

⁵⁸ Banisar D and others, *Moving from Principles to Rights: Rio 2012 and Ensuring Access to Information, Public Participation, and Access to Justice for Everyone* (World Resources Institute, 2011); Lewanski R, 'Institutionalizing Deliberative Democracy: the 'Tuscany laboratory'' (2013) 9 *JPD*

linking stated intentions to achieved outcomes.⁵⁹ This suggests the need for more nuanced understanding of concepts like community, representation and participation,⁶⁰ which overlap in environmental governance discourses.⁶¹

The gap between aspiration and achievement can be seen in the cases presented here. Diverse instruments such as the substantive commitment of Brazil's National Policy of Social Participation and the procedural requirements of the Draft NSW Wind Farm guidelines are subject to similar questions about how to make them work consistently well in practice.

Within these environmental governance systems, it remains difficult for communities to challenge environmental decisions on the basis of an unsatisfactory engagement process. In Australia, vague concepts of community involvement are procedurally limited, and rarely sufficient for decisions to address power imbalances or insincere actions.⁶² In Brazil, greater legal support for effective participation does not always ensure better implementation. Reform must focus on creating a firmer connection between the intent of the law and how it is put into practice.

⁵⁹ Richard D Margerum, 'A Typology of Collaboration Efforts in Environmental Management' (2008) 41(4) *Environmental Management* 487.

⁶⁰ Rockloff SF and Moore SA, 'Assessing representation at different scales of decision making: Rethinking local is better' (2006) 34 *PSJ* 649

⁶¹ Lane MB, 'Public Participation in Planning: an intellectual history' (2005) 36 *AG* 283

⁶² Mark Shephard and Paul Martin, 'Using the Moot court to trial legislation about land stewardship' (2011) 28 *Land Use Policy* 371; Lingard (n 63).

Reform must be concerned with issues of legitimacy and accountability. Existing laws provide an avenue to enable more rapid progress⁶³ towards institutionalising new norms of community participation.⁶⁴ Responses to the significant efforts of the public to participate in governance must be prioritised to ensure that the best advantage and learning is gained from these responses, but also to ensure that there is an ongoing rationale for making this effort, as it is generally agreed that *'disillusionment is a potential risk with processes that.... generate disappointing results'*.⁶⁵

7.1 Future research: considering a 'duty to consult'

The case studies presented in this paper suggest that reforms must balance procedural and administrative requirements with substantive commitments to public participation. Attempts to improve the intersection of human rights with environmental governance ultimately require that *'institutional reform and substantive norm development must proceed hand-in-hand'*.⁶⁶

To improve, we need to create institutional triggers for review that move us away from a mere compliance "tick the box" approach. This requires changing legal objectives to include definitions of community; clear directions about how community input will be prioritized in making

⁶³ Andrea Ross, 'It's time to get serious - why legislation is needed to make sustainable development a reality in the UK' (2010) 2 Sustainability 1101.

⁶⁴ Becker, Michael A., 'Russia and the Arctic: Opportunities for engagement within the existing legal framework' (2010) 25 American Universities International Law Review 225.

⁶⁵ Werksman and Foti (n 18).

⁶⁶ Kenneth W Abbott and Gary E Marchant, 'Institutionalizing Sustainability across the Federal Government' (2010) 2(7) Sustainability 1924.

difficult decisions; and explicit avenues for appeal by community members.

Considering how environmental law can contribute to this evolution of norms suggests the creation of a legal 'duty to consult'. The form of this duty, where in the legal framework it might be situated, and what rationalization could be developed to support such a duty, are important considerations.

Duties that are linked to purely procedural compliance mechanisms are likely to be inadequate, as they reinforce entrenched power dynamics and place onerous burdens of proof on those who wish to challenge the integrity or authenticity of these procedures. For a duty to have real teeth, it must give standing to those who are part of the "community" that is under consideration.

Further research is needed to consider how ambitious reforms could combine procedural and substantive instruments to elevate a new norm of community participation in democratic decision-making.⁶⁷ This would require not only the design of compliance and integrity mechanisms, but in recognition of the implementation gap identified in this paper, a concerted effort to test this duty by empirical methods, in the spirit of continuous improvement.

⁶⁷ The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) suggests a pathway for reform in this vein.

8 Bibliography

AAP, 'Metgasco goes to court over drilling suspension' *The Australian* (Melbourne, 04/07/14) <<http://www.theaustralian.com.au/business/mining-energy/metgasco-goes-to-court-over-drilling-suspension/story-e6frg9df-1226977910443>> accessed 16/9/14

Abbott K and Marchant G, 'Institutionalizing Sustainability across the Federal Government' 2 *Sustainability* 1924

Adams D and Hess M, 'Community in Public Policy: Fad or Foundation?' [Blackwell Publishers Ltd] 60 *Australian Journal of Public Administration* 13

Andreoli SB and others, 'Age-at-first-registration in schizophrenia: A comparison of mental health registers from Australia and Brazil' 54 *Schizophrenia Research* 277

Arnstein SR, 'A Ladder Of Citizen Participation' [Routledge] 35 *Journal of the American Institute of Planners* 216

Assunção F, Bursztyn MA and Abreu T, 'Participação social na avaliação de impacto ambiental: lições da experiência da Bahia' *Confins – Revue Franco-bresilienne de geographie* 2010 <<http://confins.revues.org/6750>> accessed 20th October 2014

Avritzer L, 'Instituições participativas e desenho institucional: algumas considerações sobre a variação da participação no Brasil democrático' (2008) 14 *Opin Publica* [online] 43

Banisar D and others, *Moving from Principles to Rights: Rio 2012 and Ensuring Access to Information, Public Participation, and Access to Justice for Everyone* (2011)

Barbour L, 'No new money for Landcare groups' *ABC Rural* (ABC online, 30/5/14) <<http://www.abc.net.au/news/2014-05-30/landcare-grants-no-money/5488998>> accessed 16/9/14

Beierle TC, 'Using social goals to evaluate public participation in environmental decisions' [Blackwell Publishing Ltd] 16 *Review of Policy Research* 75

Bell D and others, 'Re-visiting the 'social gap': public opinion and relations of power in the local politics of wind energy' [Routledge] 22 *Environmental Politics* 115

Berndt A and Tomkins NW, 'Measurement and mitigation of methane emissions from beef cattle in tropical grazing systems: a perspective from Australia and Brazil' (England) 7 Suppl 2 Animal.

Berner MM, Amos JM and Morse RS, 'What constitutes effective citizen participation in local government? Views from city stakeholders' (Randallstown, United States, Randallstown) 35 Public Administration Quarterly 128

Bishop P and Davis G, 'Mapping Public Participation in Policy Choices' [Blackwell Publishers Ltd.] 61 Australian Journal of Public Administration 14

Brackertz N and Meredyth D, 'Community Consultation in Victorian Local Government: A Case of Mixing Metaphors?' [Blackwell Publishing Asia] 68 Australian Journal of Public Administration 152

Brugnach M and others, 'More is not always better: Coping with ambiguity in natural resources management' 92 Journal of Environmental Management 78

Cappelli S, 'Acesso à justiça, à informação e participação popular em temas ambientais no Brasil' in Leite M and Dantas M (eds), *Aspectos Processuais do Direito Ambiental* (Forense Universitária 2003)

'Caring for our Country Review' (*Australian Government*,, 2014) <<http://www.nrm.gov.au/about/caring/review/index.html>> accessed 16/9/14, 'Have your say on the National Landcare Programme' (*Australian Government*,, 2014) <<http://www.nrm.gov.au/funding/nlp/index.html>> accessed 16/9/14

Commonwealth of Australia Constitution Act (1900)

Courtis C, 'Notes on the implementation by Latin American countries of the ILO Convention 169 in indigenous peoples' (2009) 6 Sur, Rev int direitos human [online] 52

Dellinger M, 'Ten Years of the Aarhus Convention: How Procedural Democracy Is Paving the Way for Substantive Change in National and International Environmental Law' 23 Colorado Journal of International Environmental Law & Policy 309

Dovers S, 'Embedded scales: interdisciplinary and institutional issues' in Brown V, Harris J and Russel J (eds), *Tackling wicked problems through the transdisciplinary imagination* (Earthscan Ltd 2010)

Dryzek JS, 'Liberal democracy and the critical alternative' in *Deliberative democracy and beyond: liberals, critics, contestations* (Oxford University Press 2000)

Eversole R, 'Community Agency and Community Engagement: Re-theorising Participation in Governance' (Cambridge, United Kingdom, Cambridge) 31 *Journal of Public Policy* 51

Environmental Planning and Assessment Act 1979 No 203

Fonseca I and Bursztyn M, 'A banalização da sustentabilidade: reflexões sobre governança ambiental em escala local' (2009) 25 *Sociedade e Estado* 17

Fountain C, Libânio P and Lane G, 'Differences between the engineering cultures of Australia and Brazil' in (2011)

Fung A, 'Varieties of Participation in Complex Governance' (Washington, United States, Washington) 66 *Public Administration Review* 66

Gross C, 'A Measure of Fairness: An Investigative Framework to Explore Perceptions of Fairness and Justice in a Real-Life Social Conflict' 15 *Research in Human Ecology*

Gray J, 'Water Trading and Regulation in Australia' in Saddy A and Linares AM (eds), *Infrastructure Law: a study of regulated markets* (Lumen Juris 2011)

Governments CoA, *InterGovernmental Agreement on the Environment* (1992)

Guilliat R, *How a row over land clearing left compliance officer Glen Turner dead* (Murdoch Publishing 2014)

Gunningham N, 'Environment Law, Regulation and Governance: Shifting Architectures' 21 *Journal of Environmental Law* 29

Hasham N, 'Coal seam gas company licence cancelled after alleged breaches' *The Sydney Morning Herald* (Sydney, 15/10/14) <<http://www.smh.com.au/business/mining-and-resources/coal-seam-gas-company-licence-cancelled-after-alleged-breaches-20141014-115tqr.html#ixzz3GGxdwTxC>> accessed 16/10/14

Holley C, 'Public participation, environmental law and new governance: Lessons for designing inclusive and representative participatory processes' 27 *Environmental and Planning Law Journal* 32

Howard T, 'From international principles to local practices: a socio-legal framing of public participation research' in press *Environment, Development and Sustainability*

Hussey K and Dovers S (eds), *Managing water for Australia: the social and institutional challenges* (CSIRO 2007)

IBGE IBdGeE, *Perfil dos municípios brasileiros: gestão pública 2008* (Rio de Janeiro: IBGE, 2008)

ILO Convention 1969 Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development (2012)

Irvin RA and Stansbury J, 'Citizen Participation in Decision Making: Is It Worth the Effort?' (Washington, United States, Washington) 64 *Public Administration Review* 55

Jackson S and Morrison J, 'Indigenous perspectives in water management, reforms and implementation' in Hussey K and Dovers S (eds), *Managing water for Australia: the social and institutional challenges* (CSIRO 2007)

Jendroska J, 'Public participation in environmental decision-making: interactions between the Convention and EU law and other key legal issues' in Pallemmaerts M (ed), *The Aarhus Convention at Ten: interactions and tensions between conventional international law and EU environmental law* (Europa Law Publishing 2013)

Kirk EA and Blackstock KL, 'Enhanced Decision Making: Balancing Public Participation against 'Better Regulation' in British Environmental Permitting Regimes' 23 *Journal of Environmental Law* 97

Kirk EA and Reeves AD, 'Regulatory Agencies and Regulatory Change: Breaking out of the Routine' 13 *Environmental Law Review* 155

Koontz TM and Thomas CW, 'What Do We Know and Need to Know about the Environmental Outcomes of Collaborative Management?' 66 *Public Administration Review* 111

Lima Vision for a Regional Instrument on Access Rights Relating to the Environment (2013)

Lingard K, 'The impact of the law on consultation practices and purposes: a case study of Aboriginal cultural heritage consultations in NSW' Occasional paper series *International Journal of Rural Law and Policy*

Local Land Services Bill 2013 (2013)

Lockwood M and others, 'Governance Principles for Natural Resource Management' 23 *Soc Nat Resour* 986

Margerum RD, 'A Typology of Collaboration Efforts in Environmental Management' (New York, Netherlands, New York) 41 *Environmental Management* 487

Markell DL, 'Understanding citizen perspectives on government decision making processes as a way to improve the administrative state' 36 *Environmental Law* 651+

Martin P and Sheppard M, 'What is meant by the social license?' in Williams J and Martin P (eds), *Defending the Social License of Farming: Issues, challenges and new directions for agriculture* (CSIRO publishing 2011)

Mirra ÁLV, *Participação, processo civil e defesa do meio ambiente* (São Paulo, Letras Jurídicas 2011)

Morris R, *Community Engagement in Rural-remote and Indigenous Local Government in Australia* (2012)

National Water Commission, *Murray–Darling Basin Plan implementation: initial report* (2013)

News A, 'Metgasco referred to ICAC' ABC News (ABC online, 15/05/14) <<http://www.abc.net.au/news/2014-05-15/government-suspens-metgasco-licence-at-bentley/5454442>> accessed 16/9/14

Nicholls S, 'ICAC: mining licence corruption 'almost inevitable' in NSW' *The Sydney Morning Herald* (Sydney, 30/10/13) <<http://www.smh.com.au/nsw/icac-mining-licence-corruption-almost-inevitable-in-nsw-20131030-2wf2y.html>> accessed 16/9/14

O Dia que Durou 21 Anos (2012), Camilo Tavares and Flavio Tavares, Pequi Filmes.

Ostrom, E. and M. Cox (2010), 'Moving beyond Panaceas: A Multi-Tiered Diagnostic Approach for Social-Ecological Analysis' 37(4) *Environmental Conservation* 451.

Peterson, N. (2011), 'Excluding to Include: (Non)participation in Mexican Natural Resource Management' 28 *Agriculture and Human Values* 99.

Rawlins, J., E. Gramenz and N. Haxton (2014), 'Wild Rivers Declarations for Stewart Basin, Archer and Lockhart Ruled Invalid' *ABC News* (ABC online, 17 June), accessed 31 March 2015 at

http://www.abc.net.au/news/2014-06-17/queensland-government-wild-rivers-declarations-declared-invalid/5529148?WT.mc_id=newsmail.

Reed, M. (2008), 'Stakeholder Participation for Environmental Management: A Literature Review' (2008) 141 *Biological Conservation* 2417.

'Rio+20: The Future We Want' (2012)
<<http://www.un.org/en/sustainablefuture/>> accessed 03 October 2014

Robins L and Kanowski P, 'Crying for our Country': eight ways in which 'Caring for our Country' has undermined Australia's regional model for natural resource management' [Taylor & Francis] 18 *Australasian Journal of Environmental Management* 88

Rocha C, 'Globalization of Spiritism: Tracking Flows between Australia and Brazil in John of God Religious Movement' 52 *Revista de Antropologia* 571

Ross A, 'It's time to get serious - why legislation is needed to make sustainable development a reality in the UK' 2 *Sustainability* 1101

Rowe G and Frewer LJ, 'A Typology of Public Engagement Mechanisms' 30 *Science, Technology & Human Values* 251

Shepherd M and Martin P, 'Using the Moot court to trial legislation about land stewardship' 28 *Land Use Policy*

United Nations General Assembly, 'Rio+20 concludes with big package of commitments for action and agreement by world leaders on path for a sustainable future' *Press release* (22/06/2012)
<<http://www.un.org/en/sustainablefuture/>>

Woods P, 'Residents lock the gate on coal' *The Gympie Times* (Gympie, 10/09/14) <<http://www.gympietimes.com.au/news/residents-lock-the-gate-on-coal/2381379/>> accessed 16 September 2014

United Nations European Commission on the Environment, *UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters* (Aarhus Convention, 1998)

United Nations Environment Programme, 'Agenda 21' (*United Nations*, 1992)
<<http://www.unep.org/documents.multilingual/default.asp?documentid=52>> accessed 31 May 2013

United Nations General Assembly, 'Rio Declaration on Environment and Development' (1992)
<<http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>> accessed 28/3/13

Visseren-Hamakers IJ, 'Partnerships and Sustainable Development: the Lessons Learned from International Biodiversity Governance' 23 *Environmental Policy and Governance* 145

Werksman J and Foti J, *Improving Participation in International Environmental Governance* (Perspectives, 2011)

Whitman D, "'Stakeholders" and the politics of environmental policymaking' in Park J, Conca K and Finger M (eds), *The Crisis of Global Environmental Governance: Towards a new political economy of sustainability* (Routledge 2008)

Wogan, JB 'Lessons in Gun Control from Australia and Brazil' <<http://www.governing.com/topics/public-justice-safety/gov-gun-control-lessons.html>> accessed ???;

Woolgar S and Neyland D, 'Structures of governance' in Woolgar S and Neyland D (eds), *Mundane Governance* (Oxford University Press 2013)

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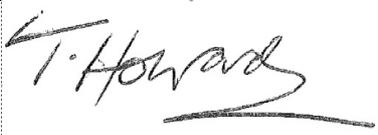
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Please note:

The following updates are required to Published paper 4 since publication in December 2014:

- The New South Wales government planning system reforms were never reintroduced to the lower house of the State parliament. In 2015 the State government was re-elected with limited debate about the future of these reforms.
- Community members have formed a Better Planning Network that has claimed responsibility for stalling these reforms and propose an alternative "Community Charter". Requests to talk to a representative received no reply. Their website has not been updated since the outcome of the 2015 State election (Better Planning Network 2015).
- Since publication, Wind farm 1b has been sold to a private wind farm developer. The status of this project remains unclear.
- There continues to be uncertainty about the future of renewable energy projects in Australia, particularly wind, with a recent Federal inquiry into health impacts of wind farms and no agreement on a Renewable Energy Target (April 2015).



Olivebranches and idiot's guides: Frameworks for community engagement in Australian wind farm development



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HIGHLIGHTS

- Changes to renewable energy policy in Australia threaten wind farm development.
- Active community support is required to ensure ongoing viability of the industry.
- Benefit sharing models are shown to increase community support for wind farms.
- Legal frameworks reinforce a minimum compliance paradigm and entrench vested interests.
- Best practice guidelines improve implementation of community engagement procedures.

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ABSTRACT

In Australia, renewable energy is under pressure in the context of a highly politicised debate about how to act on climate change. The recent repeal of an established carbon tax has seen the defunding of significant renewable energy initiatives and a controversial review of the national Renewable Energy Target is threatening key drivers for investment in renewable energy. The current regulatory focus on community 'acceptance' does not facilitate the active community support necessary to challenge this increasingly hostile policy context.

This research considers current experiences of community engagement in wind farm governance in one Australian jurisdiction. Through documentary analysis and two qualitative case studies, it examines legal and non-legal requirements for community governance mechanisms and considers how these influence wind farm development in rural areas. Findings include a problematic reliance on procedural compliance in assessing wind farm consultation, domination by vested interests, and reduced expertise in community engagement at the time it is needed most. Recommendations include integration of best practice guidelines in current regulation; harmonisation of policy settings to ensure equity across energy sectors; and an evidence-based commitment to benefit sharing as a strategy for increasing community support of rural wind farm development.

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1. Introduction

'Community engagement' or 'public participation' is a common requirement in Australian policy across a range of issues. Regularly appearing in policy documents, programme descriptions and project briefs, these phrases are used in a reassuringly authoritative fashion, suggesting a clear and uncontested view of community engagement and a common understanding of its role in natural resource governance (Boxelaar et al., 2006; Whitman, 2008). However, 'community' is a pluralistic term that can

describe groups of people sharing geographical locations (communities of place), common interests (communities of interest) or shared characteristics (communities of identity) (Harrington et al., 2008). Community is not a static concept, as interactions between individuals, society and the environment create a dynamic context for change, influenced by institutional rules, politics and behavioural norms (Johnston, 2010).

Decision-makers in the public policy arena increasingly describe an *engaged* community as key to the successful design and implementation of regulation and policy (Adams and Hess, 2001). This paper uses a case study of community engagement in wind farm development to consider how legal and non-legal frameworks shape both the form and function of community participation in contemporary natural resource governance.

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The nature of wind farm development is often unclear to the wider community (AMR Interactive, 2010; Cowell et al., 2011). The sector is highly speculative and competitive, with developers experiencing a tension between open communication and commercial in confidence (Corvellec, 2007; GHD for the NSW Farmers Association, 2012). Projects are slow to develop, and the sector is vulnerable to changing legal and policy settings for renewable energy (Batty, 2006; Bell et al., 2013). Australian communities are often divided over the perceived and actual benefits of these developments, with some landholders benefitting financially while others feel disadvantaged (Hall et al., 2013; Hindmarsh, 2010; Gross, 2008). This dynamic has resulted in the development of an active and politically prominent opposition movement.

Wind farm developers and government officials hope that by engaging communities, project acceptance will also improve (Stokes, 2012; Hindmarsh, 2010). Community members believe that participation in a range of processes will lead to active influence on the way that decisions are made and projects are implemented (Mulvaney et al., 2013; New England Wind, 2012c). The high visibility of wind farm turbines across the landscape provide a focus for dissatisfaction, and opposition movements rely on controversial and contested claims of health impacts from turbine noise, blade glint and vibration (Hindmarsh, 2010; Chapman et al., 2013). Opponent concerns have been the subject of research that disputes these impacts and suggests that communicated fear and anxiety are significant triggers for these claims, as well as a lack of information about the industry and conflicting political messages on the viability of the sector (Chapman, 2013; Hall et al., 2013; Ison et al., 2012; The Environment Protection and Heritage Council (EPHC), 2008; AMR Interactive, 2010).

As a result, community acceptance has emerged as a key factor for the success or failure of wind farms in rural areas (AMR Interactive, 2010; Bell et al., 2013; Christidis and Law, 2012). In response to these findings, a proliferation of legal and non-legal frameworks concerned with guiding community expectations about wind farm development have emerged, providing a rich source of documentary data for analysis. In Australia, the reform of core planning legislation in New South Wales provided an opportunity to explore the influence of these institutional frameworks through a case study of wind farm development.

2. Methodology

This research combined qualitative documentary analysis with in-depth case study data to trace how legal and non-legal frameworks for community engagement are implemented in wind farm development.

2.1. The research design

The research design considered interactions between formal rules, policy settings, and experiences of implementation.¹ The interaction between federal and state jurisdictions in the Australian renewable energy industry provided a dynamic public policy space for community engagement.

The empirical data presented in this paper is drawn from two in-depth case studies. Case studies provide a lens for qualitative research that seeks to understand complex and messy real world experiences (Neuman, 2011; Yin, 2009), making it suitable for a study concerned with implementation of legal and non-legal frameworks. The research takes a 'vertical slice' to examine how

legislated requirements for community engagement in natural resource management are translated into policy and practice (Feagin et al., 1991; Howard, in press), through semi-structured interviews, reflective research practice and document analysis. Analysis of the data was combined with a narrative enquiry approach to present a story of research findings (Lal et al., 2012).

2.2. Documentary analysis

The documentary data included legislation, policy and industry guidelines that govern community engagement in wind farm development in rural New South Wales. These documents were analysed for definitions of key terms such as 'community' and 'participation'; integration with existing best practice guidelines and international norms of public participation; and detail of possible community governance mechanisms.

2.3. Case study selection

Case studies were selected based on the following criteria: legislation that included a specific role for 'community' in the objectives; accessibility, as the in-depth nature of the interviews were best conducted face to face; and willingness to participate. Rather than look for 'exceptional' cases, selection focused on understanding how legal and non-legal frameworks for community engagement operated in everyday examples to build important knowledge about implementation dynamics (Flyvberg, 2001; Woolgar and Neyland, 2013).

The case study design enabled comparison of the different governance mechanisms that existed under the same institutional framework. Although the cases were at differing stages of project development, they had both implemented a form of community governance, and these mechanisms became the key unit of analysis.

2.4. Case study data

Case study data included project applications, development approvals, reports, websites, media releases, media articles, committee minutes, governance documents and participant observer records. Documents were interrogated for points of interaction with the community affected by the wind farm project, as well as any procedures that invoked 'community' input.

Thirteen in-depth interviews were conducted with key informants involved in designing, implementing or participating in the community governance mechanism. Prompted by open-ended questioning, they expressed their perspectives in diverse ways, presenting essentially 'little stories' that illustrated aspects of, or were influenced by, the bigger stories of the institutional framework under investigation (Gubrium and Holstein, 2009; Bold, 2012; Rapley, 2007). These narrative accounts have been integrated with the case study documentation to describe a critical event in the implementation of community governance mechanisms² (Webster and Mertova, 2007).

The interviews were recorded and then transcribed, sent back to the respondents for verification and uploaded to a qualitative data analysis programme. Open coding was the first step in data analysis. These initial codes were then reconciled with the investigative framework³ and consolidated. Throughout the case

¹ Further details of the conceptual framework and the methodology are published elsewhere, citation will be added once the blind review process is complete.

² Individual interviews were transcribed and coded for anonymity (see Table 1). Direct quotations and paraphrases are identified by these codes where appropriate. The case study narrative incorporates the terminology and expression of the interview subjects.

³ The investigative framework operationalizes conceptual distinctions between substantive, procedural, process, evidence and reform elements of natural resource

Table 1
Illustrates the coding and roles of each of the key informants interviews.

Case code	Key informant role	Individual code
Both ^a	State Renewable Project officer	1_5
Both ^a	Elected MP, Renewable Energy Secretary	1_6
Both ^a	Peak body representative	1_7
1a	Proponent	1a_1
1a	Community representative	1a_2
1a	Community representative	1a_3
1a	Consortium member	1a_4
1b	Local government representative	1b_8
1b	Independent chairperson	1b_9
1b	Landholder representative	1b_10
1b	Proponent	1b_11

^a Denotes perspectives applicable to both case studies.

study development, the researcher's personal observations were documented as part of a reflective research practice (Agee, 2009; Chambers, 2003) and became part of the final data archive.

2.5. Socio-legal theory

This research draws on socio-legal scholarship considering the influence of substantive and procedural elements of law in creating meaningful governance regimes (Kirk and Blackstock, 2011; Fisher et al. 2009; Wiersema, 2008; Turner, 2013; Black, 1997; Brown et al., 1998) and concepts of multi-scale 'vertical slice' research that support an analysis of the same issues as they appear across institutional, organisational and community scales (Dovers, 2010; Marshall, 2007; Ostrom, 2010). This paper contributes to environmental justice and public policy scholarship that explores the intersection between institutional and social norms, and how these are given form in both the *creation* and *delivery* of policy (Gross, 2008; Black, 1997; Bryner, 2002). This perspective directs attention to the different elements of governance, particularly the interaction between *substantive* definitions of duties and rights, *procedural* enforcement of these duties, and implementation in *practice*.

3. The institutional framework: a substantive commitment to community engagement

Several legal and non-legal frameworks intersect to regulate and guide community engagement in wind farm development in the case study region. During the research period (2013–14), many of these were in development or draft. Previous policy settings such as the Federal *Renewable Energy Target* (RET) and the State government's *Renewable Energy Precincts* and 2021 policy commitments were influential in promoting wind development in the case study region (Office of Environment and Heritage, 2013; Climate Institute, 2011; NSW Government, 2012a, 2012d, 2013d), however recent uncertainty about the future of the Federal target (*Renewable Energy Target Independent Review*, 2014), a lengthy and inconclusive review of the State planning system and the ongoing draft status of NSW Wind Farm Guidelines have combined to slow investment and undermine project certainty.

State Government planning laws regulate wind farm development in New South Wales. During the research period the planning system was subject to legislative review, driven by a government commitment to "Restore confidence and integrity in the planning system" and "Involve the community in decision making on government policy, services and projects" (NSW Department of

(footnote continued)
governance. For more detail see Footnote 1.

Premier and Cabinet, 2013). A government commissioned independent review reported that during the community and stakeholder consultation:

The balance between the 'right to be heard' and the 'right to decide' regarding development proposals was frequently explored.... the balance between participation (the community being asked what it wants in a plan, in a bottom-up process) and consultation (a top down process in which a community is asked its opinion of a draft plan) (Moore and Dyer, 2011).

The government response proposed a 'blueprint for change' that addressed public participation as the first action, stating 'Community participation is at the centre of the new planning system' (NSW Government, 2012b) and this commitment would be realised by the inclusion of a new Public Participation Charter. A White Paper (NSW Government, 2013e) reinforced the promise of this charter and a commitment to evidence-based "community and stakeholder engagement" (NSW Government, 2013e). Key terms and concepts of engagement, participation, consultation and information provision were used interchangeably in this document, despite previous warnings from that:

"...engagement may be misunderstood and taken to mean collaboration in decision making or empowerment on every occasion. The term Participation... refers to the involvement of the people in the processes of planning" (Planning Institute of Australia, 2011),

and evidence that this confusion can lead to competing expectations and negative impacts on the design, practice and evaluation of engagement (Wallis and Ison, 2011; Brugnach et al., 2011; Brackertz and Meredyth, 2009).

The review was followed by the release of a new Planning Bill for a period of public comment. The Bill was returned to the lower house of the State Parliament with 6 pages of amendments on the 27th November 2013.⁴

The *Planning Bill 2013* (NSW) includes consideration of community at the third of eleven objects:

Part 1.3 Objects to provide opportunities for early and on-going community participation in strategic planning and to promote transparent decision-making

Despite recommendations received during the review, the Bill gave no indication of how these objects should be prioritised when making development decisions (Montoya, 2013; Environmental Defenders Officer NSW, 2010), increasing the discretion of planning authorities at the expense of clarity. The Bill did signal a conceptual move from *engagement* to *participation* with the inclusion of the 'Community Participation Charter' at Part 2 of the Bill.

The proposed Charter suggested a significant change to the previous planning legislation in NSW (1979). Calls for increased attention to community concerns during the public review process (Moore and Dyer, 2011, 2012; NSW Government, 2012c; Environmental Defenders Officer NSW, & Total Environment Centre, 2010) resulted in a series of "mandatory requirements" (2.5)⁵ creating a

⁴ At the time of writing, the status of the new *Planning Bill 2013* (NSW) is unclear, with both the Exposure Bill and the version introduced to Parliament available on the NSW Government's online legislation database. The planning department website suggests this delay is linked to *considering options on the best means to implement its planning reform programme*, (Planning and Environment Department, 2014) effectively putting the new planning system in limbo, and slowing the momentum of the review process. Details considered here are drawn from the version introduced to Parliament.

⁵ During the evolution from the Exposure version to the Introduced Bill, the term 'principles' has been removed from the Charter. While the significance of this change is probably inconsequential from a legal standpoint, it is worth questioning why this change was made, and whether 'principles' might have been used to convey a more serious and substantial concept during the public consultation period.

“right” for the community to be informed about matters that affect them (Part 2.1), and an accompanying duty for planning authorities to act consistently with ideals of inclusiveness, transparency, participation and representation (NSW Government, 1987).

The proposed Charter omits definitions or conceptual guidance for key terms such as *community* or *participation*. The entry for “community participation” refers directly to Part 2.1.2, where the definition combines concepts of participation and engagement in a circular fashion:

“Community participation...is the process of engaging the community”.

As described in the Bill, the Charter would apply to planning authorities and the exercise of specific planning functions, providing a “consistency” test for listed activities (Part 2.3). Mandatory community participation requirements were described in detail for relevant functions in Schedule 2 of the Bill, or the relevant gateway determination procedures. These were largely concerned with establishing minimum public exhibition periods, online publication of planning documents and public access to the online repository. Both the objects of the Bill and the format of the Charter failed to indicate the weighting to be given to the Charter in decision-making. The proposed duty to consult was closely linked to compliance through preparation of a consultation plan by planning authorities. No mention was made of third parties having standing to challenge the integrity of this compliance.

Two significant changes were made to the draft legislation by the upper house of the NSW Parliament (New South Wales Parliament, 1902; Lovelock and Evans, 2008). One was the establishment of a Community Participation Advisory Panel to provide advice, make recommendations and “exercise any other functions” in regards to community participation in planning matters (NSW Government, 2013b). The inclusion of an advisory panel offered an oversight function for the integrity of the Charter through comment and advice to the Minister (NSW Government, 2013a), although membership requirements did not include any recognition of public participation or community engagement expertise. It is unclear whether this advisory function would be linked to opportunities for community-initiated review or challenge, and whether the Minister or the Panel retained the initiative to provide advice.

The other important change concerned amendments for increased scrutiny on the *adequacy* and *implementation* of community participation plans, including annual reports from planning authorities to monitor procedural commitments to community participation (NSW Government, 2013c). If these amendments make it into the final version of the Act, the Charter will challenge the existing norm of one-off compliance, with a more stringent requirement for continuous improvement and an associated culture change.⁶

Wind farm developments in New South Wales must receive approval under the existing planning law (1979). While the progress of the new legislation and the commitments of the Charter remain held up in legislative debate, procedural guidelines remain instrumental in shaping expectations of community engagement in wind farm development.

⁶ In terms of the substantive requirement for community participation, it appears that the commitment to the ‘Participation Charter’ is not integrated with the decision making structures of the Act itself. While Environmental Impact processes are linked to decision making and review and appeal mechanisms, there is no reference to how compliance, or otherwise, with the principles of the Charter will be assessed. Ministerial discretion is applied to grant public hearings, which are a key process for objection, however it is unclear whether a failure to meet the principles of the Charter would be adequate grounds for objection. The ancillary provisions of Schedule 2 create a vision of community participation that is grounded in information transmission, and could be more correctly designated community notification.

4. Wind farm guidelines: a procedural commitment to community engagement

In 2008, a Federal Government Enquiry into the social and economic impacts of rural wind farms addressed public concern with a perceived unregulated boom in wind farm development. The enquiry revealed a nexus between poor community engagement by developers and governments, and increased community complaints about wind farm development (The Environment Protection and Heritage Council (EPHC), 2008).

At the same time as the NSW government initiated the planning system review, it responded to community concern by developing guidelines about the steps involved in designing and decommissioning a wind farm (Department of Planning & Infrastructure, 2011). First circulated for comment in November 2011 (Department of Planning & Infrastructure, 2011), the NSW Draft Wind Farm Guidelines [the Guidelines] are nested within the planning legislation and

have been prepared to ensure effective consultation with local communities and to deliver improved consistency, transparency and rigour in the planning assessment process (Department of Planning & Infrastructure, 2011).

Although the Guidelines have been in draft since 2011, they are enforced on a project-by-project basis through the Director General’s requirements on wind farm approvals (NSW Planning and Infrastructure Department, 2012). The Guidelines provide guidance about requirements for community engagement, and how these conditions will be assessed as part of a development application. Appendix D of the Guidelines (*Information to include in an EIS*) suggests that ‘effective’ consultation will result in clear documentation of the procedures undertaken; these requirements promote a version of ‘effective consultation’ that meets the needs of the consent authority in assessing the project for approval, embedding a compliance mentality.

4.1. Community consultative committees

Beyond information provision through display and notification, the operation of a Community Consultative Committee (CCC) is the key community engagement mechanism prescribed by the Guidelines. The Guidelines outline the required features of a (CCC) and describe it as

“a forum for open discussion between representatives... on issues directly relating to the...wind farm” (Department of Planning & Infrastructure, 2011).

This representative function is reinforced by the suggestion that committee members be “encouraged to discuss issues and disseminate information with the wider community”. A distinction is made between this representative role and speaking “on behalf of the committee”. Committee members are representatives of the community but not representatives of the committee itself.

The purpose, operation and resourcing of the committee is described in Appendix C of the Guidelines. The appointment of community members to the CCC touches briefly on their role, suggesting that “preference will be given to candidates who can represent the concerns of a variety of interest groups”. The selection criteria do not suggest a process for establishing the authenticity or legitimacy of this representative function. The governance requirements focus on transparency procedures, listing draft agenda items, the recording and publication of minutes, and the responsibilities of members and the proponent. The proponent bears all costs associated with running the committee, and must appoint a neutral, independent chair.

4.2. Community infrastructure contributions

The Guidelines also include an option for either voluntary nomination of community infrastructure contributions by wind farm developers or establishment through the Director General's Requirements (Part 3.4). Despite evidence that spreading the economic benefits of wind farm development beyond individual landholders to the wider community can improve community acceptance of projects and the industry more generally (Cowell et al., 2011; Christidis and Law, 2012; Mulvaney et al., 2013; Gross, 2008), the Guidelines leave this to the discretion of the proponent.

The Guidelines describe a procedural version of community engagement that does little to address concerns raised during the public consultation of the planning system. The quality of the process is not subject to evaluation. Best practice guidelines are not embedded or referenced, leaving the developers to find their own way to these well-established norms. This flexibility may suit the needs of developers, or advantage those with in-house expertise, however as the case studies will show, there is a wide range of capacity in the industry that is not adequately addressed by the Guidelines.

Responding to this uneven capacity and the rise of community concern, the Clean Energy Council (CEC), a not-for-profit industry body, undertook to develop more comprehensive guidelines. These guidelines, described as the “*idiot's guide to community engagement*” (1_7) were focused around the central goal to *earn and maintain the wind energy industry's social licence to operate* (Clean Energy Council, n.d), echoing research suggesting community acceptance of rural wind farms grants an abstract but influential licence to proponents (Hall et al., 2012; Martin and Sheppard, 2011; Gross, 2008).

Prompted by the increased scrutiny of the wind farm industry, these industry guidelines offered an “*olive branch*” (1_7) to government and planning authorities, to demonstrate awareness of community concerns and hopefully reduce calls for increased regulation on developments. In NSW, the draft Wind Farm Guidelines pre-dated the CEC guidelines and the documents are not linked. Although a NSW Renewable Energy Action Plan (NSW Government, 2013d) does make reference to the CEC guidelines, they are not embedded in the draft Planning Bill 2013, or necessary for approval under the existing Act.

The CEC guidelines are voluntary and the concept of compliance is not relevant. While they strive to establish awareness of the ‘social licence’, without legislative backing they are only as powerful as the companies that adopt them wish them to be. This best practice resource was not utilised by either case study reported in this paper, with project consultants, developers and community engagement practitioners seemingly unaware of their existence.

5. From frameworks to implementation: case studies of community engagement in wind farm development

The case studies are located in a region of New South Wales that has an identified wind resource and was previously designated as a priority area for renewable energy development (Editorial, 2011; Office of Environment and Heritage, 2013; Climate Institute, 2011; NSW Government, 2012a, 2012d, 2013d). Due to the competitive nature of the wind farm industry in New South Wales, case study participants requested that exact locations and project names be removed for publication.⁷

⁷ To preserve anonymity, identifiers have been removed and personal pronouns changed throughout. Details of interview subjects and coding are included in Table 1. Fig. 1 shows the general location of the case studies.

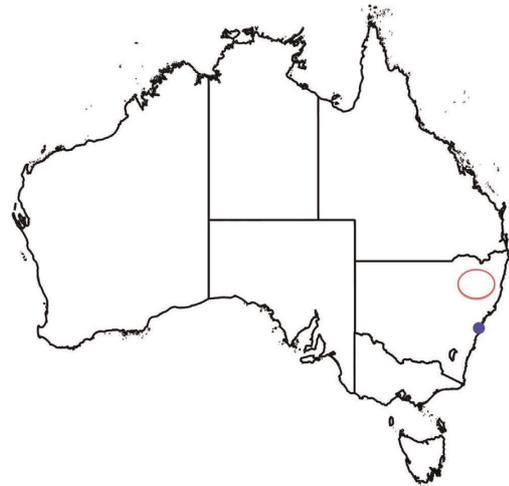


Fig. 1. Map of Australia with case study region circled.

Table 2 summarises important differences between the cases. These are explored in more detail in the case study narratives. Both projects are currently on hold despite several years of work, due to uncertainty surrounding the Federal Renewable Energy Target and the stability of the renewable energy market in Australia.

5.1. Case study 1a: “giving the community a blank cheque”

Case 1a is a community initiative established by volunteers and run by a Consortium of stakeholders who are trying to find a suitable site and governance model for a large scale, community-owned wind farm. The project commenced with extensive community engagement and early momentum suggested a rapid progression to site selection and development. Due to unexpected feasibility costs, initial development plans were abandoned and at the time of writing, the Consortium is waiting to commence negotiations to establish an alternative community-industry partnership.

“They spent two years on community engagement partly funded by my department, with the feasibility study. And they called it a feasibility study because if the community wasn't going to support them, it wasn't feasible (1_5).”

The project began with an extensive Feasibility Study considering development of a community wind farm in the region. This emerged from previous planning that revealed the community's “*strong desire*” to achieve regional energy independence (Starfish Enterprises, 2011). This language of independence, participation and partnership was repeatedly used throughout the Feasibility Study. The Study strove for clarity, with several items considering definitions and implications of key words such as ‘community’ and ‘participation’. In Section 2.3 a discussion of the term ‘community’ and how it attaches to renewable energy projects is extended to a clear definition of a geographical community as “*those persons and local residents that have a clear local residence, stake or ownership*” in the region.

The “*most significant result of the study*” was the development of project design principles that “*reflect the needs, expectations and aspirations*” of the community (Table 3). Benefit sharing was included as a strategy for reducing community opposition.

The feasibility study framed the development of community “*understanding, support and participation*” as necessary to meet government commitments to renewable energy targets, and to

Table 2

Some detail about the differences between the two cases.

Wind farm case		Governance mechanism	Compliant with NSW Guidelines	Status (November 2014)
Case 1a	Community led; State government seed funding; commenced 2011	Volunteer community Consortium: informal mechanism; unpaid	No	No site selected; pre-application; investment model uncertain – on hold
Case 1b	Private proponent; finances to project approval and then sells on; commenced 2010	Community Consultative Committee – formal mechanism; sitting fees paid	Yes	Project approved; pre-construction; investment for construction uncertain – on hold

Table 3

Community wind farm design principles (New England Wind, 2011a).

Majority regional ownership	Benefit sharing
Transparent and accountable	One member – one vote
Financial viability – large scale project	Quadruple bottom line accounting
Accessible investment structure	Energy independence

“leverage” existing investment. The final report suggested that the community sector could achieve wide spread community support but may struggle to raise investment capital and technical expertise. This claim of community acceptance was seen as the Consortium’s biggest bargaining chip in accessing government and industry investment, and has been repeated in subsequent correspondence and submissions (New England Wind, 2011, 2012d, 2012c).

5.1.1. The community governance mechanism

“Basically, we got peoples’ opinions; “Yes, we would like something like this to happen. You go away and work it out”. We started working it out as a Consortium, which was sort of self-selected and it just happened (1a_3)”

The governance model for Case 1a is a volunteer Consortium. The Consortium is not formally constituted and the project design principles stand in place of governing rules, Terms of Reference, formal constitution or membership requirements. A Consortium Steering Group meets face-to-face once a month to manage the project. New members are recruited by invitation or expression of interest. There are no official requirements or restrictions to membership, with nominations approved at the meetings depending on the phase and needs of the project. Decisions are made through acceptance and minuting of motions, however these are not available online. As a result, the composition of the Consortium and decision-making processes are opaque to the wider community. Although this will likely be addressed if the project evolves to development, in the meantime Consortium members are involved in ‘mundane’ acts of governance that have significant implications for the future development of the project (Woolgar and Neyland, 2013).

The governance of this project has developed without reference to the legal and policy framework that governs wind farm development in NSW. As it currently stands it is unlikely to satisfy the regulatory requirements of the planning system, particularly the detailed instructions about the formation and operation of a CCC in the draft NSW Wind Farm Guidelines. If the project proceeds to development application, the requirement to form a CCC will require additional investment of time and effort by the volunteers to ensure that membership, record keeping and the independence of the chairperson comply with the Guidelines. This would increase the workload for the volunteer Consortium and was perceived as a major barrier for our project because we’re going to need a hundred grand a year to run this stupid thing (1a_1).

As the case study progressed, the challenges of implementing an ambitious community-led agenda became clear. The feasibility study had prompted submission of one hundred and twenty

Expressions of Interest (EOI) from landholders eager to host community-owned wind turbines. Each of these nominations had to be screened for viability. While these EOIs were an encouraging sign of community support and enthusiasm, a lack of knowledge about wind farm development and the ambitious size of the project as dictated by the principles, meant that only a handful were likely to be appropriate.

One possible site emerged from this lengthy process. The landholders had previously been approached by commercial developers but were interested in a model that would share the benefits of development with the surrounding community, rather than solely their own financial gain.

This tentative site selection kicked off a two-year process of assessments, engagement, negotiation and volunteer effort. Relying on pro bono technical expertise, essential preliminary information about the costs of grid connection and turbine selection were slow to come in:

“It took a very long time because we didn’t have any money and the guy volunteered, he just said, “It’ll have to be at the bottom of my list”1a_4.”

While working towards technical understanding of the site’s suitability, the Consortium continued active community engagement. A well-received meeting with neighbours (New England Wind, 2012a) encouraged the Consortium to issue a media release with the headline ‘Near neighbours support ... wind farm site’ (New England Wind, 2012b). A resulting article (Jeffery, 2012) prompted an angry Letter to the Editor from a neighbouring landholder who claimed they had not received any contact from the Consortium, who were accused of painting ‘an unrealistically rosy picture’ of wind farm development (Roan, 2012). The letter challenged the Consortium’s claim to ‘openness’ in dealing with neighbours (New England Wind, 2012b) and suggested they were not interested in talking to possible opponents. The Consortium replied to the criticisms with a detailed Letter to the Editor emphasising the volunteer capacity of the group and reaffirming their commitment to addressing concerns by providing access to objective information (Blakester, 2012).

This neighbourhood tension was resolved by the disappointing news that the site would not be feasible. The initial ‘back of the envelope’ pro-bono advice proved to be inaccurate. A new study revealed that grid connection would be too expensive. After two years of personal investment into the project, the Consortium members were faced with a difficult decision: to abandon the project or start looking for an alternative site. Determined to maintain a transparent and community-focused process, the Consortium held a de-briefing with the neighbours to make it clear that the project would not be going ahead at the first site.

This setback highlighted the “real world” challenges of developing a major energy project. A lack of financial security and a reliance on volunteer effort had left the project vulnerable to disappointment. Through the intervention of a State government renewable energy officer, a partnership with a commercial proponent was suggested as a possible way forward. The community Consortium was offered the possibility of a site adjacent to a commercial development, with wind monitoring and proximity to

the grid already assessed for viability. This offer seemed based on the commercial operator's desire to access the Consortium's perceived social licence through some degree of co-branding.

In adherence to the design principles, the Consortium convened a focus group to consider the proposal, and advise on a strategy that could address corporate interests while meeting the concerns of the community. A draft Letter of Intent was sent to the commercial partner, outlining expectations. Discussions with the commercial partner began and the phrase "*commercial in confidence*" started to pepper conversations about the project. This new direction challenged the values embedded in the design principles, and these challenges have become the foundation of the next phase of community engagement. Consortium members have begun to re-frame the debate, to consider accessing benefits of scale and the possibility of effecting change to corporate values of community engagement by "*working with the devil*". Resolution to this development will remain unclear until the negotiations are made visible to the wider community.

5.1.2. Case 1a analysis

The design principles developed from the feasibility study became the foundation for the governance of this project. However, as the project matured, significant obstacles emerged to challenge these principles. The intersection between the principles, the expectations they raise and the challenges of implementation illustrate the core concern of this research: How do formal rules and the expectations generated by community engagement play out in practice? While the design principles were not part of a formal framework, they created clear parameters for project development and lines of accountability for the Consortium members making the decisions.

The size of the project and the technical complexity of wind farm development tested the capabilities of the volunteer Consortium. The wider community did not share the three-year learning curve that led them to consider the benefits of an industry partnership and this may have implications for community acceptance. New members to the Consortium must be taken through the whole story in order to understand why confidential conversations with industry are now taking place. This is challenging for existing members who feel compromised by the change in direction, and new members who want to pursue the vision embedded in the design principles.

In this case, the generation of community-designed principles created expectations disconnected from the legal requirements of project development. Respondents did not see their community engagement activities as related to project compliance, but as core to the social and environmental objectives of the project. When asked about the role of the Guidelines, there was a general feeling that the effort put in so far would be enough to satisfy any procedural requirements. The long gestation of the project, the failure to move beyond project visualisation and the mantra of community acceptance combined to keep the issue of compliance at a distance.

While respondents expressed clear visions about the value of community and expectations that ranged from ownership of the project to improved environmental knowledge, they had no indicators to assess progress towards these expectations. The Consortium's claim to community acceptance may make a partnership attractive to commercial investors, however the experience of community opposition at the first site suggests that this acceptance has to be continually negotiated.

Despite a clear sense that engaging and responding to the community was core business for a community enterprise, there was little evidence that the Consortium had a clear strategy for identifying and hearing missing voices. This was a problem when they ran into opposition at the first site, and record keeping has

been improved since then. However the claim to a community mandate may have been over-stated, and suggests why the opposition was difficult to deal with. A community group is not immune from oversights in the practice of community engagement that have been documented in wind farm development more generally. This is where framework documents and minimum procedures can significantly improve community engagement practice.

5.2. Case study 1b: "doing it because the government tells them that they have to."

Case study 1b's proposed development of 116 turbines straddles two local government areas and is a State Significant Development (SSD), with the Director General of the NSW Department of Planning as the relevant consent authority. A project application was submitted in 2010 and the project received approval in 2012 (NSW Planning and Infrastructure Department, 2012). A Community Consultative Committee (CCC) was established following the requirements of the approval. The proponent is a start-up company that sells approved projects for construction and operation. Since approval, uncertainty in the renewable energy sector has reduced incentives for major investors and it is unclear if the project will proceed to construction.

The community engagement activities of Case 1b were driven by the procedural requirements of planning approval. The Environmental Assessment required that a community consultation plan be submitted during the project application phase (NSW Government, 2010). The plan's timeline was tied to the needs of the application process and did not include steps beyond this point. The plan included suggestions that "*conflict is often unavoidable*" (Epuron Pty Ltd, 2011) in community relationships around wind farm development. While the plan stated that the objective of consultation was to achieve community acceptance, it did so without directly addressing the expected likelihood of conflict. An appeal to "*collective*" interests (Epuron Pty Ltd, 2011) as a possible strategy to promote community acceptance did not provide any guidance for how these proposed collective benefits were to be realised in practice. Developed prior to the draft NSW Wind Farm Guidelines [the Guidelines], industry guidelines and the new planning Charter, this document is an example of the consultation approach that was causing community concern and prompted development of the new frameworks.

5.2.1. The community governance mechanism

"So there's heaps of embedded stuff in this one simple thing called a CCC (1b_9)."

Case 1b's CCC was constituted in 2012 by the Department of Planning in consultation with the developer, following the requirements of the Guidelines and as a condition of the Director General's requirements [DGR] (NSW Government, 2010). This example was one of the first to be implemented in NSW and there was some confusion about its scope and purpose for both participants and the proponent. A draft Terms of Reference made no link to the Guidelines or the purpose and objectives promoted in the project material or committee Expression of Interest form (Whiterock Windfarm Community Consultative Committee, 2012; Epuron Pty Ltd, 2012b, 2012c).

A CCC requires appointment of an independent chairperson, and recruitment of "*local community and other stakeholder representatives*" such as local government, landholders and neighbouring landholders (Department of Planning & Infrastructure, 2011). In this case, limited interest from the community saw vested interests dominate the committee. The key informant interviews revealed a story of "*dysfunction*" that illustrated the challenges of implementing formal frameworks for community engagement.

Difficulty securing an independent chairperson required the appointment of a consultant to fill this role, at additional cost to the proponent. The Guidelines do not address the autonomy of the CCC and there are no dissolution procedures once the project has been approved. This creates uncertainty about the status of the CCC in times of project inactivity.

A group of landholders formed a negotiating block and nominated a representative to attend the CCC. This representative had previous experience negotiating with wind farm developers, and was suspicious of their tactics, describing them as “city-based corporate raiders” with little interest in the long-term viability of rural communities (1b_10). In this context, the proponent’s attempt to deal directly with landholders was seen as a strategy to reduce landholder benefits and increase secrecy around negotiations. Despite this, the landholder representative saw a great future for wind farm development, painting a picture of economic prosperity and regional independence at “a scale not seen since Federation” (1b_10). She was concerned that the project did not include a community benefit fund and pointed to a lack of imagination and initiative by local government members who had missed the opportunity to push for a fund in the development application.

During the second meeting of the Panel, the landholder representative raised allegations that a neighbour had sabotaged wind-monitoring equipment on a landholder’s property. The landholder group saw a role for the CCC in addressing this “unacceptable” behaviour and appealed to the local government representative to publicly “show some leadership” and condemn these actions. According to the landholder representative, this request was refused and the landholder representative called for the refusal to be recorded in the minutes. The local government representative indicated that if this was officially minuted, she would no longer attend the CCC, and a standoff ensued.

The chairperson was put in a difficult position of balancing the interests of the proponent in maintaining a CCC and the promise of transparency and due process that the community governance mechanism suggests. While the chair was required to be independent, the realities of the consultancy arrangement put them *between a rock and a hard place* (1b_9).

The minutes available on the proponent’s website make no mention of this clash or the request for the issue to be minuted. The chairperson revealed that the proponent had indicated that “not everything we talk about at this meeting should be published in the minutes” (1b_9).

This story of the minutes illustrates how vested interests might challenge the perceived integrity of the CCC. The chairperson has a commercial relationship with the proponent, and may feel unable to enforce the commitment of the Guidelines which clearly state

“the minutes must record issues raised...if a member so requests, then the Minutes must record that member’s dissenting views on any matter” (Department of Planning & Infrastructure, 2011).

Committee members identified the commercial relationship between the chairperson and the proponent as a significant flaw in the CCC model. When asked to comment on this matter, the chair responded that due to one-on-one discussions with the proponent, he had gained understanding of the difficulties inherent in developing a viable wind farm project. The commercial pressures of wind farm development were seen to increase risks around transparency and justified a less open process of communication.

While the wind farm industry is competitive, and the uncertain policy context places developers under increasing pressure to deliver viable projects, in this case the Guideline’s promise of ‘open and transparent’ processes were compromised. For members of the

CCC there was little recourse beyond challenging the minutes. Much depended on the resolve of the chairperson to ensure the independence of the process.

5.2.2. Case 1b analysis

In this case an acceptance of conflict as routine in wind farm development seemed to lower expectations of the community engagement, suggesting a focus on compliance with procedural requirements rather than a more ambitious aim to secure a social licence. Under the likely conflict model envisaged by the project’s consultation plan, the integrity mechanisms of the Guidelines became the focus of CCC members’ frustrations, and perceived transgressions were emphasised. The reported atmosphere of conflict, secrecy and the proponent’s assertion of power in the matter of the minutes served to increase the risk of opposition to the development, rather than open up communication and build better relationships. In this case, interviewed participants reported the CCC as *dysfunctional*, dominated by vested interests and silenced by claims of commercial-in-confidence.

The CCC mechanism relies on the resolve of the independent chairperson to ensure that the minutes are accurate and record dissenting views; that quiet voices are heard and respected; and that conflict is managed without destroying the CCC. In this case, the commercial relationship between the chair and the proponent was seen to compromise the integrity of the role. This perceived conflict of interest could be reduced by adherence to the Guidelines, which describe appointments to the CCC as the responsibility of the NSW Director General (DG). By failing to implement this duty, the DG increases the compliance pressure on the proponent to fill a committee. The value of a CCC may be undermined by this approach, as “with these groups, you get what you get (1b_8)”.

6. Results and discussion

These case studies revealed that frameworks for community engagement sought to enhance legitimacy for development decisions. Organised and well-publicised opposition was commonly seen as the trigger for these drivers in the context of wind farm development. Community dissatisfaction with the performance of developers provided a reason to increase regulation, however the best way to improve community engagement remained unclear. The difficult balance between principled commitments to quality community engagement and tick-the-box compliance were seen in the different ambitions of the Community Participation Charter, the draft NSW Wind Farm Guidelines, in-house and industry guidelines (Clean Energy Council, n.d; Epuron Pty Ltd, 2012a).

The results suggest that developers need to change their focus from achieving community acceptance within a compliance framework, to fostering community support and advocacy for wind farm development. The integration of best practice guidelines and international principles of public participation in compliance requirements such as the NSW Draft Wind Farm guidelines could provide consistency for community and developers alike, building a new operational norm for community engagement in the industry.

Addressing opposition was an important motivation for improving community engagement in wind farm development. Pitting visions of community benefit and environmental sustainability against fear of changing landscapes, falling property values and health impacts, this fundamental community tension contributed to the framing of wind farm development as ‘problematic’ and increased regulation was the result. While planning frameworks adopted a seemingly neutral position on these concerns, by neglecting to refute these claims they created more uncertainty

and doubt about the industry. This has resulted in questions being raised about the role of powerful vested interests in fuelling this tension (Taft, 2014).

The operation of the CCC was of particular interest to this analysis, as the key community engagement mechanism prescribed by the regulatory framework. Dominated by vested interests, the current model lacked integration with best practice community engagement frameworks and reinforced a norm of procedural compliance. To maintain the integrity of the CCC, the link between the developer and other vested interests needed to be diluted by perspectives about the impact of these developments across the region. There is a need for better record keeping of CCC memberships, and a commitment to increased transparency around vested interests.⁸

Currently, communities must be vigilant to ensure that possibilities of benefit sharing from these major regional developments are not lost. Despite research pointing to the positive impacts of spreading community benefits, current regulation leaves this to the discretion of the developer. Without community awareness and advocacy, projects may not incorporate any benefit sharing strategies beyond regional employment opportunities and income received by individual landholders. To improve the likelihood of community acceptance, the regulatory framework should include requirements to canvass community benefits during project development.

Project viability relies on a supportive policy context at both the State and Federal level. The current debate on climate action in Australia, and a lack of certainty about the future of renewable energy support and investment create a fertile ground for wind farm opposition (Vorrath, 2014). Slowing investment can be claimed as a win, further undermining viability (Climate Spectator, 2014). In this context, community acceptance alone is insufficient, and the industry requires an active community lobby to drive policy support at the Federal level. Widespread industry adoption of best practice guidelines could facilitate this community support.

Policy settings need to strike a balance between procedural compliance and an authentic commitment to community acceptance. Case 1a hinted at the potential to facilitate increased community acceptance through community sector partnerships with commercial investors. This approach could leverage community acceptance against technical expertise, and suggested a role for third party support to ensure that equitable trades are designed and implemented to the benefit of both parties, and the communities they affect.

7. Conclusion and policy implications

The research presented here offers insights into expectations and implementation of community engagement in wind farm development in rural Australia. While project approvals and energy regulation are State government matters, the Federal government has an important role to play in facilitating community acceptance. The links between economic feasibility, clear and consistent policy, and community acceptance require coordination between State and Federal jurisdictions, to ensure that the time and effort of engaging the community for project support, is not undermined by policy that favours established energy sources, or fosters instability

⁸ A recent announcement by the NSW Planning Minister has responded to reports of vested interests threatening the integrity of the CCC mechanism, by declaring the “Department of Planning and Environment will be responsible for selecting committee membership through an open expression of interest process for wind farms. This will help keep the channel between the proponent and the public open and direct” (NSW Department of Planning and Environment, 2014). Details of the how this process will be implemented are not currently available.

in the investment landscape. Federal emphasis on fossil fuels creates a hostile context for renewable energy projects, and opens up a pathway for wind farm opposition. In this context, efforts to improve community engagement need to move beyond project-by-project compliance to consider how wind farm developers can activate wide spread community support and activism.

While legal and non-legal frameworks are clearly focused on developing minimum compliance requirements, they may also be seen as working towards a new operational norm that values community engagement as a core part of project development and legitimate decision-making. The ambitions of this new norm can be seen in the “bold and innovative” (1_6) promise of the Community Participation Charter, and concepts of social licence and culture change embedded in industry guidelines (Clean Energy Council, n.d; Epuron Pty Ltd, 2012a).

Implementing a new norm requires harmonisation of substantive commitments to better engagement and procedural requirements to encourage compliance (Ross, 2010; Lockwood et al., 2010; Kirk and Reeves, 2011). Reform in this direction requires the accountability loop to be closed with commitments made in State legislation and policy referenced and embedded in any subsequent development guidelines. Expanding project management requirements to include consideration of social risk and community engagement is possible when development approval procedures embed recognition of industry best practice guidelines.

The current murky intersection of community opposition and vested political interests suggests that the increasing focus on regulation in wind farm development could be driven by antipathy to renewable energy, rather than the best interests of the community. Unless this is actively addressed by supportive Federal policy, suspicion will continue to undermine the integrity of these framework documents.

Embedding best practice into legislation and policy may signal a changing culture of engagement, however implementation must still be considered the key test for whether claims for a new norm of community engagement are achieved. Currently, the success of initiatives such as the Charter and the Guidelines depend on whose perspective is taken – for genuine change to be claimed, we need to see a central commitment from State governments to outcomes that benefit the community, and strategies that facilitate community participation beyond conferring project acceptance.

The current reliance on procedural requirements to achieve new norms cannot adequately address the implementation issues identified in this analysis: uneven industry capacity, diverse expectations of community, and the influence of vested interests in the policy context. However, while processes in themselves do not necessarily translate to meaningful engagement, they can be seen as evidence of a willingness or openness to engage. Formalising these minimum, base-line procedures can focus attention on principles of transparency, inclusiveness and accountability,⁹ and possibly build a new norm of community engagement in wind farm development.

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⁹ Australia has signed Agenda 21, the Rio Declaration on the Environment and the recent re-statement of these goals at Rio+20 (United Nations Environment Programme, 1992; United Nations General Assembly, 1992, 2012), which includes commitments to public participation, access to information and transparency in decision making. While environmental responsibilities traditionally lie with the States, the Commonwealth retains the power to ensure compliance with international agreements (Council of Australian Governments, 1992).

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References

- Adams, D., Hess, M., 2001. Community in public policy: fad or foundation? *Aust. J. Public Adm.* 60 (2), 13–23. <http://dx.doi.org/10.1111/1467-8500.00205>.
- Agee, J., 2009. Developing qualitative research questions: a reflective process. *Int. J. Qual. Stud. Educ.* 22 (4), 431–447. <http://dx.doi.org/10.1080/09518390902736512>.
- AMR Interactive, 2010. Community Attitudes to Windfarms in NSW. Department of Environment, Climate Change and Water NSW. NSW Government, Sydney.
- Batty, S.E., 2006. Planning for sustainable development in Britain: a pragmatic approach. *Town Plan. Rev.* 77 (1), 29–40.
- Bell, D., Gray, T., Haggett, C., Swaffield, J., 2013. Re-visiting the ‘social gap’: public opinion and relations of power in the local politics of wind energy. *Environ. Polit.* 22 (1), 115–135. <http://dx.doi.org/10.1080/09644016.2013.755793>.
- Black, J., 1997. New Institutionalism and Naturalism in Socio-Legal Analysis: Institutional Approaches to Regulatory Decision Making. *Law & Pol’y* 19 (1), 51–93. <http://dx.doi.org/10.1111/1467-9930.00021>.
- Blakester, A., 2012. Letter to the Editor. *Armidale Express*, Fairfax, pp. 6.
- Bold, C., 2012. *Using Narrative in Research*. Sage, London.
- Boxelaar, L., Paine, M., Beilin, R., 2006. Community engagement and public administration: of silos, overlays and technologies of government. *Aust. J. Public Adm.* 65 (1), 113–126. <http://dx.doi.org/10.1111/j.1467-8500.2006.00476.x>.
- Brackertz, N., Meredyth, D., 2009. Community consultation in Victorian local government: a case of mixing metaphors? *Aust. J. Public Adm.* 68 (2), 152–166. <http://dx.doi.org/10.1111/j.1467-8500.2009.00627.x>.
- Brown, W., Deakin, S., Hudson, M., Pratten, C., Ryan, P., 1998. *The individualisation of employment contracts in Britain*, Research Paper for the Department of Trade and Industry. Centre for Business Research, Department of Applied Economics, Cambridge, UK.
- Brugnach, M., Dewulf, A., Henriksen, H.J., van der Keur, P., 2011. More is not always better: coping with ambiguity in natural resources management. *J. Environ. Manag.* 92 (1), 78–84. <http://dx.doi.org/10.1016/j.jenvman.2010.08.029>.
- Bryner, G., 2002. Assessing claims of environmental justice: conceptual frameworks. In: Mutz, K., Bryner, G., Kenney, D. (Eds.), *Justice and Natural Resources: concepts, strategies and applications*. Island Press.
- Bryner, P., 2003. Narrative and reflective practice: recording and understanding experience. *Educ. Action Res.* 11 (3), 403–414. <http://dx.doi.org/10.1080/09650790300200229>.
- Chapman, S., 2013. New Study: Wind Turbine Syndrome is Spread by Scaremongers. (<http://theconversation.com/new-study-wind-turbine-syndrome-is-spread-by-scaremongers-12834>) (accessed 19.12.13).
- Chapman, S., St. George, A., Waller, K., Cacic, V., 2013. Spatio-temporal Differences in the History of Health and Noise Complaints About Australian Wind Farms: Evidence for the Psychogenic, “Communicated Disease” Hypothesis. Sydney Medical School, University of Sydney.
- Christidis, T., Law, J., 2012. Annoyance, health effects, and wind turbines: exploring Ontario’s planning processes. *Can. J. Urban Res.* 21 (1), 81–105.
- Clean Energy Council, n.d. Community Engagement Guidelines for the Australian Wind Industry.
- Climate Institute, 2011. Clean energy jobs snapshot: new England tablelands (f. b. N. OEH, Trans.). In: Institute, C. (Ed.), *Clean Energy Jobs Snapshot*. Climate Institute, Sydney.
- Climate Spectator, 2014. Wind tower maker sheds 100 jobs amid RET uncertainty. (http://www.businessspectator.com.au/news/2014/10/23/wind-power/wind-tower-maker-sheds-100-jobs-amid-ret-uncertainty?utm_source=exact&utm_medium=email&utm_content=966552&utm_campaign=cs_daily&modapt=) (accessed 21.11.14).
- Corvellec, H., 2007. Arguing for a license to operate: the case of the Swedish wind power industry. *Corp. Commun.* 12 (2), 129. <http://dx.doi.org/10.1108/13563280710744810>.
- Council of Australian Governments, 1992. *InterGovernmental Agreement on the Environment*, Commonwealth of Australia.
- Cowell, R., Bristow, G., Munday, M., 2011. Acceptance, acceptability and environmental justice: the role of community benefits in wind energy development. *J. Environ. Plan. Manag.* 54 (4), 539–557. <http://dx.doi.org/10.1080/09640568.2010.521047>.
- Department of Planning & Infrastructure, 2011. *Draft NSW Planning Guidelines: Wind Farms*. State of New South Wales, Sydney (including technical appendices A, B, C, D, E & F).
- Dovers, S., 2010. Embedded scales: interdisciplinary and institutional issues. In: Brown, V., Harris, J., Russel, J. (Eds.), *Tackling wicked problems through the transdisciplinary imagination*, Earthscan Ltd.
- Majority against wind farm. (2011, 7/06/2011). Glenn Innes Examiner. Environmental Defenders Officer NSW, 2010. The State of Planning in NSW: With Reference to Social and Environmental Impacts and Public Participation. NSW Nature Conservation Council (NCC) and the Total Environment Centre (TEC).
- Environmental Defenders Officer NSW, & Total Environment Centre, 2010. *Reconnecting the Community with the Planning System*. Sydney.
- Epuron Pty Ltd, 2011. White Rock Wind Farm Consultation Plan. (http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3963) (accessed 28.07.14).
- Epuron Pty Ltd, 2012a. Community Consultation Framework.
- Epuron Pty Ltd, 2012b. Presentation to Whiterock CCC. (<http://www.epuron.com.au/project/white-rock/downloads/>) (accessed 29.07.14).
- Epuron Pty Ltd, 2012c. White Rock Wind Farm Newsletter no.5. Epuron.
- Feagin, J., Orum, A., Sjoberg, G. (Eds.), 1991. *A Case for the Case Study*, 1 ed. University of North Carolina Press.
- Fisher, E., Lange, B., Scotford, E., Carlane, C., 2009. Maturity and Methodology: starting a debate about environmental law scholarship. *J. Environ. Law* 21 (2), 213–250.
- Flyvberg, B., 2001. *Making Social Science Matter: Why Social Inquiry Fails and How it can Succeed Again*. Cambridge University Press, Cambridge.
- GHD for the NSW Farmers Association, 2012. *Wind Farm Guide for Host Landholders*. NSW Farmers Association.
- Gross, C., 2008. A measure of fairness: an investigative framework to explore perceptions of fairness and justice in a real-life social conflict. *Res. Hum. Ecol.* 15 (2), 130–141.
- Gubrium, J.F., Holstein, J.A., 2009. *Analysing Narrative Reality*. Sage Publications.
- Hall, N., Ashworth, P., Devine-Wright, P., 2013. Societal acceptance of wind farms: analysis of four common themes across Australian case studies. *Energy Policy* 58 (0), 200–208. <http://dx.doi.org/10.1016/j.enpol.2013.03.009>.
- Hall, N., Ashworth, P., Shaw, H., 2012. Exploring Community Acceptance of Rural Wind Farms in Australia: A Snapshot. CSIRO National Research Flagships Energy Transformed. CSIRO, Canberra.
- Harrington, C., Curtis, A., Black, R., 2008. Locating communities in natural resource management. *J. Environ. Policy Plan.* 10 (2), 199–215. <http://dx.doi.org/10.1080/1523908080192846>.
- Hindmarsh, R., 2010. Wind farms and community engagement in Australia: a critical analysis for policy learning. *East Asian Sci. Technol. Soc. Int. J.* 4, 541–563.
- Howard, T., 2014. From international principles to local practices: a socio-legal framing of public participation research. *Environ. Devel. Sustain.*, <http://dx.doi.org/10.1007/s10668-014-9572-3> (in press).
- Ison, N., Hicks, J., Gilding, J., Ross, K., 2012. The Australian Community Renewable Energy Sector: Challenges and Opportunities. NSW Office of Environment and Heritage.
- Jeffery, S., 2012. Support for Herbert Park Wind Farm Site. *Armidale Express*, Armidale: Fairfax.
- Johnston, K., 2010. Community engagement: exploring a relational approach to consultation and collaborative practice in Australia. *J. Promot. Manag.* 16 (1), 217–234.
- Kirk, E.A., Blackstock, K.L., 2011. Enhanced Decision Making: Balancing Public Participation against ‘Better Regulation’ in British Environmental Permitting Regimes. *J. Environ. Law* 23 (1), 97–116. <http://dx.doi.org/10.1093/jel/eqq024>.
- Kirk, E.A., Reeves, A.D., 2011. Regulatory agencies and regulatory change: breaking out of the routine. *Environ. Law Rev.* 13 (3), 155.
- Lal, S., Suto, M., Ungar, M., 2012. Examining the potential of combining the methods of grounded theory and narrative inquiry: a comparative analysis. *Qual. Rep.* 17 (41), 1–22.
- Lockwood, M., Davidson, J., Curtis, A., Stratford, E., Griffith, R., 2010. Governance principles for natural resource management. *Soc. Nat. Resour.* 23 (10), 986–1001.
- Lovelock, L., Evans, J., 2008. *The Legislative Process*. In *New South Wales Legislative Council Practices*, Federation Press.
- Marshall, G., 2007. Nesting, Subsidiarity, and Community-based environmental Governance beyond the Local Scale. *International Journal of the Commons* 2 (1), 75–97.
- Martin, P., Sheppard, M., 2011. What is meant by the social license?. In: Williams, J., Martin, P. (Eds.), *Defending the Social License of Farming: Issues, Challenges and New Directions for Agriculture*. CSIRO publishing, Canberra.
- Montoya, D., 2013. *NSW Planning Reforms: Sustainable Development*. Briefing Paper. NSW Parliamentary Research Services, Sydney.
- Moore, T., Dyer, R., 2011. The way ahead for planning in NSW? Issues Paper of the NSW Planning System Review. NSW Government.
- Moore, T., Dyer, R., 2012. *The Way Ahead for Planning in NSW: Recommendations of the NSW Planning System Review (vol. 1)*. NSW Government.

- Mulvaney, K.K., Woodson, P., Prokopy, L.S., 2013. Different shades of green: a case study of support for wind farms in the rural midwest. *Environ. Manag.* 51 (5), 1012–1024. <http://dx.doi.org/10.1007/s00267-013-0026-8>.
- Neuman, W.L., 2011. *Social Research Methods*, 7 ed. Allyn and Bacon, Boston.
- New England Wind, 2011. Submission: Clean Energy Finance Corporation.
- New England Wind, 2012a. Minutes from Herbert Park Local Area Committee Meeting.
- New England Wind, 2012b. Near Neighbours Support New England Wind Farm Site. New England Wind.
- New England Wind, 2012c. Submission: Draft NSW Wind Farm Planning Guidelines.
- New England Wind, 2012d. Submission: NSW Renewable Energy Action Plan.
- New South Wales Parliament, 1902. Constitution Act. No 32.
- NSW Department of Planning and Environment, 2014. New Process for Wind Farm Assessments. (<http://www.planning.nsw.gov.au/NewsCentre/LatestNews/Ta/bld/775/ArtMid/1658/ArticleID/227/New-Process-for-Wind-Farm-Assessments.aspx>) (accessed 22.09.14).
- NSW Department of Premier and Cabinet, 2013. NSW 2021 – Performance Report 2013–14. NSW Government, pp. 180.
- NSW Government, 1979. Environmental Planning and Assessment Act, No. 203.
- NSW Government, 1987. Interpretation Act (vol. 15). NSW Government.
- NSW Government, 2010. Director General's Requirements. NSW Planning and Infrastructure Department, pp. 2.
- NSW Government, 2012a. Draft NSW Renewable Energy Action Plan. NSW Government, Sydney.
- NSW Government, 2012b. A New Planning System for NSW – Green Paper. NSW Government, Sydney.
- NSW Government, 2012c. A New Planning System for NSW – Green Paper Feedback Summary. NSW Government, Sydney.
- NSW Government, 2012d. Strengthen Our Local Environment and Communities. In NSW 2021: A Plan to Make NSW Number One. NSW Government.
- NSW Government, 2013a. Planning Administration Bill.
- NSW Government, 2013b. Planning Bill 2013 (Introduced).
- NSW Government, 2013c. Planning Bill 2013 (Legislative Council amendments).
- NSW Government, 2013d. Renewable Energy Action Plan. NSW Government.
- NSW Government, 2013e. White Paper – A new planning system for NSW. In: D.o.P. Infrastructure (Ed.). Sydney, NSW Government.
- NSW Planning and Infrastructure Department, 2012. Project Approval, pp. 36.
- Office of Environment and Heritage, 2013. Renewable Energy Precincts. (<http://www.environment.nsw.gov.au/climatechange/renewableprecincts.htm>) (accessed 27.9.13).
- Ostrom, E., 2010. Beyond markets and states: polycentric governance of complex economic systems. *Am. Econ. Rev.* 100 (3), 641–672. <http://dx.doi.org/10.1257/aer.100.3.64>.
- Planning and Environment Department, n.d. Planning for Our Future. (<http://www.planning.nsw.gov.au/newplanningsystem>) (accessed 28.08.14).
- Planning Institute of Australia, 2011. National Position Statements: Public Participation. Planning Institute of Australia.
- Rapley, T., 2007. *Doing Conversation, Discourse and Document Analysis*. Sage, London.
- Renewable Energy Target Independent Review, 2014. Renewable Energy Target Review Report. Australian Government.
- Roan, L., 2012. Letter to the Editor: No Transparency From Wind Consortium. Armidale Express, Fairfax.
- Ross, A., 2010. Its time to get serious – why legislation is needed to make sustainable development a reality in the UK. *Sustainability* 2, 1101–1127. <http://dx.doi.org/10.3390/su2041101>.
- Starfish Enterprises, 2011. New England Windfarm Feasibility Study.
- Stokes, R., 2012. Submission to the Review of the Renewable Energy Target. NSW Parliament, pp. 37.
- Taft, K., 2014. Fossil fuels, global warming and democracy: a report from a scene of the collision. In: Whitlam Institute (Ed.), *Australian Policy Online*. University of Western Sydney, Sydney.
- The Environment Protection and Heritage Council (EPHC), 2008. Report on Impediments to Environmentally and Socially Responsible Wind Farm Development. Commonwealth Government, Adelaide.
- Turner, S.J., 2013. Factors in the development of a global substantive environmental right. *Oñati Socio-Legal Ser.* 3 (5), 893–907.
- United Nations Environment Programme, 1992. Agenda 21. (<http://www.unep.org/documents.multilingual/default.asp?documentid=52>) (accessed 31.05.13).
- United Nations General Assembly, 1992. Rio Declaration on Environment and Development (<http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>) (accessed 28.03.13).
- United Nations General Assembly, 2012. Rio+20: The Future We Want. (<http://www.un.org/en/sustainablefuture/>) (accessed 03.10.14).
- Vorrath, S., 2014. Coalition Pushes New Senate Inquiry in Bid to Stop Wind. (<http://reneweconomy.com.au/2014/coalition-pushes-new-senate-inquiry-in-bid-to-stop-wind-79577>) (accessed 21.11.14).
- Wallis, P.J., Ison, R.L., 2011. Appreciating institutional complexity in water governance dynamics: a case from the Murray-Darling Basin, Australia. *Water Resour. Manag.* 25 (15), 4081–4097. <http://dx.doi.org/10.1007/s11269-011-9880-4>.
- Webster, L., Mertova, P., 2007. *Using Narrative Inquiry as a Research Method*. Routledge.
- Whiterock Windfarm Community Consultative Committee, 2012. Minutes of Meeting no.1. Epuron Pty Ltd.
- Whitman, D., 2008. “Stakeholders” and the politics of environmental policymaking. In: J. Park, K. Conca, M. Finger (Eds.), *The Crisis of Global Environmental Governance: Towards a New Political Economy of Sustainability*. Routledge.
- Wiersema, A., 2008. A train without tracks: rethinking the place of law and goals in environmental and natural resources law. *Envtl. L.* 38 (4), 1239+.
- Woolgar, S., Neyland, D., 2013. Structures of governance. In: Woolgar, S., Neyland, D. (Eds.), *Mundane Governance*. Oxford University Press, Oxford.
- Yin, R., 2009. *Case Study Research: Design and Methods*, 4th ed Sage, California.

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Abstract: Australian natural resource governance has recently embarked on a new round of regional experimentation. One decade after regional natural resource management bodies were established in response to ideals of devolution and subsidiarity, political commitments to 'localism' have resulted in a paradoxical shift to bigger regional boundaries, and an apparent retreat from values of environmental conservation. A retreat from government funded public good natural resource management has seen a growth in ideals of market instruments and an economic paradigm of productivity and profit begin to dominate. A long held divide between conservation and production landscape values has seen community engagement emerge as the battleground of rural environmental policy.

Through a qualitative case study of community governance mechanisms this paper examines how one Australian jurisdiction has responded to these challenges. Findings include a valuable role for best practice standards and compliance requirement in driving new norms of community engagement; a difficult balance between accountability and innovation in implementing community governance; and significant disruption caused by regular cycles of reform. Recommendations include raising awareness of the difference between management and governance, and the development of negotiated accountability frameworks that support rural governance innovation.

16th February 2015

To Whom it May Concern,

I respectfully submit a manuscript for review to the **Journal of Rural Studies**. As there are no instructions for the form or content of a cover letter in the instructions for authors on the journal website, I hope you will excuse the brevity of this cover letter.

Sincerely,



Signed electronically

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Abstract

Australian natural resource governance has recently embarked on a new round of regional experimentation. One decade after regional natural resource management bodies were established in response to ideals of *devolution* and *subsidiarity*, political commitments to 'localism' have resulted in a paradoxical shift to bigger regional boundaries, and an apparent retreat from values of environmental conservation. A retreat from government funded public good natural resource management has seen a growth in ideals of market instruments and an economic paradigm of productivity and profit begin to dominate. A long held divide between conservation and production landscape values has seen community engagement emerge as the battleground of rural environmental policy.

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Keywords: Natural resource governance; community engagement; rural communities; framework analysis; natural resource management.

Title: 'Raising the bar': the role of institutional frameworks for community engagement in Australian natural resource governance.

1. Introduction

In Australia, government investment in natural resource management (NRM) is receding. National programs supporting conservation and environmental management on private and public lands are under review in a context of budget efficiencies and growing government emphasis on market based strategies (Australian Government 2014a) (Australian Government 2014b). Conflict over rural land use has seen tensions arise between government, community and private industry (Barbour 2014; Guiliat 2014; Woods 2014). Attempts to manage shared natural resources across jurisdictional boundaries have been challenged by politicisation and polarisation (Gray 2011; Hussey and Dovers 2007), reducing the ability of government to deliver equitable and sustainable natural resource management (National Water Commission 2013; Rawlins et al. 2014)(Keogh 2014). This article is concerned with the role of rural communities in Australian natural resource governance, and in particular focuses attention on institutional rules, organizational structures and policy reform (Howard 2014)(Dovers 2010). Rural communities in Australia are facing pressures of demographic decline, increased corporatisation of agricultural business models and land use competition from extractive industries (Taft 2014; Bartel 2013). A growing urbanised population has reduced the democratic influence of rural communities in a system of representative government, and has led to an increasingly polarised debate on the future of natural resource governance in Australia's rural areas (Keogh 2014; Brown 2014).

Natural resource *governance* describes the mechanisms developed through policy, legislation and everyday interactions to influence or enact decisions about how natural resources will be used (Ryan et al. 2010)(Lockwood and Davidson 2010). As population growth, consumption demands and climate change increase pressures on shared resources, there is a need for improved governance structures that balance vested interests with consideration of social and environmental impacts, and enable rural communities to be involved in making decisions about the management of natural resources (Taft 2014)(Bartel 2013) (Martin et al. 2012). If "*public participation is widely considered a fundamental aspect of good governance*" (Dellinger, 2012) then it is necessary to explore how governance structures attempt to bring community voices into natural resource decision making (Holley, 2010, Herriman, 2011)(Evans and Reid 2014)(Lister 2002).¹ Close attention to natural resource governance is necessary to understand how it inhibits, or enables, the capacity of policy makers and the community alike to find new ways of framing complex environmental issues and envisioning possible pathways to change (Wallis and Ison 2011; Colebatch 2009).

This paper briefly outlines the current context for natural resource governance and community engagement in one Australian jurisdiction through a case study of rural land management planning. Two examples of community governance are described within a context of institutional reform and implications for rural policy and community engagement are considered. Periods of institutional reform provide a crucial window

1. Within this paper, the term *community engagement* is used as synonymous with *public participation*. This reflects an interaction between the Australian vernacular of public policy, and the international terminology of sustainable development (Bottrill and Cordonier Segger 2005; International Association for Public Participation 2012; La Camera 2013). Both phrases carry an assumption that "*environmental issues are best handled with participation of*

into the hidden dynamics of rural resource governance, exposing power imbalances, systemic bias and the ability for dissenting voices to be heard (Hillman and Howitt 2008 Epstein et al. 2014). Applying a post-positivist lens to the question of policy reform enables the varied perspectives of community members, bureaucrats and legislators to inform analysis of current natural resource governance (Fischer 2005; Prager et al. 2015; Epstein et al. 2014).

2. Methodology

This paper presents empirical data from qualitative case study research that examined the implementation of governance frameworks for community engagement in a rural natural resource management context. The research design considered interactions between formal rules, policy settings, and experiences of implementation.² The case study includes two examples of regional authorities that have since been merged with other State government bodies through a period of legislative reform.

Case studies provide a lens for qualitative research that seeks to understand complex and messy real world experiences (Neuman 2011; Yin 2009), making it suitable for a study concerned with implementation of institutional frameworks. The research takes a 'vertical slice' to examine how legislated requirements for community engagement in natural resource management are translated into policy and practice (Feagin et al.

all concerned citizens, at the relevant level" (United Nations Environment Programme 1992).

2. Further details of the conceptual framework and the methodology are published elsewhere, citation will be added once the blind review process is complete.

1991;)³, through semi-structured interviews, reflective research practice and document analysis. Analysis of the data was combined with a narrative enquiry approach to uncover a story of research findings (Lal et al. 2012).

This research was informed by socio-legal scholarship that considers how substantive and procedural elements of law and policy interact to create governance regimes (Kirk and Blackstock 2011; Fisher et al. 2009; Wiersema 2008)(Turner 2013)(Black 1997; Brown et al. 1998). The research design incorporated theories of multi-scale research that support analysis of the same issues as they appear across institutional, organizational and community scales (Dovers 2010; Marshall 2007(Ostrom 2010)). This paper contributes to rural environmental justice and public policy scholarship that explores the intersection between institutional and social norms, and how these are given form in both the *creation* and *delivery* of policy (Gross 2008) (Black 1997) (Bryner 2002). A post-positivist perspective directs attention to the different elements of governance, particularly the interaction between *substantive* definitions of duties and rights, *procedural* enforcement of these duties, and implementation in *practice*.

2.1. Case study design

The case study design enabled comparison of two different community governance mechanisms that operated under the same institutional framework. Two examples were selected based on the following criteria: legislation that included a specific role for 'community' in the objectives; accessibility, as the in-depth nature of the

3. Further details of the conceptual framework, methodology and results from other cases are published elsewhere, citations will be added once the blind

interviews were best conducted face to face; and willingness to participate. Rather than look for 'exceptional' cases, selection focused on understanding how frameworks for community engagement operated in everyday examples to build knowledge about implementation dynamics (Flyvberg 2001) (Woolgar and Neyland 2013). Although the examples were at differing stages of development, they had both undertaken a process of natural resource planning, implemented a form of community governance, and been subject to the same institutional reform. Both examples were located in a rural area of New South Wales (see Figure 1).

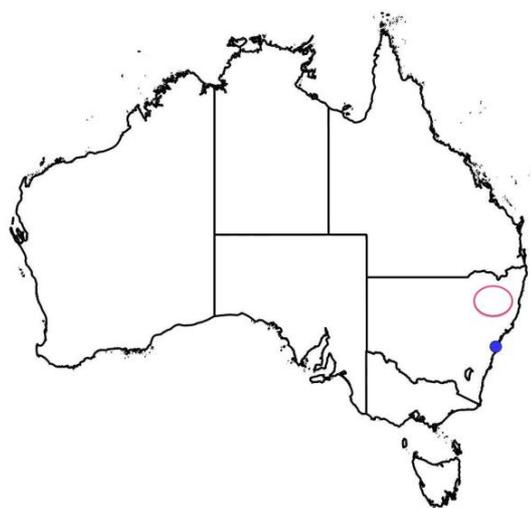


Figure 1 Map of Australia with case study region circled.

Despite these similarities, the examples differed on one important factor: continuation of the community governance mechanism. The ongoing nature of example 2a enabled a more in-depth consideration of the mechanism, in contrast to the largely retrospective analysis of example 2b. This led to slight variation in data accessibility and analysis (see Table 1 for detail).

review process is complete.

Table 1: Some detail about the differences between the two case study examples.

Catchment Management Authority (CMA) case study	Description	Governance mechanism	Status (February 2015)
Example 2a	Meets bi-monthly; CMA project management support; seven year funding secured	Collaborative governance: steering group and working groups; decision making forum	Project at mid-point of funding; governance agreement in place; continuing collaborative approach
Example 2b	Wound up in response to institutional reform; New mechanism prescribed under the Local Land Services Act.	Community reference panel; advise and consult; task focused; chaired by CMA staff	New community mechanism recruited, no recurring membership; Terms of Reference not publicly available; scope unclear due to ongoing institutional change

2.2. Case study data

The case study combined qualitative documentary analysis and interview data. Documentary data included legislation, policy and project materials that govern community engagement in natural resource planning in rural New South Wales. Documents were interrogated for points of interaction with the community affected by the natural resource governance process, as well as any procedures that invoked 'community' input. Thirteen in-depth interviews were conducted with key informants involved in designing, implementing or participating in the community governance mechanism. Prompted by open-ended questioning, the interviews provided a narrative thread for the case study (Gubrium and Holstein 2009; Bold 2012). Extracts are represented in italics and where they extend beyond two or three words, are ascribed to a specific respondent (Rapley 2007).

Interviews were recorded and transcribed, sent back to the respondents for verification and uploaded to a qualitative data analysis program. Individual interviews were coded for anonymity (see Table 2) and personal pronouns changed throughout. Open coding was the first step in data analysis. These initial codes were then reconciled with the investigative framework⁴ and consolidated. Throughout the case study development, the researcher's role as participant observer of meetings were documented as part of a reflective research practice (Agee 2009; Chambers 2003) and became part of the final data archive (Rapley 2007).

Table 2: Details the coding and roles of each of the key informants interviews (* denotes perspectives applicable to both case studies).

Case code	Key informant role	Individual code
Both *	Natural Resources Commission staff	2_18
Both *	Natural Resources Commission staff	2_24
Both *	Peak body representative	1b_10
2a	Collaborative governance committee member	2a_13
2a	Community project proponent	2a_14
2a	Catchment Management Authority (CMA) officer	2a_15
2a	CMA collaborative governance project officer	2a_16
2a	CMA Planning manager	2a_17
2b	CMA Strategic planning manager	2b_19
2b	CMA Community reference panel project officer	2b_20
2b	Community reference panel member	2b_21

4. The investigative framework operationalizes conceptual distinctions between substantive, procedural, process, evidence and reform elements of natural resource governance. For more detail see (citation to be added once blind review completed).

3. Institutional framework

don't forget we had CMCs to start with, then we had CMBs, then we ended up with CMAs (laughs). So we've been through all of the ABCs. Now we've got LLSs. Before CMBs and CMCs there was soil con and.... keep going. (1b_10)

Natural resource governance in Australia is multi-jurisdictional, with varying responsibilities for environmental management held at almost every level of government from Federal to Local (Bellamy 2007). Legislation devised at the Federal level devolves responsibilities to State and Territory Governments, inducing a diverse legislative response across the country (Fisher 2006). Adding further complexity, the Federal Government initiates direct relationships with regional bodies and local governments, distributing funding and imposing conditions of accountability within these agreements (T. Wallington et al. 2007; Clayton et al. 2011). The Australian Federal Government formed the regional natural resource management bodies in partnership with the States and Territories in 2003.⁵ Often described as a 'regional experiment', rhetoric surrounding the formation of regional bodies evoked a desire to devolve management of natural resources closer to land managers on the ground (T. J. Wallington and Lawrence 2008). Bypassing existing local government areas, each State and Territory constituted the regional ideal in a slightly different way, leading to great variation in the governance model across Australia (Williams 2007).

The regional governance approach experimented with concepts of subsidiarity, seeking to create a hybrid form that could capture the assets of rural communities while maintaining centralised control in terms of setting priorities (Lockwood and Davidson

2010; Ostrom 2010; Griffith 2009). While the regional experiment has been regarded as an important step in developing new concepts of governance, the lack of substantive reform of the surrounding institutional framework has been criticised for merely increasing the complexity of the overall system (Curtis et al. 2014; Eversole 2011).

In New South Wales (NSW), 15 Statutory Authorities were formally constituted under the Catchment Management Authorities Act No.104, which were:

(e) to involve communities in each catchment in decision making and to make best use of catchment knowledge and expertise (Catchment Management Authorities Act No.104 2003).

Early Federal government guidelines encouraged a *consistent approach to community engagement* (Programs Committee of the Natural Resource Management Ministerial Council 2002) and required the development of Catchment Action Plans (CAPs) (Natural Resources Commission 2006) that evidenced a strong link between public investment in natural resources and demonstration of benefits (Robins and Kanowski 2011). While completion of a CAP was a necessary step in securing Federal funding, compliance was managed by the State under established norms of co-operative Federalism.

In NSW an independent Natural Resources Commission (the Commission) was established to monitor and guide the development of CAPs through an audit and review function (*Natural Resources Commission Act 2003 No 102 2003*). Audits rested on the 'State-wide Standard for Quality NRM', a formal set of principles designed to provide clear guidance about minimum operational expectations and how performance would be

5. For a detailed history of the public policy origins of the regional natural

evaluated (Natural Resources Commission 2005). The Standard included seven components including community engagement.⁶ Each component was furnished with a desired *outcome*, *guidance* in how to work towards this outcome, and a list of *evidence* that could demonstrate progress. This accountability framework aimed to drive a culture of continuous improvement through regular organisational review (Hillman and Howitt 2008) based on principles of resilience, accountability and adaptability (S. Ryan et al. 2010).

In NSW, Catchment Action Plans provided a clear accountability mechanism linked to the regulatory framework for natural resource governance (Part 4)(Catchment Management Authorities Act No.104 2003). However a CAP was designed to satisfy multiple functions beyond reporting to government and other stakeholders about the priorities for investment in the region. It was a tool for 'starting the conversation' with landholders about the NRM conditions in the catchment. It was also a vehicle for promoting the organisation and communicating with the broader community about its objectives. The Commission's audit included a review of both the content of the CAP, and the process of developing the document, with a particular focus on how community voices were brought into the planning process.

Despite this focus on high standards and regular accountability checks, CAPs were not integrated with the broader planning system and remained stand-alone efforts in best practice community engagement and NRM planning (Natural Resources Commission 2006, 2010b). This lack of integration with other planning regimes and

resource governance model in Australia see (Curtis et al. 2014)

6. The others were: Collection and use of knowledge; Determination of scale; Opportunities for collaboration; Community engagement; Risk management; Monitoring and evaluation; and Information management.

government agencies reduced the CMAs capacity to implement commitments made in the CAPs. By 2008, the rationale for the regional model was increasingly linked to improving private stewardship of environmental assets in an attempt to reduce government investment in NRM (Curtis et al. 2014). Attempting to motivate private landholders to take NRM action through government driven planning processes revealed a fundamental tension between bureaucratic requirements and landholder interests (T. J. Wallington and Lawrence 2008; Robins and Kanowski 2011).

The NSW CMAs occupied an uncomfortable middle ground between government objectives at the Federal and State scales, and catchment scale community interests (Department of Environment and Climate Change NSW 2009). In NSW, the introduction of the CMAs coincided with the introduction of unpopular legislation regulating land clearing on private property (Native Vegetation Act 2003 No 103 2003) creating a conceptual link that proved hard to break. The perceived *conservation* focus of the Catchment Management Authorities Act had limited engagement with landholders who held different value positions on issues of NRM and agricultural productivity. Although a previous review of the CMA Act in 2009 had validated the policy objectives and gave little indication that significant institutional reform and adjustment of scale were necessary (Department of Environment 2009), in 2013 the NSW CMAs were disbanded and merged with Livestock, Pest and Health authorities (LHPA) and the regulatory arm of the NSW Department of Primary Industries, to create new regional bodies known as 'Local Land Services' (LLS). This merger resulted in a redrawing of the catchment boundaries, and a reduced number of regional bodies in response to a State Government's policy commitment to local devolution of "decision making, funding and

control" (Government 2011), while holding "centralised control" for state-wide issues (T. Ryan n.d.).

A new Local Land Services Act cherry-picked aspects of these three organisations (Local Land Services Act 2013 no51 2013), attempting to maintain the established rate-payer base of the LHPA while addressing serious findings of a review that had emphasised the inadequacy of their governance processes amid concerns of inefficiency and waste (T. Ryan n.d.). In this context, the merger of the dysfunctional LHPA agency with the strongly audited CMA model was rationalised as a strategy for building more transparent and accountable rural service delivery. The new Act saw natural resource management become part of a broader suite of services aimed at meeting *community, client and customer needs*. These included bio-security, pest management and environmental management within a clearly stated **production and profit** agenda. The long held suspicion of the 'green' CMAs seemed to justify a swing towards agricultural productivity, reinforced and complemented by a changing Federal Government funding focus (Barbour 2014; Australian Government 2014, 2013).

The reform raised questions about the ongoing relevance of the CAPs and commitments made to rural communities during the planning process. The case study regions were merged with parts of other CMAs, creating larger and more diverse areas. Regions became described in terms of production, with limited mention of environmental or cultural values. The terminology of NRM was replaced by '*land and water*' as essential ingredients for agricultural prosperity, rather than natural resources requiring planning and protection. Despite assurances that *Until Local Strategic Plans*

are developed, existing Catchment Action Plans continue to apply (Namoi Catchment Management Authority 2013a), the empirical evidence presented in the following examples demonstrate that reduced funding for NRM and changing staff priorities created obstacles to the implementation of CAP objectives.

4. Case study example 2a: Introduction

This example demonstrates how the audit and review function of the independent body, the Natural Resources Commission (the Commission), stimulated commitment to a form of adaptive management that elevated community collaboration and partnerships in delivering NRM outcomes. Case 2a documents how a collaborative governance framework emerged from community engagement in Catchment Action Planning, to become the foundation of a project implemented during a period of institutional change. Findings show that setting up collaborative protocols is time consuming and can lead to delays in delivering on-ground NRM outcomes. Pressures to meet external accountability requirements create a tension between ideals and implementation of collaborative governance. Case study 2a illustrates how collaborative decisions are vulnerable to pre-existing bureaucratic norms and points to the importance of key individuals who can articulate the collaborative vision and hold the memory of the project genesis.

4.1. Building an 'institution of collaboration'

2a's CAP was released in 2013 after a period of intense community engagement. By the end of that year the organisational merger had commenced and the future of NRM funding was uncertain. CMA Boards were wound up and staff subjected to '*spill*

and fill restructuring. In this context, the optimistic voice of Case 2a rang through the CAP, with a conceptual model of collaborative governance suggested as the way to achieve NRM targets and goals (Border Rivers-Gwydir Catchment Management Authority 2013a). The CAP signaled a move from shared decision-making to shared implementation in response to the Natural Resource Commission's 'whole of government, whole of community' challenge.

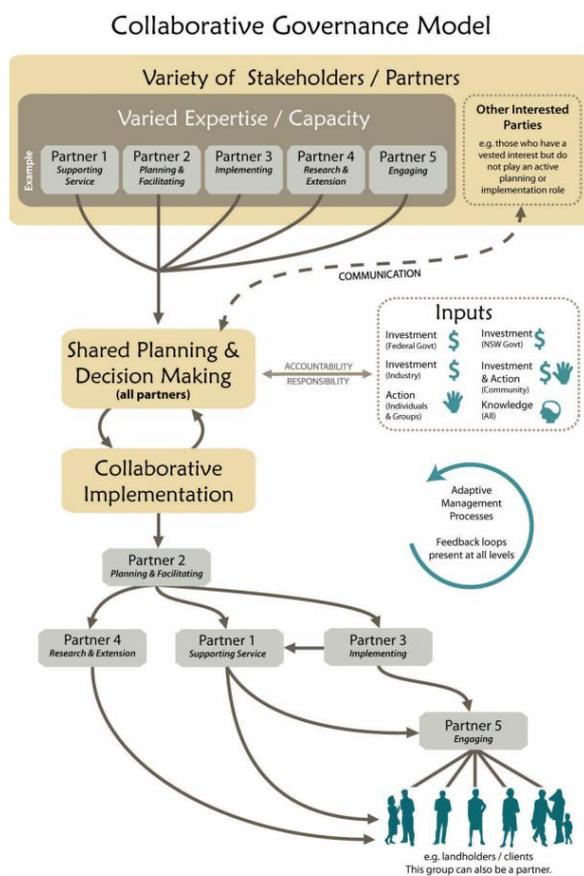


Figure 2: Illustration of 2a's Collaborative Governance Model (source:(Border Rivers-Gwydir Catchment Management Authority 2013a)).

Case 2a's CAP was awarded the highest ranking by the Commission's audit which described the plan as '*characterised by... innovation*' and promoting '*coordinated*

*delivery with a broad range of partners*⁷ (Natural Resources Commission 2013c). The Commission had a "*high level of confidence*" that the planning process would lead to positive changes in the region (Natural Resources Commission 2013a). The '*strong*' collaborative governance model was lauded, with success resting on the potential for '*shared investment, planning, consultation and implementation*' (Natural Resources Commission 2013a).

The CAP's definition of collaborative governance included collective decision-making, consensus orientation, and formal, deliberative processes (Ansell and Gash 2007). Leadership was acknowledged as a crucial ingredient, along with capacity of management and front-line staff to "*practice and develop collaborative behaviours and strategies*". This connection between the aspirations of the plan, leadership and the capacity of staff to implement these aspirations provided a clear trail of responsibility for the collaborative concept. Informed by previous experience (Prior 2012a), the model focused on sharing responsibility for **implementation** through consideration of "*power, responsibilities and accountabilities*" (Border Rivers-Gwydir Catchment Management Authority 2013b). Developing and delivering collaborative *capacity* was the focus of this innovative reframing of natural resource management as an '*institution*' of collaboration (Border Rivers-Gwydir Catchment Management Authority 2013b). Case 2a's CAP gave new impetus to formalise existing collaborations through memorandums of understanding, and to implementing collaborative reporting that could capture work being done across the catchment.

7. The only weakness identified in the process of 'meaningfully engag[ing]' the community was a 'communication gap' relating to Aboriginal consultation. Respondent suggested that this was linked to an inappropriate survey method:

4.2. Implementing collaborative governance: the Biolinks project

The first significant attempt to put the aspirations of Case 2a's collaborative governance model into practice was a landscape connectivity project known as Biolinks. This project emerged from previous collaborations between key agencies and community partners in the region. A successful application to the Federal Government's Clean Energy Fund was based on commitments to best practice and information-rich approaches to targeting landholders with the highest value land to contribute to the connectivity aims of the project.

Project conveners had identified the importance of good governance in developing large-scale projects as a significant factor for achieving the connectivity ambitions of the project. Previous experiences with similar initiatives, combined with research that documented these initiatives, highlighted the need for a structure that would be inclusive, encourage participation and individual agency, while working towards an agreed goal (Fitzsimons and Wescott 2013). Guiding principles, decision-making parameters and division of responsibilities were outlined in a governance agreement that emphasised the collaborative intention of the project, and referenced the model developed in the Catchment Action Plan {Border Rivers-Gwydir Catchment Management Authority, n.d. #671}.

we sent out forms for them to fill in, which was a silly approach. We should have gotten someone to go out and talk to them. That's just one of those things you learn (2a_15).

A core steering committee of ten members was to meet bi-monthly and four technical working groups progressed particular themes in-between.⁸ Designed to *maximise opportunities for stakeholder participation* (Border Rivers-Gwydir Catchment Management Authority 2014), the governance 'vision' included aspirations to build individual capacity to participate, in the belief that this would have legacy effects for the region, as individuals began to contribute to the decision making structures of their community. A 'Capacity Building and Community Engagement' working group was tasked with developing a strategy to ensure the project would be "*collaboratively managed by an engaged and committed (empowered) community*". The Strategy's key principles reflected a commitment to working with land managers to develop *trust* and *respect*, through *open and transparent* communication, *flexibility* and *innovation*, and a *commitment to continual improvement*.

Procedural technicalities of developing a working collaborative model were discussed at every steering group meeting. Issues such as incomplete contact lists, failure to circulate past minutes and no early circulation of reports or meeting papers were raised as undermining the ability of the steering committee to make decisions (Biolinks minutes 06/11/2013). Discussion of the precise wording of the governance agreement frustrated some members while others affirmed the importance of getting the finer points right, particularly when developing new collaborative territory (Meeting notes 6/11/13). Procedures such as rotating the role of Chairperson each meeting and requiring a representative from each working group to attend were part of the project's capacity building approach. A commitment to hold meetings at different locations across

8. These included Monitoring and Evaluation, Spatial, Technical and Community Engagement and capacity building. The governance agreement stated that these

the project area resulted in varying attendance depending on individual travel commitments. This led to challenges of continuity, with a quorum never guaranteed and some decisions or discussions only captured in the minutes. Observers and working group members were regularly invited and attendance frequently exceeded the official membership.

The Biolinks project embedded a research program as a way to generate project data, add value to the investment and meet reporting requirements. A collaborating university worked with landholders in the target regions to answer research questions generated at the first project meeting. The research aimed to increase landholder engagement with the project and participants' capacity to disseminate this knowledge through regular exposure and discussion. At the end of each meeting, a doctoral student presented the progress of their research, or an invited guest presented some related data or tools.⁹ The meetings became a venue for project decision making and information dissemination, providing opportunities to learn about governance, project management and socio-ecological systems while building relationships across the geographical, professional and personal scope of the project.

4.3. Collaborative governance in practice

The successful funding bid was described as a '*double edged sword*' (2a_14) that generated project momentum while creating pressures of accountability for the auspicing body. The pressures of reporting deadlines and funding cycles continually challenged the project's commitment to strategic allocation of funding. These external

groups might be 'short lived' and task focused.

accountability requirements reduced reliance on spatial data, distracted attention from quality assurance protocols and undermined the engagement strategy (meeting notes 27/11/14). This tension persisted throughout the implementation of the project and the collaborative nature of the model became essential to keeping perspective about the bigger vision. When early reports showed that on-ground delivery had been slow, Case 2a staff urged faster decisions and less time spent on collaborative procedures. However the collaborative model had been designed to ensure that decisions would support the overall objectives of the project vision, rather than be overwhelmed by the bureaucratic imperative to *get funding out the door (2a_14)*. This tension was the subject of regular steering committee discussion and while Case 2a staff regularly reminded members of budget limitations and reporting deadlines, members continued to insist that collaborative procedures and processes were followed.

The ability to question project decisions was a key feature of the project's collaborative legitimacy. The importance of hearing '*dissenting voices*' was part of the rationale for broad participation, and members of the steering committee sent strong messages to Case 2a staff that the discussions, tensions and passions of the steering group were necessary features of the collaborative model. Absences or non-participation at the meetings were noted as undermining the potential of the project to realise this collaborative 'vision' (meeting notes 8/10/14).¹⁰

9. Examples include pest management strategies, climate change modelling, spatial data applications etc.

10. This message was challenged at the very next meeting, where an external funding rounds was announced with little notice, catching LLS staff unprepared and reducing their participation in the Biolinks meeting as they scrambled to meet the deadline.

4.4. Evidence for collaborative governance

Despite a strong focus on the collaborative nature of the project and a commitment that '*all aspects of the project [would] be monitored*', project documentation lacked detailed consideration of how the governance model would be evaluated. Briefly mentioned as a possible strategy to address low landholder interest (Border Rivers-Gwydir Catchment Management Authority 2012c, 2012b) there were no defined measures or outcomes attached to implementation of the governance model itself, reflecting the projects' focus on outcomes linked to *capacity building* and *engagement* activities to enable collaborative **management**, rather than **governance**, of natural assets (Border Rivers-Gwydir Catchment Management Authority 2012a, 2013d) There was no specific mention of the governance model as a strategy for achieving these objectives, despite respondents pointing to participation in the steering committee or working groups as an exercise in capacity building. At no stage was the model of governance described in either of the project plans¹¹. As a result, indicators and associated research questions missed the opportunity to document the collaborative innovation (Brigalow Nandewar Biolinks Project Capacity Building and Community Engagement working group 2013). The subtle distinction between the governance mechanism and the activities guided by the mechanism were not articulated (Border Rivers-Gwydir Catchment Management Authority 2012a) (Border Rivers-Gwydir Catchment Management Authority 2012b, 2012c).

11. Project plans submitted to the funding body commence with a requirement to *Develop an effective and cohesive governance structure that can be used to oversee the delivery of the project, and include a mid-project commitment to Review the governance structure of the project...Ensure it is effective and*

4.5. The Regional Body

The role of the regional body (the CMA) was crucial in this case study. They were seen as the logical body to formally apply for the project funding, as they had the financial and human resources structures to manage a large amount of money. As a result, they also accepted the risk of non-completion or under-achievement, a risk that drove staff preoccupation with on-ground project delivery. While previous stakeholder complaints seemed focused on the centralising, bureaucratic tendency of the regional bodies (Department of Environment 2009), in this case the Biolinks participants willingly handed this risk and responsibility to the organisation. This created an interesting and persistent tension between the collaborative ideology of the project, and the pressures of accountability that ran through the regional body. The need to build internal staff capacity to understand collaboration and partnerships had already been identified through Case 2a's CAP development, and the NRC focus on adaptive governance which encouraged the organisational leadership to take these broader perspectives more seriously.

4.6. Implementation

The Biolinks project emerged from Case 2a's commitment to flexibility, adaptation and collaboration. It drew legitimacy from the model described in the CAP and was championed by key individuals that saw an explicit connection between governance and on-ground action. While setting up collaborative procedures was time consuming and seen as contributing to delays in reporting against targets (meeting notes 27/11/14), the project came with a large amount of multi-year funding at a time of

continues to guide and to promote the project (Border Rivers-Gwydir Catchment Management Authority 2012c, 2012b).

reduced institutional focus on NRM, and allowed the newly formed Local Land Service to demonstrate on-ground works, as well as meet the collaborative requirements of the CAP. At the same time, pressure to consolidate the work of the CMA before it was wound up saw a retreat from ideals of collaborative implementation, losing the momentum of the CAP process and attempts to plan out who was responsible for leading on the range of priorities committed to in the plan.¹² This was seen as a missed opportunity.

Although the Biolinks project was held separate to some degree, operational decisions were vulnerable to being overwhelmed by established bureaucratic procedures. Key individuals were needed to remind participants of the project vision and became the memory holders of the project genesis (meeting notes 27/11/14). In their absence, the meetings tended to revert to more traditional, less-collaborative modes of project management. Failure to meet reporting deadlines increased pressure on 2a staff and the risk that when pushed, they would make decisions as a '*benevolent dictator*' (2a_16) rather than stand by collaborative implementation of the model. While the tension between the 'vision' of the project and accountability for public funds could be productive, it fell to the steering committee to keep a grip on the motivating passion and focus that had brought people to the table in the first place.

Procedural decisions to rotating the chairperson and hold meetings across the geographical span of the project conveyed *a spirit of fairness and equity* (evaluation response Dec 2014) while also disrupting continuity. These decisions, which attempted

12. ...a lot of things have been overshadowed by the Local Land Services.... the collaborative stuff is sort of been put on the back burner a bit. (2a_17).

to operationalise the collaborative and participatory intention of the project, struggled to overcome the practical implications of varying capacity within the group. As a result, some meetings were more effective than others. Suggestions from working groups were often made without serious consideration of implementation, increasing expectations of Case 2a staff.

Despite these limitations, the governance structure enabled a broad range of people to work towards collaborative decision-making and created a pathway for particular applied knowledge to be represented at the meetings. It was also key in engaging participants who saw what was happening in the project, heard from other working groups, and gained information to share with the wider community. However, the difficulty of keeping this engagement active was addressed by several respondents and the flow back-and-forth between the groups and the committee was identified as an ongoing issue (meeting minutes 27/11/14).

The importance of supportive leadership emerged as a key theme, which might seem ironic in a case study focused on collaborative governance. The need for champions both within and without the organisation had been emphasised in the design of the original collaborative framework (Prior 2012a, 2012b). The organisational change ushered in by the LLS reforms had the potential to destabilise this collaborative vision and the ongoing support of the General Manager was an important enabling factor for the Biolinks project.

4.7. Accountability

There are important distinctions to be made between implementation of the collaborative model in the context of the CAP and the Biolinks project. While the CAP lost prominence due to uncertainty and institutional change, the Biolinks project continued, largely due to its independent, multi-year funding. The project demonstrated a model that made a conceptual link between decision-making processes and the exercise of *power*, with complex implications for project accountability. The collaborative governance framework created potential to both engage NRM interests and drive accountability by asking *what are you going to actually contribute?* (2a_15) however the Biolinks project illustrated the difficulties inherent in putting these ideals into practice.

While the Natural Resources Commission review had encouraged efforts to capture the contributions of all stakeholders in achieving common NRM objectives, this created tension between conventional reporting templates and new lines of 'collaborative' accountability. This intersection between *collaboration* and *accountability* recurred during the Biolink's attempts to build a robust '*institution*' of collaboration. Non-agency collaborators were seen as willing to contribute ideas but not to accept responsibility for making it happen, undermining collaborative potential.¹³ Similarly, achieving accountability from other government agencies required serious commitment from leadership, commitment of resources and alignment with collaborative reporting

¹³ The need for high level support and leadership was noted in the documents that contributed to development of the CAP collaborative model (Prior 2012a). The difficulty of getting agencies to commit resources towards implementation of the targets was also raised. The institutional changes and disconnection

frameworks. The Biolinks project attempted to tackle these dilemmas by increasing accountability beyond the CMA, linking collaboration with engagement in the context of building capacity and developing a shared understanding of the challenges of delivering high quality NRM.

5. Case study example 2b: Introduction

Case study 2b considers how two key mechanisms, Catchment Action Planning (CAP) and Community Reference Panels, both driven by the legal framework of the Catchment Management Authority Act, attempted to bring community voices into natural resource planning. The central role of the independent Natural Resources Commission (the Commission) in developing and auditing a performance standard for community engagement is considered through these activities. This example suggests that a possible change in organisational culture and procedures of community engagement within the regional body pivoted on the oversight and enforcement function of the Commission.

5.1. Move over "*here come the professionals*".

Case 2b had a reputation for being centralised in its approach, with a bureaucratic organisational culture and an attitude of "*here are the professionals*" (1b_10). Case 2b focused attention and funds on data collection, identifying knowledge gaps and commissioning research to address these gaps (Cork and Delaney 2007; Kelly et al. 2007; Ecological Australia 2011; Ipsos-Eureka Social Research Institute 2007). This was aimed at facilitating better natural resource planning and more strategic

between negotiations and relationships on-the-ground all impacted on the CAP implementation.

investment, as well as understanding cumulative impacts of sectors such as mining and agriculture on biodiversity, soil quality and water use. This ability to marshal data was one of 2b's strong points, however this information-rich approach also made it a powerful threat to mining and agricultural interests in the region (Board minutes 24/10/11 & 24/9/12). In 2012, during routine Ministerial appointment of the organisation's Board, Case 2b's Chairperson was removed among chatter that this was a political decision to stamp out a culture of activism in the leadership. The introduction of the Local Land Services reform agenda coincided with this change in the Board membership and institutional change began to dominate discussion. Despite community encouragement to continue research into the impacts of extractive industries in the region (Ipsos-Eureka Social Research Institute 2013) and an ambitious desire to see Catchment Action Plans embedded in the State's planning framework (Meeting minutes **24/10/11 and 24/9/12**), the looming reform overwhelmed all other topics.

The combination of a strategic and information-rich approach with a desire to keep operational matters 'in-house' undermined broader community engagement with the organisation (The Institute for International Development Limited 2009; Natural Resources Commission 2011a). The Catchment Action Plan was found to rely heavily on expert consultation (Appendix B) and revealed a lack of structured community engagement (Namoi Catchment Management Authority 2011). This resulted in a requirement by the Natural Resources Commission to establish a formal community engagement mechanism focused on providing community input to the review of the plan (Board minutes 24/10/11) and to facilitate 'coordinated action' towards achieving implementation (Natural Resources Commission 2011a) (Namoi Catchment

Management Authority 2012d, 2012c, 2012e). 2b's engagement and communication documents acknowledged a need for "*two way communication...in line with community expectations*" and supported the Commission's requirement to establish community reference panels to enable dialogue by "*engaging the wider...community as well as acting as a sounding board*" for the Catchment Management Authority's (CMA) communication (Natural Resources Commission 2011a; Namoi Catchment Management Authority 2012d).

A more detailed framework document elaborated on the organisations' strategy but failed to clarify important details. Three different definitions of community engagement appeared in this document. The framework aimed to "*ensure the catchment community understands the importance of the CAP*" by communicating key messages in a variety of mediums, and with a range of techniques such as education, extension and partnerships. However these key messages were all concerned with CAP implementation and the organisation's priorities, and did not address the persistent and troublesome 'green/brown' (conservation versus production) divide. The plan was described as reflecting the "*aspirations of the whole community*", although the process of designing these aspirations was largely expert driven and concerned with generating acceptance of pre-determined and defined targets, rather than addressing bigger and as it turned out, more crucial questions of relevance and community support.

5.2. Community Reference Panels

Case 2b's Community Reference Panels were established in September 2012 and met quarterly until December 2013. Three panels of up to six members were

drawn from identified sub-regions of the catchment. Sitting fees and travel costs were paid. In line with an organisational culture of research and documentation, Case2b commissioned a 'best practice' report to guide the selection, form and function of these representative committees (Herriman and Chong 2012). This advice became the cornerstone of the panels' operation. The panels were described as mechanisms for enhancing participatory decision-making, by establishing clear expectations and promoting a deliberative model of communication that was part of a '*cultural shift*' in the organisation.

Applications to join the panels were sought through a publicly advertised Expression of Interest (Namoi Catchment Management Authority 2012a). Terms of Reference were drawn up by the organisation's staff and signed off by the Board prior to the recruitment of the panel, and there was no opportunity to co-create this mechanism. The Terms of Reference presented a formal outline of how the panels would be composed and governed and while they made a clear link to implementation of the Catchment Action Plan, there was no reference to the Engagement and Communications strategy (Namoi Catchment Management Authority 2012d) despite describing the panels as a step in "*formally engaging with the Community*" (Namoi Catchment Management Authority 2012b). Nothing in the document suggested that the Panels were temporary or signalled awareness of pending reform.

Panel membership evolved over the 18-month time frame, with new members coming on board throughout. Difficulty in securing representation from more remote areas due to a combination of large holdings, smaller populations and distance from

2b's administrative offices highlighted the challenge of utilising one strategy across diverse rural communities. While Case 2b was developing a growing understanding about the importance of well-designed community engagement strategies, there were still uncertainties about the purpose and scope of the panels, with the Board '*twitchy*' about the *sphere of influence (2b_19)* and the panel members unsure of their roles. Although the Terms of Reference and Expression of Interest clearly outlined the purpose of the panels, there was repeated discussion about exactly what their role would be. The shadow of institutional change increased uncertainty about the purpose of the mechanism and reduced members' willingness to take a public role (Boronyak and Herriman J. 2013).

The panels were set to work on *deliberative tasks* approved by the Board, with a commitment that their decisions would be accepted by the organisation. The Board was very interested to *know what these reference panels were up to and what they were thinking and saying (2b_19)* and requested monthly updates (Board minutes **22/4/13**). The meetings were convened and facilitated by a staff member with expertise in community engagement and extension, who worked with the panel to ensure that they *understood that ... had no authority or power to actually to actually make decisions (2b_20)*. The tight focus on approved tasks, the provision of information and the control of the agenda rested with the CMA in this case. While the process may have matured over time, the panels were initially required to meet the needs of the organisation through structured processes (see Figure 3).

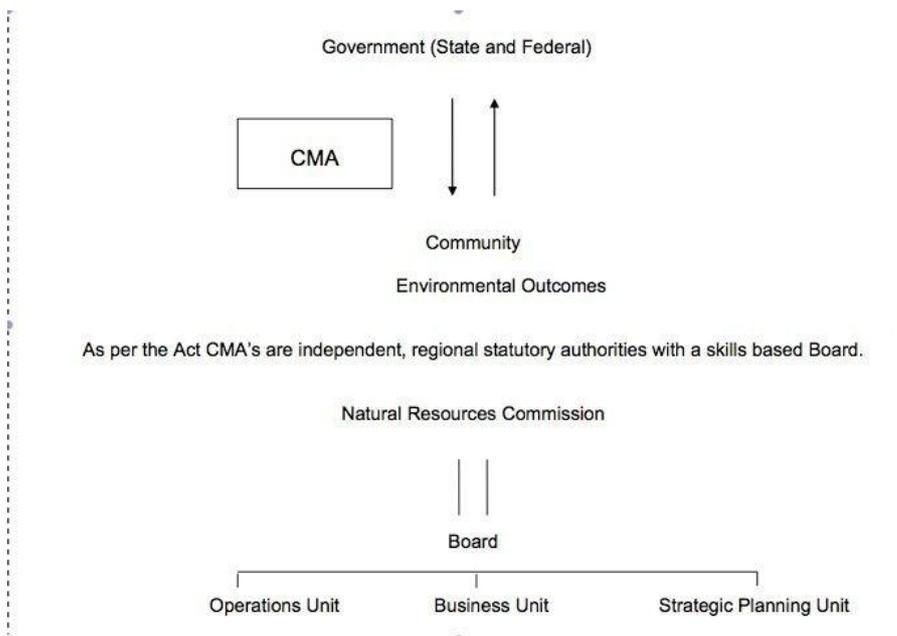


Figure 3: Flow chart illustrating the organisation's position in the institutional framework, presented to participants at the first meeting of each panel.

The panels were tasked with developing a social and ecological profile for each sub-region to inform the Catchment Action Plan. This requirement met the adaptive management interests of the organisation, and the Commission's second recommendation for Ministerial approval of the CAP¹⁴. As meeting notes are sparse and not publicly available, these sub-regional resilience models are important artefacts of the mechanism. The models are populated with terminology used by the panel members as part of a commitment to reflect the concepts and language of the participants. The models were then adapted by 2b staff to fit with the plan's resilience framework of *assets* and *drivers of change*, in an attempt to ensure consistency and comparison between them in the final document (Namoi Catchment Management Authority 2013b). The resulting resilience assessments were presented as a tool for

14. Recommendation 2:

Improving analysis at multiple scales - The CMA should implement its plans to conduct an analysis of sub-regional social-ecological systems in the

future planning and a starting point to inform '*communities and decision makers*' about the environmental and social conditions of the catchment. This activity marked the end of the panels' contribution to the CAP, their first (and only) major task. The panels then focused on the upcoming reform and meeting notes recorded concern about how the CAP would be incorporated in the new regime¹⁵ (Meeting notes 12/03/2013 & 14/03/2013). The panels' final action was to draft formal recommendations to the incoming Board in support of ongoing community advisory mechanisms in the mould of the panels. It is unclear whether the new Board received these recommendations.

A mid-term review of the panels found that "*the overwhelming majority of CRP members are satisfied overall... and the panel has met their expectations*" (Boronyak and Herriman J. 2013). Respondents believed that their involvement had resulted in better decisions, that the governance and group experience was well run and valuable, with good facilitation and conflict resolution ensuring that everyone could "*have a say*". Panel members valued the deliberative nature of the meetings and the "*citizen view*" that they were encouraged to take, as well as recognising the capacity building and learning outcomes of the processes.

The main area of improvement was to meet the desire of the panel members to "*serve and connect*" with the community. The government driven pressures of the planning tasks had required the focus of the meetings to be on meeting these needs, rather than addressing community outreach. The changing institutional framework

Namoi catchment (tablelands, slopes and plains). (Natural Resources Commission 2011a)

15. Evaluation documents record "concerns on broader issues" such as changes to the administration of the CMA through the LLS reforms and "the uncertainty that brings". (Boronyak and Herriman J. 2013)P4

concerned respondents, who feared that the work they had done would be lost, and that implementation of the CAP was uncertain. The reforms were seen as disruptive and distracting, and based on previous experiences with government changes, "*disheartening for the people that invested their time*" (Boronyak and Herriman J. 2013).

Communicating with the catchment community had been previously identified as an obstacle in both promoting the work of the CMA and the opportunity to be involved in the panel mechanism (Ipsos-Eureka Social Research Institute 2007; Natural Resources Commission 2011b; Namoi Catchment Management Authority 2012c). Panel members reported community complacency and ignorance in relation to natural resource management and linked this to the failure of the State planning framework to address community concerns about controversial developments such as coal seam gas expansion in the region. The meeting notes suggested that community *disengagement* was linked to a perceived lack of control over rural resource decision-making. The evaluation records negative perceptions of government waste, bureaucratic costs and a vision of Case 2b as removed from grass-roots land managers. The role of the panels in addressing this disconnection was unresolved, with one member quoted as saying "*it was not possible to politely tell them how much hostility there is in the land managing community*" (Boronyak and Herriman J. 2013).

5.3. Managing up: top-down scrutiny and bottom-up culture change

We had, if you like, one eye on the Ministerial and the NRC response to the CAP (2b_20).

The Commission's audit gave impetus to a change in the organisation's culture of community engagement, creating a top-down requirement that gave others within the organisation support to '*manage up*' by emphasising the need for better quality community engagement¹⁶. The effect was to sandwich 2b's Board and senior management between top-down requirements and bottom-up enthusiasm for change. Despite a focus on partnerships and concerted efforts to assemble good quality data in support of NRM objectives (Roberts Evaluation Pty Ltd 2009; Namoi Catchment Management Authority 2007), Case 2b was starting to face the reality that implementation was becoming more challenging as the pool of landholders whose values aligned with the organisation's agenda dwindled. A lack of awareness in the community about the core business of the organisation prompted calls for better communication (Ipsos-Eureka Social Research Institute 2010). The low level of community input to the CAP process and lack of alignment with other government agency objectives suggested that there were not enough advocates for the organisation in the face of calls for reform in the rural land management policy framework. Unfortunately, in implementing the panel mechanism Case 2b continued to concentrate efforts on those who were already working with, or had expressed interest in working with them (Namoi Catchment Management Authority 2012d), rather than tackling the serious challenges of the *green/brown* divide.

Addressing this persistent tension between conservation and production audiences should have been the main focus of the Catchment Action Plan and the panel mechanism. Although the panels were described as *deliberative* forums (2b_20),

16. *it gave you standing, it gave you leverage.... "whether you like it or not, if you want to make the NRC happy, you've got to allow me to do this". So*

the tight restriction of the agenda suggested a fear of losing control that may stem from the belief that letting too many perspectives or interests into a decision-making process will make it unwieldy and unproductive, or encourage conflict and point scoring. Case 2b attempted to move beyond the blunt instrument of investment and financial incentives by implementing mechanisms for engaging different perspectives; however the need to generate evidence for reporting to both State and Federal funding bodies was limited in terms of community engagement indicators that could encourage genuinely devolved decision-making. While Case 2b showed early indications of how an institutional framework might enable new norms through procedures of accountability, risk-aversion and legislative reform cut this experiment short.

6. Results & Discussion

A case study that documents community governance mechanisms during a period of institutional change is useful in light of concerns about the sustainability of community engagement, its role in building community capacity, addressing power imbalances and achieving natural resource management outcomes (Torgler et al. 2010; Weber 2003; Reed 2008). The case study raises questions about how community efforts to be involved in natural resource decision-making are valued and how they are sustained during times of change. The analysis now highlights significant lessons from the case study and links them to a series of policy recommendations to inform development of institutional frameworks for community engagement in natural resource governance (see Table 3).

really important leverage. ...In terms of being able to manage up. (2b_19)

Case study evidence	Finding	Content	Recommendation
NRC quality standards have stimulated organizational improvement in community engagement and adaptive management	Importance of a institutional standard for best practice in community engagement and governance	Transparent and well-communicated standards; manages expectations; provides guidance; links to international principles	Develop qualitative indicators for community participation in NR governance; engender a substantive commitment through clear statement of intention
NRC reviews have given staff and Board an evidence base to pursue innovation in natural resource governance	Need to give this teeth through a regular review and audit function	Link standards to routine review and audit; non-political; clear impact on operational funding	Legislative certainty for independent body such as Natural Resources Commission
Reporting requirements can distract effort from authentic community engagement; fear of failure can reinforce familiar behaviours and reduce innovation	Careful balancing of accountability with responsibility	Evidence requirements negotiated to encourage responsibility; risk assessment to include consideration of community governance impacts	Reporting frameworks negotiated to devolve accountability
Community engagement is undermined when commitments are not implemented; frustration with contradictory policy leads to disengagement.	Importance of harmonisation between objectives and commitments	Commitments negotiated with stakeholders through planning processes; Industry contributions recognized; Agency staff confident of commitments	High level policy harmonization implemented to support commitments achieved; integration of planning processes through regulatory reform
Efforts to establish trust and participation through community governance are undermined by regular reform.	Improve change management practices	Consider reform impacts on community engagement; increase capacity for environmental change	Legislative reform implemented as best practice change management; Reduce agency churn
Increasing community action in NRM requires support for inclusive, participatory models.	Support innovative community governance mechanisms	Reporting frameworks reflect the effort of innovation; allocate funding to support capacity development	Funding opportunities tied to innovation in NR governance; tax incentives for innovative business models; longer funding cycles to enable development

Table 3: Findings and recommendations presented as policy reform suggestions.

The role of the independent Natural Resources Commission (the Commission) was significant in both examples. The audit and reporting trail provided a detailed archive for documentary analysis, identified key directions for improvement and encouraged a growing culture of adaptive management. The application of the Commission's Standard provided a best practice benchmark for CMAs and transparent criteria for evaluation of performance (Natural Resources Commission 2005). The role of the Standard in setting expectations and then driving change is clearly recorded in case 2b. It provided encouragement for good quality processes, highlighted areas for improvement, and created a line of accountability through the Board that focused attention on the legislated objectives of the organisation. This strategic role was an institutional mechanism that worked effectively and in the context of policy reform remains a crucial mechanism for the integrity of community engagement objectives. These features have been incorporated in the new Local Land Services Act (Local Land Services Act 2013 no51 2013) in recognition of their utility as accountability mechanisms for public good investment.

The legal requirement to develop a Catchment Action Plan (CAP) was also significant in both examples described in this paper. The adaptive management principles promoted by the Commission enabled the development of 2a's collaborative governance model, which drew legitimacy from the accepted CAP. Without this reinforcement, Biolinks governance may have come under more scrutiny during the reform and merger process. The ability of the project to develop, adapt to new institutions, and continue to implement changes supported the role of the Commission, the importance of the CAP and the flexibility of the adaptive approach. The review of

The difficulty of balancing the need for accountability with negative consequences of risk averse and overly bureaucratic procedures remains a challenge for natural resource governance. While funding bodies encourages concepts of collaboration and governance innovation, funding agreements and reporting requirements render the hard work of community governance invisible and create a powerful tendency to reinforce the status quo. In both examples, disconnection between planning process, community engagement activities and high-level commitments created an implementation gap that CMA staff were unable to confidently address. A lack of other government agency commitment to putting the CAP into practice stemmed from entrenched norms of bureaucratic divisions which reduced community trust in CMA staff, as the rhetoric of 'whole of government' NRM action was undermined. Although the reform process combined several agencies in an attempt to promote alignment, in practice the challenge of merging different organisational cultures and operational expertise requires ongoing effort. Attempts to develop negotiated and devolved accountability measures must be a priority for projects that want to activate broader community action on natural resource management.

The case study provided insight into impacts of institutional change and policy reform on community engagement in natural resource governance. The Biolinks project commenced in the shadow of the reform. The lead agency became embroiled in the 'spill and fill' of the restructure, with changing reporting and acquittal deadlines at both the State and Federal level increasing pressure to accelerate on-ground outcomes. The disruption of the merger coincided with an extended period of drought that made regeneration projects more difficult and reduced landholder willingness to be involved.

New internal accounts systems and a reduction in staffing slowed down the organisation's ability to get payments out the door. These obstacles occurred at the biggest resourcing point of the six year project plan, increasing the risk of not meeting milestone commitments and the perception that a commitment to '*quality*' projects made implementation more difficult. Federal funding, while securing the viability of the project, also brought demands that did not account for the needs of the emerging governance model. The insistence on a collaborative model was an innovation on top of a transition, and the combination led to inevitable delays. It is important to consider how these policy reform dynamics might be overlooked with a disproportionate focus on the 'problematic' innovation of the governance model.

Cycles of regular organisational change can lead to a loss of relationships, breaking of trust, and a slow rebuilding that undermines community engagement (Wallis and Ison 2011). In 2b, the move to Local Land Services saw key staff leave and the existing panels discontinued. Unlike Case 2a's Biolinks model, 2b's panels were not involved in a specific project, had no independent funding and were thus vulnerable to change. The clear ownership of the panels by the CMA reduced the likelihood of the group self-organising. During the transition a new community mechanism was designed to meet the Act's requirement for some form of *local advisory group* (Local Land Services Bill 2013 (Second reading) 2013; North West Local Land Services 2014). A conscious effort to break associations with the previous organisation meant limited efforts were made to maintain continuity of membership. This reluctance to build on the community engagement efforts of the previous organisation reduced the capacity gains made under the supervision of the Commission. Combined with a lack of certainty about

the future implementation of the CAPs, community engagement was likely to suffer from increasing cynicism and disconnection in regional natural resource governance.

Although the new LLS Act (Local Land Services Act 2013 no51 2013) includes a regular audit requirement, there is no reference made to the Natural Resources Commission Act 2003 (Natural Resources Commission Act 2003 No 102 2003) and no clauses that tie audits to the new standards developed. Indeed it is only a reference to the second reading of the Bill that suggests an ongoing role for the Commission and a revised quality standard¹⁷ (Local Land Services Bill 2013 (Second reading) 2013). Without clear legislative authority, the independent standing of the Commission is weakened. The remit of the Commission has broadened to providing advice on a range of other issues and indicators for progress on the key functions of the Commission reflect the vulnerability of this important institutional mechanism, stating that *"we will know we are on track in achieving our goals when: our support to the Premier and Ministers is appreciated"* (Natural Resources Commission 2013b).

7. Conclusion

Improving institutional mechanisms for community engagement in rural resource governance requires reforms that drive innovation, change and better access for

17. The NRC developed a new performance standard to guide LLS business (Natural Resources Commission 2014) in accordance with the requirements of the new Act (part 1 section 4(2)). Interrogation of the guidances revealed a persistent tension between commitments to *localism* and *devolution*, and a need for *accountability, consistency and rigour*. This focus on ensuring, enforcing and complying with the Performance Standard and the legislation demanded the new LLS Boards *"accept full accountability for organisation-wide risk"* (pg20), creating a link between devolution of power and a Boards' *"appetite for risk"* (p21). While the Standard also recognised the importance of **leadership** in establishing 'shared goals' with communities, this burden of absolute accountability could foster a risk-averse management culture antithetical to genuine devolution.

community voices. The case study presented in this paper draws on examples of regional natural resource planning to examine how existing requirements for community engagement were put into practice, and how different community governance mechanisms responded to institutional reform. This analysis has not been concerned with the appropriateness of the reform. While acknowledging the importance of questions about reduced funding for NRM priorities and the dilution of NRM focus in the new model, this paper has focused on the way that the institutional change impacted on community engagement in rural landscape governance. The planning processes described in this case study revealed disconnections between operational staff commitments and management decisions; between State and Federal funding priorities and the assets valued by the community; and clearly articulated disconnection between government agencies, private landholders and industry stakeholders. These disconnections affirm the importance of mobilising vested interests in community planning process as part of the challenge inherent in developing forms of governance that don't replicate established democratic procedures. When a public agency demonstrates a lack of engagement, this leads to poor investment models, a lack of trust and reduced community support in times of institutional change.

Rural policy continues to struggle with the ongoing challenge of finding the best scale for natural resource decision-making. A historic mismatch between catchments, bioregions and local government boundaries has undermined connectivity in both landscape and social systems (Brunckhorst and Reeve 2006). This has made planning difficult and stymied collaboration across regions. The NRC's push to build understanding of socio-ecological landscapes emerged from a long period of scientific,

academic and political experimentation in rural policy development and delivery (Curtis et al. 2014). It is unclear if these gains will be built upon in the new model. The future of the Catchment Action Plans remains unclear. Despite assurances that they will play a '*critical role for planning in natural resource management*' (Border Rivers-Gwydir Catchment Management Authority 2013c), the new focus on production and bio-security suggests that previous commitments will have to be balanced with these new planning needs. This negotiation process will take time and divert attention from community engagement and project development. Without well-established and consistent community governance mechanisms, there is little momentum to keep things moving on the ground while organisations are busy re-arranging the deck chairs.

While community concerns about the merger highlighted the political dimensions and reduced focus on natural resource management, others were hopeful about the possibility of broadening the support base for rural land management, another perspective saw the opportunity to *change the conversation* with landholders and address concerns from rural communities about the delivery of government support in general. However, institutional reform cannot be considered discretely and the political dimensions of the change have resonance for maintaining or increasing community engagement in natural resource governance. The evidence of previous legislative reviews does not support the 'failure' of the catchment model, while changing Federal funding priorities have skewed environmental investment towards industry productivity. Powerful lobbies within the agricultural rate holder base and the influence of economic heavy weights such as the extractive industries undoubtedly had a role to play in steering the course of the new model. Unless the new plans are integrated with

overarching planning and investment instruments, it is unlikely the reform will address this significant limitation in the regional model.

The case study documents a period of institutional change that is still underway. Conclusions must be tempered by the evolving nature of the policy context, and form the basis for ongoing research into how community voices are brought into natural resource governance. This requires development of evaluation approaches that are able to distinguish between more run-of-the-mill, established ways of doing business, and innovative governance approaches. There is a theoretical and ideological component to the case study that can be held distinct from the context. Natural resources provide a lens for attempts to change the relationship between the government and community. While previous research has explored methods of evaluating collaborative governance (McKinney and Field 2008; Rowe and Frewer 2004; Ford-Thompson et al. 2012), there has been limited attention to the importance of institutional and temporal factors in determining the effectiveness of natural resource policy (Prager et al. 2015). The case study documented in this paper highlights the need for longitudinal studies of how regular cycles of policy reform disrupt community engagement and the implications of this disruption for effective and innovative rural natural resource governance.

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Bibliography

- Ansell, C., & Gash, A. (2007). Collaborative governance in theory and practice. *Journal of Public Administration Research, 18*(4), 543-571, doi:10.1093/jopart/mum032.
- Australian Government (2013). Shaping the future: Caring for our Country 2013-2018. In A. Government (Ed.).
- Australian Government (2014). Have your say on the National Landcare Programme. <http://www.nrm.gov.au/funding/nlp/index.html>. Accessed 16/9/14 2014.
- Barbour, L. (2014). No new money for Landcare groups. *ABC Rural*. ABC online: Australian Broadcasting Commission.
- Bartel, R. (2013). Vernacular knowledge and environmental law: cause and cure for regulatory failure. *Local Environment: the International Journal of Justice and Sustainability*, doi:10.1080/13549839.2013.798636.
- Bellamy, J. (2007). Adaptive Governance: The Challenge for Regional Natural Resource Management. In A. Brown, & J. Bellamy (Eds.), *Federalism and regionalism in Australia: new approaches, new institutions?* : ANU.
- Border Rivers-Gwydir Catchment Management Authority (2012a). Draft Program Logic (version 5). Internal document.
- Border Rivers-Gwydir Catchment Management Authority (2012b). Project Management Plan: Landscape connectivity. Internal document.
- Border Rivers-Gwydir Catchment Management Authority (2012c). Project Management Plan: Riparian regeneration. Internal document.
- Border Rivers-Gwydir Catchment Management Authority (2013a). Border Rivers-Gwydir Catchment Action Plan.
- Border Rivers-Gwydir Catchment Management Authority (2013b). Border Rivers-Gwydir Catchment Action Plan 2013-2023: Support document.
- Border Rivers-Gwydir Catchment Management Authority (2013c). Border Rivers-Gwydir Catchment Action Plan signed, sealed and ready to deliver. *Media release*.
- Border Rivers-Gwydir Catchment Management Authority (2013d). Monitoring, Evaluation, Reporting and Improvement Activities for the Border Rivers-Gwydir Catchment Management Authority. Internal document.
- Border Rivers-Gwydir Catchment Management Authority (2014). Brigalow Nandewar Biolinks Steering Committee DRAFT Collaborative Governance Agreement. Internal document.
- Boronyak, L., & Herriman J. (2013). Review of Namoi Catchment Management Authority Community Reference Panels. In P. f. N. Catchment, & M. Authority (Eds.): Institute for Sustainable Futures.
- Brigalow Nandewar Biolinks Project Capacity Building and Community Engagement working group (2013). Capacity building and community engagement strategy. (pp. 18): Border Rivers Gwydir Catchment Management Authority.
- Brown, A. (2014). Australian constitutional values survey. Centre for Governance and Public Policy: Griffith University.
- Brunckhorst, D., & Reeve, I. (2006). A Geography of Place: principles and application for defining 'eco-civic' resource governance regions. *Australian Geographer, 37*(2), 147-166, doi:10.1080/00049180600672334.
- . Catchment Management Authorities Act No.104 (2003). In NSW (Ed.).
- Clayton, H., Dovers, S., & Harris, P. (2011). Synthesis of broad issues and opportunities: Natural Resource Management Policy and Planning in Australia. In H. C. P. Forum (Ed.), (Vol. 1). Canberra ACT: Australian National University.
- Colebatch, H. K. (2009). Governance as a conceptual development in the analysis of policy. *Critical Policy Studies, 3*(1), 58-67, doi:10.1080/19460170903158107.
- Cork, S., & Delaney, K. (2007). Namoi Environmental Scan. *prepared by Delaney and Associates for Namoi CMA*.
- Curtis, A., Ross, H., Marshall, G. R., Baldwin, C., Cavaye, J., Freeman, C., et al. (2014). The great experiment with devolved NRM governance: lessons from community engagement in Australia and New Zealand since the 1980s. *Australasian Journal of Environmental Management, 21*(2), 175-199, doi:10.1080/14486563.2014.935747.
- Department of Environment and Climate Change NSW (2009). Evaluation framework for CMA natural resource management. Sydney: State of New South Wales.
- Department of Environment, C. C. a. W. N. (2009). Review of the Catchment Management Authorities Act 2003. Sydney: NSW Government.
- Ecological Australia (2011). Proposed Framework for Assessing the Cumulative Risk of Mining on Natural Resource Assets in the Namoi Catchment. *prepared for Namoi CMA*.

- Epstein, G., Bennet, A., Gruby, R., Acton, L., & Nenadovic, M. (2014). Studying power within the social-ecological system framework. In M. Manfredi, J. J. Vaske, A. Rechkemmer, & E. Duke (Eds.), *Understanding Society and Natural Resources*: SpringerOpen.
- Eversole, R. (2011). Community Agency and Community Engagement: Re-theorising Participation in Governance. *Journal of Public Policy*, 31(1), 51-71, doi:10.1017/s0143814x10000206.
- Fischer, F. (2005). *Citizens, Experts and the Environment: the Politics of Local Knowledge* (1st ed.): Duke University Press.
- Fisher, D. (2006). Water resources governance and the law. *Australasian Journal of Natural Resources Law and Policy*, 11(1), 1-41.
- Fitzsimons, J., & Wescott, G. (2013). The importance of interdisciplinary research in conservation networks: lessons from south-eastern Australia. In I. Pulsford, J. Fitzsimons, & G. Wescott (Eds.), *Linking Australia's Landscapes : Lessons and Opportunities from Large-scale Conservation Networks* CSIRO publishing.
- Ford-Thompson, A., Snell, C., Saunders, G., & White, P. (2012). Stakeholder Participation in Management of Invasive Vertebrates. *Conservation Biology*, 26(2), 345-356, doi:10.1111/j.1523-1739.2011.01819.x.
- Government, N. (2011). NSW 2021: A plan to make NSW number 1 (P. a. Cabinet, Trans.). In P. a. Cabinet (Ed.). Sydney NSW Government.
- Griffith, R. (2009). NRM Models and frameworks: advantages and pitfalls. In N. R. Commission (Ed.).
- Herriman, J., & Chong, J. (2012). Advice for Managing and Facilitating Community Reference Panels. In N. C. M. Authority (Ed.): Institute for Sustainable Futures.
- Hillman, M., & Howitt, R. (2008). Institutional change in natural resource management in New South Wales, Australia: Sustaining capacity and justice. *Local Environment*, 13(1), 55-66, doi:10.1080/13549830701581929.
- Howard, T. (2014). From international principles to local practices: a socio-legal framing of public participation research. *Environment, Development and Sustainability*, in press, doi:(DOI) 10.1007/s10668-014-9572-3.
- Ipsos-Eureka Social Research Institute (2007). Research Highlights: Namoi Catchment Management Authority Stakeholder & Community Benchmarking Study 2007. In Namoi Catchment Management Authority (Ed.): Namoi Catchment Management Authority,.
- Ipsos-Eureka Social Research Institute (2010). Research Highlights: Namoi Catchment Management Authority Stakeholder & Community Tracking Study 2010. In Namoi Catchment Management Authority (Ed.): Namoi Catchment Management Authority,.
- Ipsos-Eureka Social Research Institute (2013). Research Highlights: Namoi Catchment Management Authority Stakeholder Survey. In Namoi Catchment Management Authority (Ed.): Namoi Catchment Management Authority,.
- Kelly, B., Merrick, N., Dent, B., Milne-Home, W., & Yates, D. (2007). Groundwater Knowledge and Gaps in the Namoi Catchment Management Area. *Report prepared for Namoi CMA*.
- Keogh, M. (2014). Time to rethink farmland environmental policies. http://www.farminstitute.org.au/newsletter/2014/November_2014/November_2014_featurearticle.html. Accessed 06/01/15 2015.
- Lister, R. (2002). (De)regulating the Rural Environment. *Environmental and Planning Law Journal*, 19(1), 24.
- . Local Land Services Act 2013 no51 (2013). In N. S. Wales (Ed.).
- . Local Land Services Bill 2013 (Second reading) (2013). In N. L. Council (Ed.).
- Lockwood, M., & Davidson, J. (2010). Environmental governance and the hybrid regime of Australian natural resource management. *Geoforum*, 41(3), 388-398.
- McKinney, M., & Field, P. (2008). Evaluating community-based collaboration on federal lands and resources. *Society & Natural Resources*, 21(5), 419-429, doi:10.1080/08941920701744215.
- Namoi Catchment Management Authority (2007). Partnership Policy.
- Namoi Catchment Management Authority (2011). Namoi Catchment Action Plan 2010-2020.
- Namoi Catchment Management Authority (2012a). Community Reference Panels Expression of Interest Form.
- Namoi Catchment Management Authority (2012b). Community Reference Panels Terms of Reference. Namoi Catchment Management Authority,.
- Namoi Catchment Management Authority (2012c). Connecting with the Community: Engagement and Communications Framework. online: Namoi Catchment Management Authority,.
- Namoi Catchment Management Authority (2012d). Engagement and Communications Strategy.
- Namoi Catchment Management Authority (2012e). Media Release: Community Reference Panels established for the Namoi Catchment.
- Namoi Catchment Management Authority (2013a). Namoi Catchment Action Plan 2010-2020: 2013 Update summary.

- Namoi Catchment Management Authority (2013b). Namoi Catchment Action Plan 2010-2020: Supplementary document 2.
- Native Vegetation Act 2003 No 103 (2003).
- Natural Resources Commission (2005). Standard for quality natural resource management. Sydney: NSW Natural Resources Commission.
- Natural Resources Commission (2006). Progress of Catchment Action Plans: Their place in current and future natural resource management in NSW. Sydney: NSW Natural Resources Commission.
- Natural Resources Commission (2008). Progress report on effective implementation of Catchment Action Plans. Sydney: NSW Natural Resources Commission.
- Natural Resources Commission (2010a). Progress report towards state-wide standard and targets. Sydney: NSW Natural Resources Commission.
- Natural Resources Commission (2010b). Progress report towards state-wide standard and targets: Summary. Sydney: NSW Natural Resources Commission.
- Natural Resources Commission (2011a). Assessment and recommendation report: Namoi upgraded Catchment Action Plan. Natural Resources Commission.
- Natural Resources Commission (2011b). Upgrading catchment action plans: report on the pilot upgrades in the Central West and Namoi catchments. online: Natural Resources Commission, NSW Government.
- Natural Resources Commission (2013a). Assessment of the Border Rivers-Gwydir upgraded Catchment Action Plan. NSW Natural Resources Commission.
- Natural Resources Commission (2013b). Strategic Plan 2013-14. Sydney: NSW Natural Resources Commission.
- Natural Resources Commission (2013c). Upgrading Catchment Action Plans: Lessons for Local Land Services. online: Natural Resources Commission, NSW Government.
- Natural Resources Commission (2014). Performance standard for Local Land Services. Sydney: NSW Natural Resources Commission.
- . Natural Resources Commission Act 2003 No 102 (2003). In NSW (Ed.).
- North West Local Land Services (2014). Media Release: Community reference panels.
- Ostrom, E. (2010). Beyond Markets and States: Polycentric Governance of Complex Economic Systems. *American Economic Review*, 100(3), 641-672, doi:10.1257/aer.100.3.641.
- Prager, K., Nienaber, B., Neumann, B., & Phillips, A. (2015). How should rural policy be evaluated if it aims to foster community involvement in environmental management? *Journal of Rural Studies*, 37(0), 120-131, doi:<http://dx.doi.org/10.1016/j.jrurstud.2014.12.006>.
- Prior, J. (2012a). CMA-Landcare Partnerships Project. (pp. 42): Border Rivers Gwydir.
- Prior, J. (2012b). A collaborative governance model for BR-G CMA. (pp. 9): Border Rivers Gwydir.
- Programs Committee of the Natural Resource Management Ministerial Council (2002). Overview guidelines for community engagement by regional NRM bodies. *NRM knowledge online digital archive*. Canberra ACT: Commonwealth of Australia.
- Reed, M. (2008). Stakeholder participation for environmental management: A literature review. *Biological Conservation*, 141(10), 2417-2431, doi:10.1016/j.biocon.2008.07.014.
- Roberts Evaluation Pty Ltd (2009). Using Partnerships: An evaluation of the partnership between the Namoi CMA and the Cotton Catchment Communities CRC and A Partnership Strategy for the Future. In N. C. M. Authority (Ed.). Melbourne: Namoi Catchment Management Authority.
- Robins, L., & Kanowski, P. (2011). 'Crying for our Country': eight ways in which 'Caring for our Country' has undermined Australia's regional model for natural resource management. *Australasian Journal of Environmental Management*, 18(2), 88-108, doi:10.1080/14486563.2011.566158.
- Rowe, G., & Frewer, L. J. (2004). Evaluating Public-Participation Exercises: A Research Agenda. *Science, Technology & Human Values*, 29(4), 512-557.
- Ryan, S., Broderick, K., Sneddon, Y., & Andrews, K. (2010). Australia's NRM Governance System: Foundations and Principles for Meeting Future Challenges. In A. R. N. Chairs (Ed.).
- Ryan, T. (n.d.). Report on the Review of the NSW Livestock Health and Pest Authority (LHPA) Model In N. Minister for Primary Industries (Ed.). Sydney: New South Wales government.
- Taft, K. (2014). Fossil fuels, global warming and democracy: a report from a scene of the collision. In Whitlam Institute (Ed.). Australian Policy Online: University of Western Sydney.
- The Institute for International Development Limited (2009). Audit report: Namoi Catchment Management Authority. Natural Resources Commission.
- Torgler, B., Garcia-Valinas, M., & Macintyre, A. (2010). *Participation in Environmental Organisations*: Routledge.
- Wallington, T., Lawrence, G., & Loechel, B. (2007). Reflections on the Legitimacy of Regional Environmental Governance: Lessons from Australia's Experiment in Natural Resource Management. *Journal of Environmental Policy & Planning*, 10(1), 1-30, doi:10.1080/15239080701652763.

- Wallington, T. J., & Lawrence, G. (2008). Making democracy matter: Responsibility and effective environmental governance in regional Australia. *Journal of Rural Studies*, 24(3), 277-290, doi:10.1016/j.jrurstud.2007.11.003.
- Wallis, P. J., & Ison, R. L. (2011). Appreciating Institutional Complexity in Water Governance Dynamics: A Case from the Murray-Darling Basin, Australia. *Water Resources Management*, 25(15), 4081-4097, doi:10.1007/s11269-011-9880-4.
- Weber, E. (2003). *Bringing society back in: grassroots ecosystem management, accountability and sustainable communities*: The MIT Press.
- Williams, J. (2007). *Success attributes of regional NRM systems in Australia*. manuscript, Queensland,

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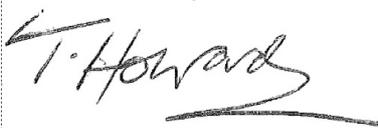
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7.

Chapter 4: Empirical data – extracts and analysis

4.1 Introduction

This chapter provides empirical data to illustrate and support the analytic process that led to Papers four (Howard, 2015b) and five (Howard, in review). In line with guiding post-positivist concepts of validity and reliability of qualitative data, this empirical chapter sustains the research commitment to transparency, enabling others to observe the research process (Musheno & Maynard-Moody, 2009; Peters et al., 2010; Yin 2009). This chapter demonstrates how the case study data analysis became the foundation for a narrative account of each participatory process under investigation. A range of extracts and accompanying analyses are provided from each case study example. These are not exhaustive, but aim to demonstrate the process of analysis.

It was a challenge to present the quantity of data produced by in-depth qualitative case study research in a satisfyingly detailed fashion. The strategy of *thesis-by-publication* makes it difficult to adequately represent the data without over-shooting word counts. Peer reviewer comments received for Published paper four (Howard, 2015b) advised reducing the 'he said/she said' flavour to maintain momentum. The impact was a reduction of verbatim excerpts and an increased risk of critique or challenge regarding the particular interpretation (Bold, 2012; Clandinin & Connelly, 2000).

Strategies to address these limitations included:

- The use of footnotes to display quotations that supported analysis made in the paper: see Submitted paper five (Howard, in review).
- A focus on building a thickly descriptive narrative of the case study, compiling words and expressions from the data into a readable and informative account.
- The development of a digital data archive through use of the qualitative data management program MaxQDA also provided a trail for the research interpretations (Rapley, 2007; Yin, 2009).

The internal validity of the methodology was demonstrated by the evolution of the original conceptual framework into an investigative framework, as illustrated in Published paper one (Howard, 2015a) and two (Howard, 2014) and described in Chapter 3: Methodology. This ensured that the process of analysis could be linked directly to the original research design and research questions (Bernard & Ryan, 2010).

The initial approach to analysing and crafting the case studies was to work through the interview transcripts and code them as a set. Coding combined deductive and inductive strategies as described in the Chapter 3, section 3.8.3. Coded extracts were then compiled into a draft document, which began a process of telling a story through direct quotations. A separate document was used to record the emerging narrative of the case in the researcher's words, developing an account that pointed to the dramatic kernel of the case (Chambers, 2003). This kernel began to identify the most interesting and significant finding of this case, the 'critical event' that could articulate the tensions and insights expressed by case study participants (Herda, 1999; Webster & Mertova, 2007). This enabled the researcher to connect the 'big stories' of institutional frameworks with the many 'little stories' that served as windows into the implementation of these frameworks. This became a useful heuristic, a way to frame the analysis and produce a readable and cohesive story of a particular case, the institutional framework, and experiences of implementation.

4.2 Case 1 - Wind farm governance

The first set of case studies were analysed in Published paper four (Howard, 2015b). A detailed description of the institutional framework and the specific features of the participatory processes were included in this Paper, and are not repeated here.

The following section reports and analyses the results of qualitative interviews with three respondents who were involved in drafting or implementing community engagement framework documents for wind farm governance. This analysis was integrated with the case study examples in Published paper four (Howard, 2015b).

They include:

- State government officer (1_5)
- Elected State MP (1_6)

- Peak body representative (1_7)

Respondents were asked about the formal documents that guided their daily work. They expressed their perspectives in diverse ways, presenting essentially 'little stories' that illustrated aspects of, or were influenced by, the 'bigger stories' of the institutional framework under investigation (Gubrium & Holstein, 2009). These responses are included to suggest how institutional dynamics are linked to the creation, implementation and expectations of formal and non-formal rules concerning community engagement. This interaction between competing and co-existing norms is a key feature of the overall research design.

4.2.1 Institutional frameworks for community engagement

In discussion with respondents, it became clear that similar drivers motivated the development of both government and industry documents about community engagement in wind farm development. Both government and industry were seeking legitimacy for decisions and actions concerning wind farm development, and hoped to drive a culture change through the implementation of principles for community engagement. These ambitions were represented by the proposed introduction of the *Community Participation Charter* in the new planning system (NSW Government. Planning Bill 2013 (Introduced)), the *draft NSW Wind Farm Guidelines* (Department of Planning & Infrastructure, 2011) and in the *Clean Energy Council Industry Guidelines* (Clean Energy Council, n.d).

these guidelines ... were, in many ways, an olive branch back to planning and government authorities to say, 'We know we've got to do better and this is what we're trying to do'. (1_7)

Organised and well-publicised opposition was commonly seen as the trigger for these drivers. Community dissatisfaction with the performance of developers provided a simple and obvious reason to increase regulation around development. However, the interviews revealed a more complex story that suggested a link between powerful vested interests in the fossil fuel sector and renewable policy uncertainty.

I'm not sure of the motivations behind some of the players in the activism group. I mean, there's suggestions that there's all sorts of backgrounds, minerals

backgrounds and things like that. ... there's definitely a lot of funding because they're everywhere. (1_7)

The policy context created increased scrutiny on developers and unfavourable conditions for renewable energy projects. Respondents saw a difficult balance in attempting to address both the real and perceived concerns of community about the impacts of wind farms, while facing uncertainty about the viability of the sector.

One of the issues for the industry was that they weren't very good at educating the community about why and how and when and what goes into developing a wind farm in their local area. So there was an information void, an impartial information void. (1_7)

Comments received during the establishment of the data archive suggested that the uncertainty of the draft guidelines had dissuaded investment in wind farms, and could be seen as a strategy for destabilising the industry.

Guidelines for wind farms, yeah, that are still draft (laughs) ... Two or three years later which doesn't help. (1b_11)

The hostile political context at the federal level, which saw the revoking of a carbon tax mechanism in 2014, and subsequent emotive debate suggesting that renewable energy targets threaten existing energy markets, also destabilised the industry. This was seen as a highly politicised arena:

why would a federal government destroy an eminently sensible market mechanism like a carbon price. When it's working really well. Why would you do it? (Laughs) Because you said you're going to do it! (1_5)

Respondents described the 'peculiarities' of the wind industry as requiring an iterative process, a dialogue with the community:

with wind farms, more than anything else, participation is not so much a, you know, 'a proponent gives notice, community gives comment, determining authority issues determination'. It's not like that. It's much more of a dialogue that continues over the process of developing the application. So, it is more problematic for wind farms than many other types of development. Because the proposal develops and changes over time. (1_6)

However it is not clear if this vision of the industry was politically convenient or based in reality; one could ask in what way is a mining proposal or landfill site development

different in regards to the back and forth of project development? It seemed that the difference being alluded to here was actually about the uncertainty of the industry in terms of viability, which influenced the likelihood of any project moving to the construction phase. The high visibility of wind farms was also implied in this inherently problematic vision, and seemed to justify the increased scrutiny and burden of regulation on wind farm development. This was part of a complex narrative that accepted opposition to wind energy without deconstructing the detail behind it. The impact was a less and less viable industry:

I would like to see ... wind put on a similar basis to any other development. Because I actually have been persuaded by the wind farm developers that they're treated unfairly. Particularly when we have a state government priority twenty percent by 2020. ... I really think that if there's one rule for abattoirs, it should be a rule for everything. (1_5)

4.2.1.1. Opposition

Two stories about implementation dynamics and the creation of community opposition emerged from the analysis. One story linked opposition with vested interests and adverse policy contexts; the other story linked opposition to poor community relationships, and a changing public culture with increased expectations of consultation, participation and decision making:

when all old energy infrastructure was built ... it was an essential service that government just provided. And because everyone had been trained, you know, because of the Second World War and things like that to, you know, just go along with what the government does. No one really needed to ask for consent. (1_6)

The nexus between community opposition and health concerns was ascribed to poor community consultation, leading to anxiety and fear. Governments were careful to avoid making explicit connections between health issues and wind farm operation, instead deferring to research conducted by third parties, such as the National Health and Medical Research Council (NHMRC) and the Commonwealth Scientific and Industrial Research Organisation (CSIRO) (Commonwealth of Australia, 2011).

It's no point in me saying it's psychosomatic, because you have got a headache. A lot of these effects started off with things which happen in a very measurable

sense to a large percentage of the population: so sleeping problems - if I say, 'I didn't have a really good night's sleep last night'. Fine. But if I say, 'I haven't been able to sleep because of the wind farm noise'; then it becomes a cause and effect situation. (1_5)

The ability to address these community concerns was seen as a key motivation for developing formal guidelines and processes around community engagement:

I think that communities that are well engaged and informed are less susceptible to extreme behaviour. So I think the activism just reinforces the need for developers to have strong, open, transparent positive relationships with the community that they're trying to work with. (1_7)

However the balance between acknowledging community concerns and embedding them in assessment procedures was seen as an exercise in legitimacy, with significant consequences for the viability of the wind farm industry:

The [NSW Draft Wind farm] guidelines are ... setting up a process to try and ensure that all the various concerns are looked at, you know, in a sensible rational science-based approach.

But also, in a way that ensures that the community have ... confidence in the process. I mean ... one of the classic issues would be health concerns. ... if all the evidence suggests that it's not something we need to look at, if we then set up a process for looking at it, are we just creating unnecessary red tape?... But, equally, because the community have these concerns, we can't just say, 'Well, we're not going to look at it at all'. Because then the community won't have any confidence in the process, because they'll think one of the big issues that they're concerned about, isn't being looked at. (1_6)

4.2.1.2. Implementation dynamics

Yes, I think it's a good idea in principal. I think that the way it's written, it's going to be very hard to enforce. (1_5) [Referring to the Community Participation Charter]

When considering questions of implementation, respondents saw dynamics coalesce around expectations of community engagement and how these were managed. The existence of conflicting expectations at both the institutional and community level included cultural expectations of what was and what was not reasonable in implementing formal frameworks:

I think developers haven't always been very clear and been able to articulate well, what is negotiable and what isn't when they talk to communities. It's not easy to have that conversation about what isn't negotiable. (1_7)

These expectations were also linked to concepts of equitable treatment and environmental justice:

it's no good for me to people, going to people and saying, 'Look you're doing this for the good of the country and we're getting renewable energy'. I mean, that person says, 'Well, what of the city people? Why don't you put them in Sydney?' (1_5)

The consequence of failing to meet community expectations had serious impacts for both developers and government. Opposition to particular projects and distrust in decision making processes could see the withdrawal of legitimacy and support.

While formal frameworks were seen as spelling out minimum expectations, the *implementation* of these frameworks was regarded as the key to both the potential and limitations of these documents:

the very first thing is the process needs to be accepted by the community. So, that'll be the principle expectation. (1_6)

there's a balance between, you know, representing what the community's concerns are; but also, therefore, implicitly endorsing a concern that you know doesn't have terribly much basis in fact. (1_6)

4.2.1.2 Culture change through formal rules

You know, there's only so much you can do with the law. ... you really need the culture to change. (1_6)

All of the formal documents discussed by respondents sought to achieve a change in the norms around community engagement through the development of formal frameworks.

It's just simply trying to get developers to understand it's beyond the letter of the law. (1_7)

This culture change required a shift in project management and planning culture within both government and industry, and a recognition of different community expectations around consent. The framework documents attempted to drive this

culture change through spelling out minimum expectations, and promoting concepts of legitimacy and accountability to encourage compliance:

I think the way to do it is to have some sort of mandated standard or set of criteria, that need to be demonstrated as part of the application process for a development. (1_7)

Respondents raised the tension between rules and practice, echoing the distinction made in the conceptual framing of the research. While legal and policy frameworks may rely on predictability and consistency to deliver assurances of accountability and legitimacy, the difficulty of achieving a predictable 'community' was also recognised, as these contrasting excerpts illustrate:

the **fundamental** thing ... is to provide a process for assessing and determining applications according to a **predictable** framework. ... setting up a process to try and ensure that all the various concerns are looked at, you know, in a sensible rational, science based approach. (1_6) (emphasis in original)

So it's not just about a scientific formula. It's about unpredictabilities, emotions, and a sense of value. ... You can't stand there as an authority and give people theories on how to engage with people. It doesn't work, you know, because people are people. (1_7)

4.2.2 Example 1a

The following section reports an analyses of the results of qualitative interviews with five respondents who participated in the Community Consortium of Case study example wind farm 1a.

They are:

- The project proponent (1a_1)
- Community representative (1a_2)
- Community representative (1a_3)
- Consortium member (1a_4)
- A State government representative (1_5)

And where appropriate, comments from respondents interviewed about the institutional framework (1_6 & 1_7).

4.2.2.1. Governance by community design

Is there a particular way we can build a community wind farm that you would be supportive of? That was basically our research question. And the whole way through that, of course, there was a risk that we were proverbially giving the community a blank cheque. So our job as researchers was to have informed dialogue, informed research. So, there's a fine line to walk there of what's the difference between informing and PR and propaganda, (1a_1)

The principles developed from the feasibility study became the foundation for governance of the project. Respondents made multiple references to these principles and adherence to these principles was seen as key to the success of the project. However, as the project matured, significant obstacles and practicalities emerged to challenge the integrity of these principles. These challenges included the difficulty of finding a suitable site with access to a distribution network; the costs of commissioning technical reports; establishing a business model that would meet the financial design requirements; and emerging community opposition at specific sites. A reliance on pro bono technical expertise led to a possible site being deemed unfeasible after almost two years of work with landholders and the neighbouring community. The Consortium began to consider other possibilities for raising revenue and achieving feasibility for the project.

The tension between formal rules and the expectations of community engagement are demonstrated in this case. The extensive community engagement that led to generation of the design principles also raised community expectations about the kind of project that would be developed. The respondents noted the challenge of meeting these expectations during implementation:

We ...won't really know what those principles really mean until we explore them – if you're really responsive, and therefore being governed by the community, the project is taking shape and being shaped all the way through. So by the time you come to a formal vote, it should be a formality not because it's staged, but because everyone thought they already had made that decision. (1a_1)

Another noted the practical difficulties of the project being shaped by community engagement processes:

Yes, certainly expectations – When we did our original feasibility study, we said to people, 'We're looking at –' I think, originally we said four to six turbines, as a

community wind farm. And everyone's response came back was, 'No! We want something bigger than that. Make it bigger!' (Laughs).

...We then said, 'Well, all right. We'll look at 6 to 10 turbines'. So we changed our tack because of what they asked for. And that's actually made it more difficult for us because 4 to 6 turbines would fit into the grid in more places than 6 to 10.

(1a_4)

The creation of expectations through community engagement and a set of visible design principles were most significantly challenged by a possible partnership with industry. It is here that expectations of financial viability began to clash with the quadruple bottom-line ethos championed by the community. Consortium members were conscious of this tension and implications for the viability of the project:

If we do form a partnership with (POWER COMPANY), that would have to be dependent on community reaction. So that would have to go back to the community, and we would have to canvass responses. It isn't as though the consortium thinks that they're a final decision making group. I don't think we do.

(1a_2&3)

4.2.2.2. Implementation and power

Respondents expressed awareness of power dynamics and their impact on the progress of the wind farm. Examples included an unfavourable policy climate; the influence of powerful interest lobbies on political decisions; and the role of pseudo-science and media attention in generating and spreading misinformation. Not surprisingly, given their community perspective, respondents were very conscious of how power could also influence the design of the wind farm and the approval process:

So in terms of wind farms, it's probably half pregnant that if there is enough community opposition to a wind farm, it won't go ahead because the state government's not prepared to push it. ... I think its just politics and I think that the state government gets money upfront for mining. The federal government gets money for mining after income tax and so the state government gets royalties.

(1_5)

In trying to implement an ambitious community agenda, the small and volunteer nature of the Consortium was seen to reduce their capacity to play the game',

.... As a wind farmer, I could go 'well, we're just going to meet that Minister a lot and meet all their staff and they are the ones who are going to make the decision'. It's really clear, whereas the regional planning panel with eight commissioners that we're not allowed to talk with and all sorts of people getting in their ear and – it's going to be a massively resource intensive process for us. (1a_1)

The difficulty of working to change the system while also being part of the system emerged as a key theme. The prospect of embarking on an industry partnership highlighted this dilemma for Consortium members:

So I have very strong personal opposition to (POWER COMPANY). But, I've had to think through: do we want a community wind farm? Are there other options? There don't seem to be. And is it possible that by working with (POWER COMPANY), we can change their culture slightly? Their view toward community, and begin to move from this sort of 'Well, you can buy a few shares in our company if you want', to a much more vivid partnership.

It scares me. Because our negotiating power versus their negotiating power is... minimal. So having a contract, even if we had a contract with them that was very favourable, they could step on it, and we wouldn't have the resources to challenge them. So it's risky. (1a_2&3)

The combination of project scale and the volunteer nature of the Consortium were significant in the implementation of this ambitious project:

There's a lot in this that is un-influenceable, that's beyond our realm of ability to control, partly because we're a community undertaking that doesn't have millions of dollars in the bank to be able to say 'well, we'll do this and then we'll do that and then we'll do that'. (1a_5)

The size of the project and the technical complexity of a wind farm tested the capabilities of the volunteer Consortium. The three-year learning curve that led the Consortium to consider the benefits of an industry partnership had not been shared by, or made visible to, the wider community.

4.2.2.3. The problematic issue of 'effectiveness'

The difficulty of assessing whether a particular community engagement strategy or mechanism is achieving outcomes is well documented in the community engagement and public participation literature. The interviews revealed that in this

case, there was no formal development of, and little thought about, objective indicators for evaluating the effectiveness of the community Consortium model. A feasibility study was referred to as a key indicator of successful engagement, as were the development of the guiding design principles. Consortium members did nominate a range of subjective measures, such as visits to the Facebook page, names on their database, attendance at public meetings and positive conversations in the street.

This lack of objective benchmarks raised the possibility of missing crucial community voices and, possibly, claiming a mandate for action that may not hold up under scrutiny:

You reach it on terms of what, I think the perception of who was engaged and to what level are they engaged – when you've got a room of 30, 40 people who all want to talk, and who all want to get involved, and who all want to put their stickers up; I think that it's been a pretty good engagement. (1a_2&3)

4.2.3 Example 1b

The following section reports the results of an analysis of the qualitative interviews with five respondents who have participated in the Community Consultative Committee (CCC).

They are:

- A local government representative (1b_8)
- The independent chairperson (1b_9)
- The landholder representative (1b_10)
- The project proponent (1b_11)
- A State government representative (1_5)

And where appropriate, comments from respondents interviewed about the institutional framework (1_6 & 1_7)

4.2.3.1. The mechanism

So there's heaps of embedded stuff in this one simple thing called a CCC. (1b_9)

At the point of data collection the legal requirement to convene a CCC for wind farm development was newly introduced, and this example was one of the first to be

implemented. There was a lack of expertise and experience about the scope and purpose of this mechanism in the wind farm sector, and respondents expressed the view that they were working it out as they went along. The difficult policy context had sapped momentum and this impacted on the operation of, and possible learning from, the CCC model.

Case_1b's CCC was constituted in line with Appendix C of the *NSW Draft Wind Farm Guidelines* (the *Guidelines*) (Department of Planning & Infrastructure, 2011). The CCC process was referred to in the Stakeholder Consultation (Epuron Pty Ltd, 2013) (section 4.7) of the 'Request to Modify a major project' submission (concerned with a change to the route of the transmission line). The CCC objectives were stated here as:

enabling information about the wind farm to be provided to the community and providing an opportunity for the community to express any concerns regarding the potential impacts. (p. 14)

The implementation of this objective was observed in this case. Respondents were concerned with questions of what was appropriate for discussion and consideration by the CCC. The *Guidelines* provided procedural detail about membership and record keeping, but were vague about the parameters of matters to be dealt with during meetings. Some respondents made a distinction between landholder interests in negotiating with the developer and issues of broader community concern. The difficulty of addressing vested interests within the operation of the committee was not clearly addressed by the *Guidelines*.

that was a point that was discussed in the first meeting and sort of explored a little bit more. 'What is the committee going to do?' 'Do they have powers?' and the answer's no. ... there isn't any power vested in the committee at all. (1b_11)

The *Guidelines'* requirement to recruit specific representatives was difficult to meet. Where more than one wind farm was in development in the region, community capacity was stretched to populate several CCC. Case 1b found it difficult to fill the required positions, including an independent Chairperson, and this raised questions about the integrity of the mechanism as described in the *Guidelines*.

So with one of the newsletters we sent out a nomination form and we just got people to respond and pretty much everybody that responded ended up being

on the committee, because we didn't have a very strong response. In this case, particularly from the neighbours, it was very hard. We had to follow up hard with the neighbours and say 'don't you want to be on the committee to find out what's going on?' (1b_11)

But with these groups, you get what you get, sort of thing and you might get in one group, you might get three or four egocentric dominant males, who just dominate the meeting. And then, you don't achieve what you wanted to achieve because you're off on some tangent with these blokes beating their chests or whatever. The poor ... the quiet grandma who lives ... is intimidated, doesn't say anything. So, I think the Chair and the preparation before and to some extent, if you could hand select. But is that good engagement then?... (1b_8)

Well, that's the problem, I don't think the function's very clear. I mean they say 'our function is to open the channels of communication between various sectors of the community'. That's all well and good, that's great. I can understand that as a good function of the committee, but how do you actually get that to work ... when you've got vested interests there? So, I think that it's a really poor model and I think that it's conflicted. I think it's dysfunctional. (1b_10)

The tension between community participation and vested interests was echoed by the chairperson, who suggested that:

there's a lot of dysfunction in there, that no one's talking about, looking at, addressing, cause it's too hard! (1b_9)

in my idea of it at least, you could have a hundred community members in the room, but that doesn't work - you need to have a smaller committee, but there shouldn't be anything secret at a CCC meeting. It's about trying to open up and release secrecy, not trying to add another layer. It just makes everybody in the CCC feel a little compromised about 'what can I say and what can't I say? I know some stuff, but I'm not supposed to talk about it, but I'm just a volunteer on this thing'. (1b_9)

This tension in the mechanism was also described by another respondent:

Every time we have these meetings and sit down for three hours, [the proponents] got to sit there and smile and say 'this is really good' because you don't want to be seen to be putting them offside. The developer can't say, 'This is a bad, negative process, I don't like it' in front of the group, because they've got to do it and they've got to be seen to be consulting. (1b_8)

4.2.3.2. The Institutional framework

When asked about the institutional framework that guided the design and development of the CCC mechanism, responses ranged across different scales. Some referred specifically to the policy context; others focused on the project context; while others positioned the project in relation to regional development:

I think it's useful [referring to the NSW draft wind farm guidelines] ... for developers, as well as for the Planning Department in their assessment, in that it's putting a little bit more clarity around the requirements. I think it's useful to have those whether it's a guideline or a strict legislative requirement, probably not that critical either way ... it's about setting expectations and clarifying requirements ... rather than having a vacuum. (1b_11)

This respondent suggested that the disconnection between state and local planning alienated and disempowered local government, diluting the potential opportunities from wind farm development, and facilitating conflict and opposition due to misconceptions or inequitable distribution. The respondent suggested reform that could address this problem and facilitate local ownership of the issue:

Here is the opportunity to empower communities. ... It's got to start with government and it's got to start with government putting in the policy frameworks around local government supporting alternative energy development. It starts with state government being on side and being behind it and supportive of it. (1b_10)

1b's Chairperson called on his professional training to position the CCC mechanism as one part of the overall communication and engagement framework for the wind farm. This ability to draw on established theories of communication and strategy was unusual and revealed the importance of building community capacity to understand the limitations and purpose of any specific participatory process. This respondent described the CCC itself as only one of the action items in this framework.

There's the draft guidelines for CCC from the Department of Planning and that's at least the one document that we all have in the shared material, so that's a starting point, but if you really read it there's a lot of things in there that are open to interpretation, and they're also not completely clear. It is written as a recommendation, but not as a requirement. (1b_9)

Only one respondent mentioned the review of the NSW planning system and the associated commitment to community participation. A planner by profession, this respondent was also able to draw on prior knowledge of the legal framework to contextualise the proposed reform:

As part of the new Act, isn't there a community participation charter? (1b_8)

Interviewer: Yes. Yes, what are your thoughts about that?

I think it's just a lot of big words, just to sound good. ... to me, that's just propaganda to get people to have the feeling that they're going to be consulted [long pause] ... that won't change anything, the way we deal with things. I think we'll still undertake our community participation the way we have been.

... the rich councils will get a consultant to write a big fancy community participation thing but whether the culture of the council is to actually sit down and listen to people; you can have it all in place but still might not achieve consultation to the satisfaction of communities. (1b_8)

4.3 Case 2 - Natural resource management

The second set of case studies were analysed in Submitted paper five (Howard, in review). A detailed description of the institutional framework and the specific features of the participatory processes were included in this paper, and are not repeated here.

Data analysis had become streamlined after the experience of analysing and interpreting Case Study 1. Coding continued to be iterative and analysis involved constant revisiting of the coded extracts to uncover meaning and narrative events. There was an increasing attempt to write the analysis as a narrative and use footnotes to link to the original text. This ensured the primary data was visible but did not 'slow down' the narrative momentum in a journal paper format. The following extracts present the analytic process as it occurred.

4.3.1 Example 2a

The following section reports the results of the analysis of qualitative interviews with five respondents who participated in the collaborative governance model.

They are:

- Committee member (2a_13)
- Community project proponent (2a_14)
- Catchment Management Authority (CMA) officer (2a_15)
- (CMA) Collaborative governance support officer (2a_16)
- (CMA) Planning Manager (2a_17)

And where appropriate, comments from respondents interviewed about the institutional framework (2_18, 2_24 & Peak body representative 1b_10).

4.3.1.1. The Catchment Management Authority (CMA)

The role of the CMA was crucial in this case study. They were seen as the logical body to formally apply for the project funding, as they had the financial and human resources structures to manage a large amount of money. As a result, they also carried the risk of non-completion or under achievement, a risk that continually drove staff preoccupation with on ground project delivery. While some respondent complaints seemed to hinge around the centralising, bureaucratic tendency of the CMA model, in this case the consortium partners willingly handed this risk and responsibility to the organisation.

This created an interesting and persistent tension between the collaborative ideology of the project, and the pressures of accountability that ran through the CMA. The need to build internal staff capacity to understand collaboration and partnerships had already been identified through a previously conducted Catchment Action Planning (CAP) process. The Natural Resources Commission's (NRC) 'Standard for Quality Natural Resource Management' (the Standard) was also driving a focus on adaptive governance which encouraged the organisational leadership to take these broader perspectives more seriously (Natural Resources Commission, 2005).

it's very much about them sort of seeing themselves as the center and everybody else is swirling around them. They're still ... struggling with that.
(2a_14)

This case study emerged from a desire to reduce competition between organisations that had the potential to collaborate to achieve the best possible outcomes, with the most efficient use of funds. NRM governance structures were seen to embed a

systemic problem of institutional arrangements that worked against best practice, frustrating these attempts to work collaboratively.

you know what it's like in NRM, there's the shortage of funds all the time so you often just grab whatever funding is available to do particular things. Because it's sort of in your area of expertise, but it also keeps the door open, it keeps your office open. ... it doesn't mean you are necessarily the best person or organization to do it. So everyone does a bit. (2a_17)

Case 2a was able to demonstrate a different model that made a conceptual link between participation, decision-making, implementation, and the exercise of **power**. The link between devolution of power and the establishment of trust was seen between the broader NRM community and the CMA in this case. However the progress of this case study demonstrated that trust must be constantly negotiated, particularly during periods of institutional reform, as it only has a short shelf life.

Case 2a's steering committee model aimed to bring in perspectives from other organisations and individuals that were not so driven by government directives. This was described as taking a grassroots, 'listening' and facilitating approach, making the most of

Any opportunity to talk to a landowner about what they are doing on their property at the moment, what they want to achieve, and how we can help to achieve it. (2a_13)

The steering committee model brought a valuable perspective to the operations of the CMA and also encouraged a conversation about the long term ambitions or interests of the landscape by breaking down landholder/government divides. Many of the respondents saw these divides as directly related to the native vegetation legislation and a confusion of the CMA's role with that of a regulatory agency.

4.3.1.2. Accountability

Evidence in this case included the CAP documentation, but also a new impetus to formalise existing collaborations through Memorandums of Understanding (MOUs). These documents were described as trying to shift reporting into a more collaborative mode, by designing the CAP as a document that everyone could contribute to and work towards. The practicalities of collaborative reporting were seen as a challenge that required re- framing '*your*' CAP to '*our*' CAP.

There was a sense that while everyday conversations are important for facilitating collaborative governance, serious commitments can only be made at the leadership level:

I think a lot of the discussions with collaborative governance will need to be at a high level. (2a_17)

Implementing a collaborative model required that the work being done by agricultural industries be included in a collaborative reporting approach. There was acknowledgement that the previous approach had focused too entirely on public good investment in natural resource management. The contribution of private landholders had not been included in previous catchment scale reporting, missing the opportunity to recognise additional benefits. This reinforced industry concerns about the value of government driven planning processes that do not align with industry priorities or integrate with existing business strategies. The overwhelmingly government focus of the CMA model was seen as an obstacle to effectively encouraging community engagement in the region:

there's a lot of things that happen within the Catchment that we don't know about that are good. ...it's also, I guess, trying to acknowledge what other people do as well in terms of contributing to better natural resources in a sustainable way. (2a_15)

CMA staff involved in developing the collaborative model saw it as an engagement tool but also a way to drive accountability:

what are you going to actually contribute to it?

and capture the work that might be going on outside the realm of the CMA:

trying to acknowledge what other people do as well in terms of contributing to better natural resources in a sustainable way. (2a_15)

The importance of leadership in making a commitment to implementation, to making it real *not just a statement of intent*, was seen as a key driver for the collaborative approach.

The process of developing the CAP priorities was seen as inviting community voices into the 'upstream' definition of problems, however this was balanced by an expectation of collaboration to actually achieve implementation:

While they did that, they still got that opportunity in the first one, I suppose we didn't – we didn't follow up and say 'well, you want us to write this target this way, but what are you going to actually contribute to it?' By having it stated that the CAP's a collaborative governance model –

I think there's just more emphasis to get a lot of people to contribute to the targets so that – so that they can see that their actions are measured and counted. ... Collaborative governance is sort of an engagement tool but I also think it should encourage accountability. (2a_15)

The collaborative model attempted to tackle this by increasing accountability beyond the CMA:

it's good if you can have people who collaborate in projects see that it's not just about getting the kudos, it's also about dealing with the criticisms and working through that whole process of planning the projects and delivering them. (2a_15)

This is clearly linking collaboration with engagement but also capacity building, and developing a shared understanding of the different dynamics in delivering high quality NRM.

4.3.1.3. Implementation

Now, what I guess I'm talking about is not rocket science and it's not new. It's the collaborative governance model that they are now doing [at Case 2a], so it's do-able, it's very do-able, and all that does is, it puts community at the center of the function rather than the paternalistic approach where it's 'you will do it our way or the highway'. (1b_10)

Transforming the terminology of the participatory process from adaptive governance to collaborative governance was seen as necessary

because adaptive government sounds a bit scary. And a bit _ probably not as descriptive about what it's about (2a_17).

Although the model was described as an innovation in participation, respondents suggested it actually formalised a way of working that was already well developed in the CMA.

The model was described in detail in the CAP. Legislative reform and the creation of the Local Land Services (LLS) halted development of an implementation plan and it

appears that Case 1a was the only project that attempted to put the collaborative model into practice.

I can't see that we'd get any funding for it. It'll just have to be part of our day-to-day talking to people ... so it's sort of more like a 'we'll do it when we get to it', when we can and when the opportunity arises I guess. (2a_17)

The uncertainty ushered in by the LLS reforms distracted the government agency from attempting to implement the CAP commitments.

it has been disrupted because as soon as we got the CAP done, the next thing we're transitioning to Local Land Services ... So people have been a bit focused on just getting a job and stuff. It's hard to think about other projects. (2a_16)

The reform process created a time pressure to consolidate the work of the CMA before it was wound up. This short term deadline saw a retreat from the ideals of collaborative implementation, losing the momentum of the CAP process and attempts to plan out who was responsible for leading on the range of priorities committed to in the plan. This was seen as a missed opportunity for community engagement and one that was driven by the reform:

maybe, we'll revisit that early in the new year. We have got a draft implementation plan, but it doesn't specify who's going to do what (2a_17).

4.3.2 Example 2b

The following section reports on the analysis of qualitative interviews with three respondents who participated in the Catchment Management Authority's (CMA) Community Reference Panels mechanism.

They included:

- (CMA) Strategic planning manager (2b_19)
- (CMA) Community reference panel Project Officer (2b_20)
- Community member (2b_21)

And where appropriate, comments from respondents interviewed about the institutional framework (2_18, 2_24 & Peak body representative 1b_10).

At the time of data collection, the Panel mechanism was being wrapped up and this reduced access to potential respondents. As a result, this case study example relied heavily on document analysis.

4.3.2.1. Community reference panels

the reference panels was, I guess, a very deliberate, strategic initiative ... part of the ... cultural shift ... of trying to establish better mechanisms for community engagement. (2b_19)

The establishment of the Panels was prompted by the CAP review. The approach of the CMA to the implementation of this participatory process reflected an organisational culture of information and documentation. The process commenced with developing best practice guidelines, and this was followed by a process evaluation one year in to ensure that there was evidence about the process as well as the ability to improve. These procedures were driven by the evidence requirements of the NRC audit and review, which required documentation that could support any claims of:

trying to apply best practice in terms of community engagement and reference panels in particular. ... trying to be quite deliberate. (2b_19)

This focus on procedural detail included development of a clear Terms of Reference to ensure the panel members had clear expectations, and also give the organisation's Board confidence in the parameters of the mechanism:

That Board, staff and reference panel members themselves, could all clearly see 'where your scope of influence was and where it wasn't'. 'You're not replacing the Board'. You know? The Board were twitchy about that. Ah, it's all right. This is the sphere of influence.

Being very transparent about what any participant could or couldn't influence by being in that space. Because that whole expectation management I think is important. (2b_19)

Experience with bad processes and limited impact on decision-making had informed the perspective of the staff member charged with establishing and running the panels. The respondent suggested that they were wary of repeating these negative experiences which, in their opinion, *contributes to huge cynicism about committee*

engagement processes, and decided to address this by focusing agendas on tasks that were approved by the Board and making sure that they

understood that they were, if you like, strategic advisors in the sense of providing feedback and suggestions, but that they had no authority or power to actually make decisions. (2b_20)

The agenda was tightly focused on the work at hand. This was appropriate for the needs of the organisation and was supported by participants (Boronyak & Herriman, 2013):

you definitely need a structure in place and I would imagine everyone on that panel would think so, too, because they're there because they want to have impact on something and not just talking about it. You need a process to move forwards. (2b_21)

The Board requested report backs from the panels, a *direct mechanism* that seemed to be working *brilliantly*:

the Board were very interested to know what these reference panels were up to and what they were thinking and saying. (2b_19)

While CMA staff under the supervision of the Board managed the scope and composition of the panel process, each panel was given some level of autonomy to work out the conduct of the meetings. The facilitator worked with each of the groups to establish a set of meeting rules that were signed off by members:

For example, they made consensus decisions. We didn't keep verbatim minutes. We kept meeting notes and recorded key points. We made sure that, or I made sure that everybody's view was heard and that everybody enjoyed the participation. (2b_20)

The legitimacy of these rules were negotiated with the panel members and relied heavily on the facilitator's expertise in designing and operating these kind of participatory processes.

4.3.2.2. Institutional change

of course we've now hit institutional reform, which again is another challenge in terms of keeping engagement happening. (2b_20)

The panels were established prior to the public announcement of the shift to LLS. The life span of the panels was limited by this reform, which disrupted the participatory process. A lack of logic in the way that the institutional framework approached community engagement was seen in the loss of the panel mechanism, and in creating challenges for broader attempts to increase community engagement in natural resource activities:

it actually has alienated landholders, that process, and I've got a classic example, where we had to put in a vegetation planting because of funding this year, knowing that we didn't actually have the soil moisture profile to plant those trees in and no follow up rain since we planted those trees! They are all dead. We have a sign up there saying, 'Great community veg project!' (2b_21)

The organisational control of the panels in this case raised questions about the 'community' that was being represented and how the participatory process shaped their ability to influence the institutional framework. This goes to the difficult issue about whether participatory processes are leading or responding to the voices of the community, and whose interests are represented through participatory processes like these. One respondent hinted at the different versions of 'community' that co-existed in the region:

over the last few years has been a change in the Native Vegetation regulations and that's been seen as a positive by most landholders and so, I think there's still a certain amount of feeling that's positive about government listening to their issues, or their concerns about native veg,(2b_21)

The institutional change was seen as linked to the policy context, but also a desire for new government to

rebrand, change it up ... The LHPA (Lifestock Health and Pest Authority) dysfunction was used as the excuse to then take on a much broader set of reforms. (2b_19)

The potential for institutional change to broaden the audience that might be interested and receptive in working for landscape management outcomes was seen as a beneficial outcome of the reform process:

I'm sure there's lots of positives about the LLS, but I think one of the ones is that you're dealing with ... I guess it's the community: the community includes

landholders and community, it includes urban people, it includes people that don't even own land but are just business providers or service providers, but all those people in those rural areas have some sort of understanding of agriculture.

(2b_21)

However the challenge of balancing vested interests and broader community engagement seemed likely to remain a feature of the new legislated body:

Because potentially the Board can say 'we've got community representatives, we've got elected representatives on the board, we know what we're doing, we don't need you' or 'why should we listen to you?' (2b_20)

Whether the reform was perceived as a creative or disruptive force, the need for strong procedural integrity measures was considered necessary for maintaining authentic community engagement:

it's really important to hold community engagement and collaborative planning initiatives as part of the standard for quality NRM or whatever it turns into. So that you have it as something you can audit against. Is really, really important.

(2b_19)

4.4 Summary

This chapter has presented some of the empirical data as it was captured and developed through analysis. These extracts are linked with the emerging analysis that became the foundation of each case narrative. By combining these extracts with code information from the data management software (see Appendices Seven and Eight), the process of data interpretation is able to be followed. While qualitative data analysis does not lend itself to positivist notions of reliability and validity, these strategies increase the integrity of the research findings through transparent record keeping.

This chapter has included extracts for each case study example. The following chapter will present an overall analysis of the case study data.

Chapter 5: Synthesis chapter

5.1 Introduction

The research presented so far has demonstrated that while institutional frameworks may create legal obligations to implement some form of participatory process they do not always prescribe a particular mechanism. Even where a specific process *is* defined, accompanying guidelines or standards provide limited operational detail. For project conveners and participants, this leads to flexibility in how framework documents are interpreted and implemented. At the same time, this flexibility is not extended to the requirements for compliance and accountability as stipulated by the framework.

The case study narratives have revealed that tensions of participatory processes *in practice* can undermine project viability and community acceptance of natural resource decision-making. A lack of integrity measures in the design and delivery of participatory processes weakens best practice. The institutional framework permits limited empirical attention to the integrity and effectiveness of these mechanisms. The benefits of participatory processes are smothered by policy reform and competing priorities that treat community as a desired but passive partner in governance legitimacy.

This chapter now describes the results of a comparative analysis across all four case study examples. The analysis focuses on areas of academic and practitioner concern identified in Published paper one (Howard, 2015a) and Chapter 2: Literature review. These include:

- The variety in possible participatory processes;
- The influence of competing expectations and motivations for undertaking participatory processes;
- Understanding and measuring success in participatory processes;
- And what type of 'community' actually participates in these mechanisms.

The comparative analysis reveals that achieving community support and acceptance is the main motivation for implementing a participatory process. Ideas of 'best practice' are often linked to gut feelings of fairness that limit understanding of

effectiveness. A common commitment to transparency of information does not always extend to defined roles and responsibilities.

Empirical analysis reveals a tension between legislated commitments to community engagement and implementation through participatory processes. This can be described as a *substantive/procedural* tension or, in the terminology of the investigative framework, a disconnect between the legislation and practice elements of governance.

In this framing, legislation represents the rule of law and serves as both the foundation and pinnacle of institutional settings for social and environmental justice. A substantive commitment to community engagement creates an overarching norm that must then be implemented through procedural design. Good reform requires a balance between substantive and procedural considerations, and legislation must consider how definitions and expectations influence this balance.

The comparative analysis demonstrates that norms of community engagement require development and standardisation. These findings reinforce the need for legislation to embed procedural guidelines and best practice standards alongside requirements for community engagement through participatory processes.

5.2 Method

The documentary and interview data collected for each case was combined and analysed as one data set. The process of data coding has been described in detail in Chapter 3: Methodology. Once all transcripts had been coded, the final code structure was revisited across the entire data set. Fifty-two codes have been applied to 3,140 coded segments. Details of the codes and sample extracts are attached in Appendices Seven and Eight.

Using MaxQDA visual tools, the coded interview data uncovered commonalities and divergences between the case studies. Basic counts of the governance features of each participatory process were also captured. The data provided useful verification for the narrative analysis of the case studies. Where possible, results are presented here in graphs and tables.

5.3 Results: Case study synthesis

The following sections present the key findings from the comparative analysis.

5.3.1 Procedural elements

During case study development, a checklist was developed to enable comparison of governance design across the data set. These results are displayed in Table 5.1.

Table 5.1: Governance features of each case study example.

GOVERNANCE features	1a	1b	2a	2b
Substantive/legislated				
Mechanism meets legislated need		Grey	Grey	Grey
Community initiated process			Grey	
Agency initiated process	Grey	Grey		Grey
Agreed principles	Grey		Grey	Grey
Procedural/policy				
EOI for membership		Grey	Grey	Grey
Terms of reference		Grey	Grey	Grey
Code of conduct			Grey	Grey
Use of IP2 guidelines ¹¹				Grey
Independent chair		Grey		
Formal roles and responsibilities	Hatched	Hatched	Hatched	Hatched
Minutes publicly available		Grey		
Sitting fees		Grey	Grey	Grey
Representative roles		Grey	Grey	Grey
Process/practice				
Rotating chairperson			Grey	
Agenda circulated	Black	Black	Black	Black
Agenda developed by chair		Grey		Grey
Agenda developed by secretary	Grey		Grey	
Minutes recorded	Grey	Grey	Grey	
Minutes circulated	Black	Black	Black	Black
Membership ratified by committee	Grey		Grey	
Evidence/evaluation				
Evaluation of governance mechanism			Grey	Grey
Media online	Grey	Grey	Grey	
Consultation documentation online	Black	Black	Black	Black
Minutes publicly available		Grey		
Submissions available online	Grey	Grey		
Engagement plan	Black	Black	Black	Black
Indicators defined				Grey

The grey shading indicates presence, black shows commonalities and the hatching illustrates one feature NOT present in any example (combined data from Case 1 & 2).

¹¹ International Association for Public Participation

Common features include a commitment to transparency of information through circulation of meeting documents and publication of certain project documents online. These features are prescribed in the procedural guidelines. However, formal roles and responsibilities are not defined in any of the cases. Although procedural guidelines might have specified the positions to be filled, there was flexibility to determine the scope of these positions and how they would interact.

Only one case had defined indicators for success that extended beyond acceptance and procedural compliance, and considered the operation of the participatory process itself. If evidence is not collected about the implementation of the process, it is difficult to evaluate how authentic or satisfying the process was for participants. It also conveys the impression that meeting the procedural requirement is the only metric that really matters.

The investigative framework considered whether case studies collected empirical evidence about their efforts to engage community in natural resource governance mechanisms.

Respondents were asked what indicators they used to evaluate their progress.¹² Indicators range from procedural 'tick the box' to more subjective values and are rarely linked to formal framework documents such as best practice guides (see Table 5.2). This subjectivity also influences respondents' expectations about the purpose of community engagement and what it would achieve in their case (see Table 5.3).

As a result, respondents expressed a range of normative assumptions about the final outcome of the participatory process (see Table 5.2 and 5.3). These assumptions are associated with subjective indicators that are not formally evaluated. Personal experiences in developing, implementing or participating in participatory processes are influential.

By failing to link these subjective indicators to evaluation of the participatory process, the case studies replicate a common finding from the literature: a lack of well-

12. These responses were coded as 'Indicators' in the data analysis software. There were 78 coded extracts across the data set. These were grouped to draw out the main indicators across the entire data set. This required aggregation and extracts are provided in Appendix Eight to allow others the opportunity to check the logic, or offer alternative interpretations.

informed empirical evidence impedes effective reform and implementation of best practice participatory processes.

Table 5.2: Illustrates the varied indicators respondents use to evaluate their community engagement activities

Subjective indicators	Objective indicators
Word-of-mouth	Subscriptions
Community acceptance	Complaints
Follow-up action	Attendance
Integration	Media stories
Citizen view	Commitments
Self-interest	Implementation

Table 5.3: Indicators were often linked to an assumed outcome, as illustrated by the final row in this table

What indicators do you look for to assess if your community engagement is:			
On-track?		Off-track?	
No negative media	Active participation	Negative media	
Community acceptance	Taking citizen view	Bad word-of-mouth	Self-interest dominating
Legitimate procedures	Continuation – follow up action	Complaints	<i>"No love in the room"</i>
Subscribers (social media)	Integration with other interests	Unsubscribe requests	
Implementation of commitments		Non-participation	Not listening
Attendance		Absence/ withdrawal	Unbalanced
= A better project	= Empowered community	= A government problem	= Illegitimate decisions

5.3.2 Reasons for conducting community engagement

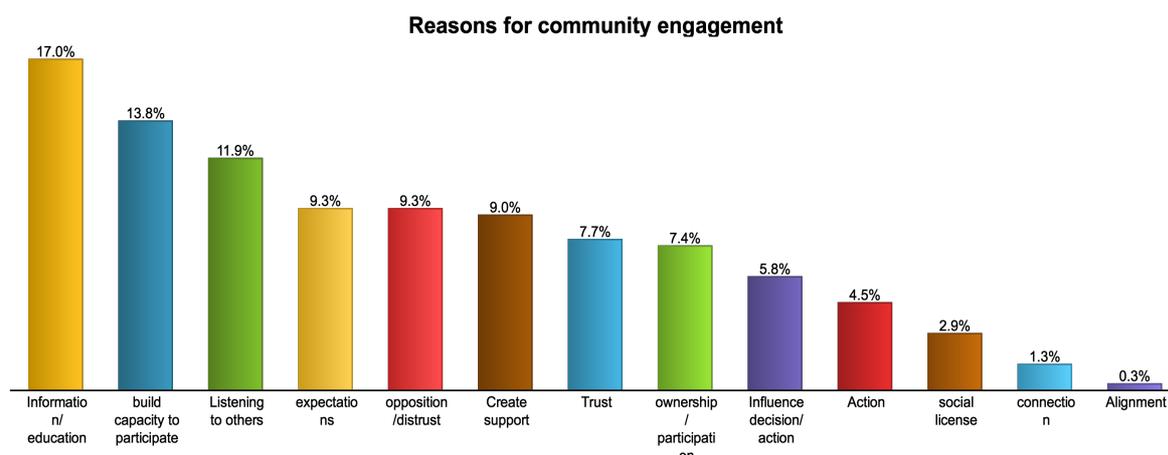


Figure 5.1: Shows the reasons for conducting community engagement given by respondents (N-312 coded segments)

As shown in Figure 5.1, *informing* and *educating* community members about an issue was the most common reason given by respondents. A desire to build capacity to enable participation was also significant, with listening and hearing other perspectives another important reason. ‘Expectation management’ is linked to establishing trust, creating support and increasing community ownership of an issue.

Table 5.4: Reasons given for conducting community engagement in natural resource governance across both case studies – coding aggregated under two key themes

Support	Capacity
Create support	Build capacity to participate
Inform/educate	Motivate action
Hearing other perspectives	Influence decisions
Build trust	Encourage ownership/participation
Manage expectations	
Address opposition/distrust	
Gain social license	
Alignment	
Connection	

Coded extracts were aggregated under the headings 'support' and 'capacity' and analysed as a percentage of the total (see Table 5.4). This analysis illustrates that the majority of responses are linked to generating community support or acceptance through a range of community engagement activities (see Figure 5.2).

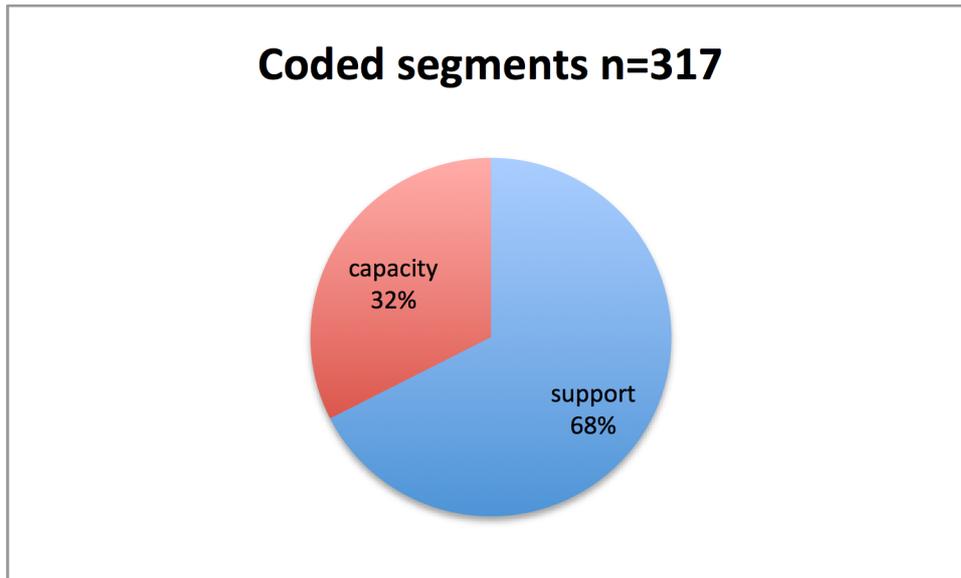


Figure 5.2: Percentage of coded extracts for 'reasons' showing majority of responses focused on generating community acceptance.

Additional relational analysis supports the conclusion that the primary reason respondents undertake community engagement is to gain some form of community support or acceptance, and the most common method employed is to *inform* or *educate* (see Appendix Ten). Providing information and developing education resources or media products are the most common mediums for achieving these objectives. This includes publication of documents on webpages, public presentations and 'dissemination' through a range of workshop settings. How information can be provided was not a focus of the case study enquiry and is included here in recognition of the wide range of possible avenues through which *inform* or *educate* objectives can be implemented.

For community members involved in the case study examples, procedural legitimacy was often limited to a gut feeling of 'fairness'. This was highly subjective and resistant to 'tick the box' quantification. At the same time, procedural accountability requirements encouraged attempts to 'count' the outcomes of participatory processes. This tension between intuitive and factual indicators reinforces the findings that while there are many different versions of community engagement, they tend to seesaw between instrumental and transformative objectives, often within the same project or policy framework.

5.3.3 Who is the community?

Subjectivity continues to feature in the comparative analysis. Informants relied on a combination of procedural guidance and personal instinct to answer questions about whose voices are being heard in the participatory process examples. While respondents are aware of best practice guidelines and standards that drew attention to questions of representation, these were rarely mentioned in the interviews.

Processes that utilised self-nomination through Expressions of Interest (EoI) often relied on advertisements in print media and on websites. None of the empirical evidence collected backs up the claim made by some respondents that using social media enables access to a diversity of perspectives. Governance documents neglect questions of gender and ethnicity, although representation of different sectors such as industry or landholder interests, were raised.

The case study respondents had a wide range of abilities and experiences. The documentary analysis also showed that although there is evidence of some processes of selection, overall, the composition of the participatory processes was defined by self-nomination and a willingness to participate. A broad range of appropriate governance skills were rarely described or present, with implications for the scope of activities that could be conducted.

The data reveals a bias in favour of male participation (see Figures 5.3 and 5.4). This variable is not part of the research design. However, wider reading of the literature of participation justifies attention to the likely impact of gender imbalance for achieving authentic and well-informed community engagement (Brush, 2003; Eversole, 2011; Johnson et al., 2004; Neef & Neubert, 2011). Points of interest include the higher female participation in the community consortium and collaborative governance models (1a and 2a). It is possible that the strong commitment to broad participation that motivated these examples created a more inclusive approach to membership recruitment (Ansell, 2007; Brush, 2003; McKinney & Kemmis, 2011), however this is not explicit in the project documentation and would require additional research to explore in more depth.

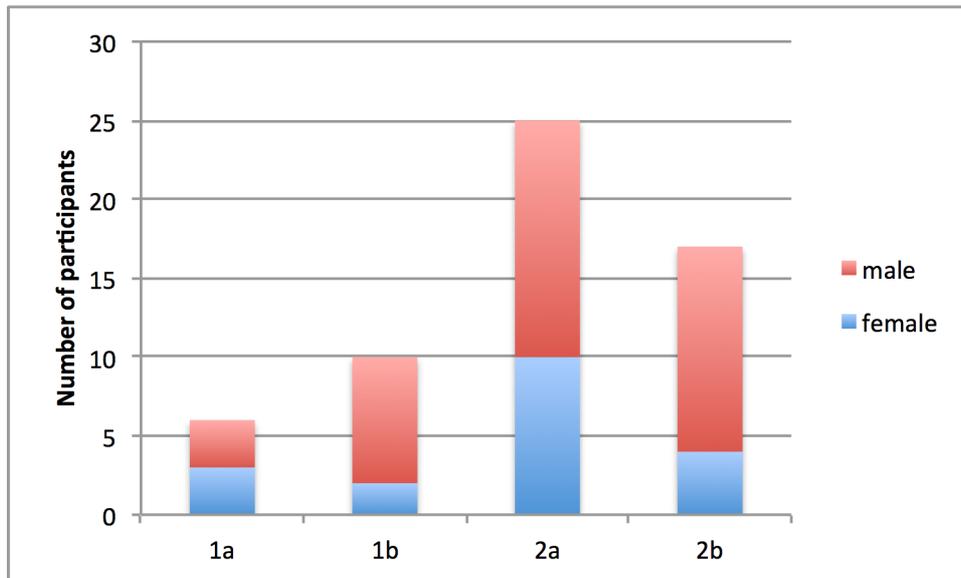


Figure 5.3: Gender participation in each case study example

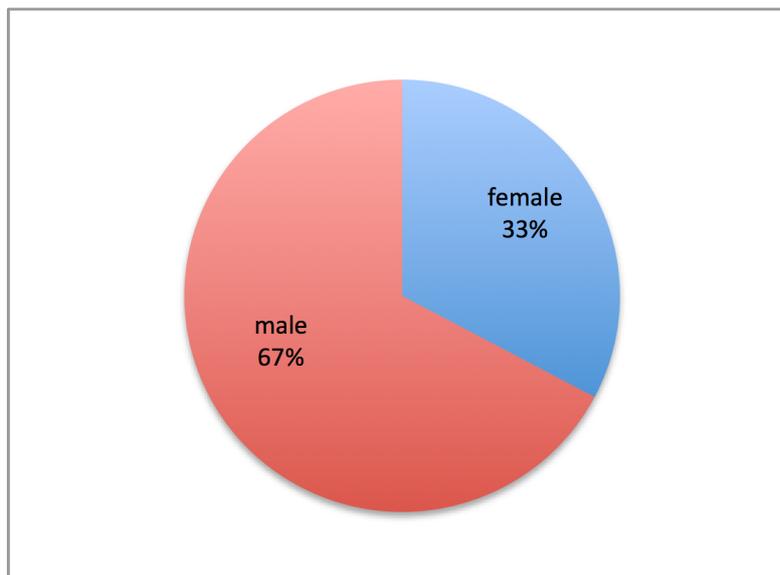


Figure 5.4: Total participation by gender across both case studies (n=58)

5.3.4 The impact of policy reform

Policy reform impacted both case studies during the research period and provided an insight to the impact of reform on participatory processes.

Periods of policy reform are by nature disruptive. Reform brings the potential for significant change to established power dynamics. It also creates uncertainty and the opportunity for vested interests to influence change. In this way, policy reform provides a window into the struggle between established political interests and the values of public participation. Political will is a necessary factor in determining how

high-level statements of intention about community engagement are put into practice (McKinney & Field, 2008; Wiersema 2008).

For example, the extensive community consultation undertaken during the review of the *Environmental Planning and Assessment Act 1979*, No 203 (NSW) (NSW Government, 2012; NSW Government, 2012a; NSW Government, 2013) suggested a shift in norms that would see principles of community engagement defined in legislation. However, during parliamentary debate, important institutional innovations, such as the Community Participation Charter were lost and the status of this draft *Bill* (NSW Government, 2013a) remains unclear two years later.

As the New South Wales natural resource management system was reformed, existing mechanisms for audit and review were altered. The significant role of the Natural Resources Commission in establishing guidelines and evaluating progress was not recognised in the detail of the new legislation, although they retain a role in the current regime. Terminology changed from 'community' to 'customer', revealing an ideological shift that was not well grounded in the public consultation process (Department of Environment, 2009; Natural Resources Commission, 2014).

Fragmentation of policy emerges as a significant barrier to improving community engagement in natural resource governance. The political tendency to separate policy areas enables progress in one area of community engagement to be quarantined from related or overlapping legislation. It also allowed resistance to flourish, undermining the development of new norms of community engagement.

A similar fragmentation across jurisdictions creates barriers to innovative participatory processes. A lack of regional capacity to implement state and federal requirements reduces bureaucratic confidence in these processes. At the same time, high-level commitments such as *NSW 2021* (NSW Government, 2011) continue to promise increased regional or local decision-making. The principled policy methodology employed in this research reveals that the intimate link between policy and politics cannot be ignored when considering how participatory processes might threaten the established power structures of natural resource governance.

In this way, the role of participatory processes in debates about the devolution or centralisation of natural resource governances can be seen as a power struggle

between the established norms of Australian representative democracy and concepts of 'local' or regional scale governance.

The lack of legal and policy clarity, identified in the case studies, confuses expectations of what community can expect to achieve through their participation. The difference between increasing community empowerment and achieving a project approval is vast in terms of expectation management. For each party involved in designing, implementing and participating, personal expectations were rarely informed by legislated objectives. This has implications for the perceived and actual legitimacy of participatory processes.

The case studies demonstrate the important role that best practice standards for community engagement can play in driving improvement at the organisational and individual level. Standards were used to both articulate and evaluate expectations around participatory processes. By providing clear guidance about the purpose of these processes, best practice standards were most effective when they were linked to legislative responsibility through audit and review.

5.3.5 Capacity

The data reveals that for participatory processes to be effective, legal requirements and policy statements must be matched by a skilled and capable supply of participants. Theoretical clarity about best practice community engagement was diluted during implementation of participatory processes. Participants focused on issue-related outcomes, rather than the activities of governance itself. The evidence requirements neglected to collect data about the implementation of participatory processes. As a result, awareness of practice and theory was dependent on the skills and capacity of individual participants.

The case studies show that increasing understanding of the institutional framework is necessary for building community capacity to actively and effectively participate in governance regimes. Participants with a passionate interest in the particular natural resource issue were focused on immediate activities rather than broader systemic concerns. This led to frustration about the limited impact of their participation on policy outcomes.

This lack of governance knowledge undermined participants' ability to propose strategic reform. It also limited their ability to negotiate the boundaries of the participatory process, the accountability requirements and evidence that would be collected. This contributed to a loss of community ownership and a tendency to look towards the parties with institutional power to drive the process forward.

Evidence from the case study data shows that for those embedded in a particular participatory process, imagining alternatives to the status quo is difficult. During data collection, questions about possible reforms were met with blank stares. Analysis required a keen ear to any oblique references to activities or ideas of governance. This included norms and expectations around decision-making mechanisms, and descriptions of cynicism, withdrawal, opposition and non-participation. The research reveals that people articulate concepts of governance without using the specific term. 'Governance' includes references to the shifting institutional architecture, fears of change, risk, uncertainty, and spirited discussions of power, politics and money.

In this context, reform suggestions combined instrumental or transformational perspectives. Small procedural changes, such as earlier circulation of the minutes, were contrasted with aspirational systemic reform. This suggests that researchers interested in implementation must keep a firm eye on participatory dynamics and articulate them through repeated engagement with the empirical evidence.

5.4 Discussion

5.4.1 Frameworks and reform

The key findings from the analysis and synthesis of the case studies have been presented in Table 5.5 as three dilemmas that pivot around the research focus on the way that legal rules, policies, organisational norms and social norms interact, to shape both *form* and *function* of 'community' in natural resource governance.

Table 5.5: Three dilemmas of institutional frameworks for community engagement

	Claim	Evidence
Dilemma 1 Legitimacy	Frameworks are focused on building industry capacity and expertise in community engagement.	Policy uncertainty and community disengagement reduce participation; compliance focus distracts from authentic implementation of participatory processes.
Dilemma 2 Culture change	Frameworks drive change in existing norms about community engagement.	Norms are dependent on culture; implementation draws on established norms and power dynamics; expectations of participation are not grounded in legal requirements.
Dilemma 3 Expectations	Frameworks will articulate and formalise expectations about community engagement.	Struggle to reconcile diffuse concepts of 'community'; Limited definitions of community enable diverse expectations to flourish and reduce procedural avenues for challenge.

The comparative analysis reveals that subjective values are influential in determining expectations of community governance. Each respondent had a different internal logic for their expectations of what community engagement would lead to, either in terms of a particular project, or in broader society. These informants often worked at different levels of the investigative framework. The co-existence of these different internal logics within one project or process illustrates the complexities of community engagement.

Across the case studies, informants paused when asked about strategies for accessing diverse community voices. Answers were generally vague and revealed little structured planning for accessing more than a subjective and self-generated definition of 'community'.

This lack of thoughtful consideration of what 'community' was being targeted suggested an important role for procedural guidelines that direct attention to identifying missing voices. This was particularly noticeable when claims of community acceptance and legitimate decision making were challenged. Subjectivity can result in accusations of self-interest or poor process when other members of the 'community' feel left out. The results show that even the best intentions can be let down by a tendency to work with 'the usual suspects' and a sense that community engagement is a largely intuitive activity.

The data shows that concepts of procedural legitimacy are subjective and linked to gut feelings of 'fairness'. As a result, legitimacy becomes separated from the legal and policy details. This results in highly subjective indicators that resist 'tick the box' quantification and complicates evaluation of the mechanism.

5.4.2 Accessing the community

For those designing and implementing participatory processes, a project level focus encourages pragmatic planning. A recognised limitation is the financial and human resources required to facilitate broad community participation. In each case, trade offs had to be made between the desire (or requirement) for community engagement and the capacity of the project leadership.

When questioned, respondents were able to present a nuanced perspective about the limitations of their approach while being practical about the causes and impacts. For those participating in the participatory process, the perceived fairness of the activity itself became a topic of concern that was held distinct from achievement of a specific project outcome. This indicates that ideas of effectiveness and legitimacy are related to an individual's place in the project, their interest in the outcome and their personal experience of participatory processes in practice.

For participatory processes to improve, reform suggestions must be informed by grass roots, implementation knowledge. This requires building participant awareness about the differences between *governance*, *management* and *government*.

5.4.3 Vested interests and community leadership

Each case struggled with how to manage vested interests. The difficulty of activating community participation led some participatory processes to rely on those who had a direct interest in the outcome of the process. This was variously described as a negative or positive, indicating that vested interest does not carry an inherent value judgement, but is mediated through the context of the participatory process and the natural resource issue.

Strong governance guidelines were seen as necessary to accommodate vested interests while taking advantage of the motivation to increase participation, attendance and consistency. Negative consequences of self interest require strong

facilitation and leadership. Where this fails, the broad-brush compliance standards are not adequate, reinforcing the need for project specific governance documents.

Community members took repeated leadership roles in their geographical region, reappearing in several cases wearing different hats. This poses a challenge for rural regions in identifying how these community assets exert influence across a range of issues. The value of these individuals lies in the skills and experience they can offer. However there is a risk that over-commitment can lead to increased rates of participant 'burn out'. The influence that these active individuals might exert on multiple projects or issues also requires further consideration. While these individuals are clearly accepting a community leadership role, this dynamic might also replicate existing patterns of power and influence. Reforms to address the peculiar challenges of community engagement in regional and rural areas must consider capacity building as an ongoing investment, rather than episodic interventions that create community champions in isolation.

5.5 Conclusion

The data reveals, once again, the diverse and highly subjective nature of participatory processes in natural resource governance. This finding has continuing relevance for attempts to evaluate and improve implementation of institutional frameworks for community engagement.

By working with the case studies as one data set, comparative analysis reveals tensions of expectations, motivations and participation. The data suggests that tensions are linked to powerful assumptions that surround participatory processes. These assumptions complicate and often undermine the efficacy and legitimacy of these mechanisms.

The comparative data echoes the conceptual division between *tangible* and *intangible* norms of community engagement described in Published paper one (Howard, 2015a), Table Two. These norms emerge from repeated interactions between individuals and organisations within the context of an institutional framework. They exert influence on both expectations and implementation practices in natural resource governance, although these are rarely clearly articulated.

The interaction between procedural fairness, community acceptance and legitimacy is vital to developing good quality community engagement. Viewed through the lens of the participatory process, this analysis clearly shows how subjective many of these elements can be. The investigative framework underpinning this research encourages reform that can balance legislation, policy, practice and evidence to standardise implementation norms.

Meeting rules or governance documents can provide a form of negotiated guidance for participatory processes, establishing ground rules that enable quieter voices to be heard. Clearly defined roles and scope of influence can reduce confusion about the purpose of the process. Anchoring participation to a clear purpose can avoid negative and unproductive interaction between individuals. Procedural documents can combine vision statements with nuts and bolts detail of how the process will work in practice.

Participatory processes may lack the voices of marginalised or disadvantaged community members. For processes that aim to achieve 'legitimate' community acceptance the best practice literature recommends a range of strategies to ensure that power dynamics are not simply replicated through participatory processes (Eversole, 2011; Fischer, 2005; Reed, 2008; Workshop IDS, 1998). Beyond community acceptance, these strategies are important to ensure that policy development is well informed by knowledge that may make or break implementation. The data presented here supports balancing procedural elements with more substantive commitments to inclusive and community-centric decision making.

The legislative reform encountered in this research seemed to be based on political pressures rather than considered and strategic responses to the challenges of natural resource governance. Although both case studies identified local government support as important for community acceptance, this 'local' mechanism lacked constitutional certainty and had limited legislated responsibility for many natural resource issues that require community participation.

This research illustrates that claims to local or regional devolution are largely political, with limited reflection in changing norms of accountability and direction from the centre. This dissonance exists in the gaps between rhetoric and reality, and shows that genuine reform must engage both high-level legislative commitments and

procedural design of policy to ensure that the intentions are enforceable. Analysis of the data shows that implementation case studies provide a valuable lens for learning about this interaction across the investigative framework of the research. The results described in this chapter provide the springboard for recommendations and future research directions detailed in Chapter 6: Conclusion and implications.

Chapter 6: Conclusions and implications

6.1 Introduction

This final chapter brings together the theoretical insights and empirical analysis of the preceding chapters and published papers to address the primary research question guiding this thesis:

How are participatory processes currently defined and experienced in Australian natural governance; and how could they be improved?

Section 6.2 outlines the research journey and the broad conclusions. Section 6.3 presents governance reform recommendations based on the conclusions discussed in section 6.2. These recommendations contribute to the Next Generation rural landscape governance program which framed this research project.

The investigative framework developed in this research provides an internal logic for the structure of the thesis. Section 6.4 employs this framework to discuss the research conclusions and implications in more detail. Each element of the investigative framework is populated with specific research questions and assumptions which are addressed in the context of the thesis.

Research frameworks naturally impose limitations on data collection and analysis. Section 6.5 outlines these and their implications for the research findings. Through recognising and articulating limitations to the research design and analysis, the generalisability and transportability of the research findings are considered.

This chapter concludes with recommendations for future research directions based on the research findings and the principled policy methodology employed.

6.2 Conclusions of the research

The tension between formal rules and community engagement in practice is the fundamental tension underpinning this thesis. Improving community participation and action in an increasingly complex world is a subject of concern and research for academics, practitioners and policy makers alike. The field continues to expand, with efforts and innovations being documented across different governance scales and jurisdictions (Borrini-Feyerabend et al. 2014; Lees-Marshment, 2014; Lewanski &

Florida, 2013; ; Lindquist, Vincent, & Wanna, 2013; United Nations Open Working Group, 2015; Victorian Auditor-General's Office, 2015).

This research takes a step back from normative assumptions about the assumed benefits of increasing legal and administrative requirements for community engagement. The influence of cultural, organisational and social norms is of key interest to this research. This interest is based on the definition of governance as an interaction between formal and informal rules and behaviours. This positioning suggested that articulation of norms is likely to reveal how informal dynamics impact on the way that participatory processes operate in practice, and suggest new norms that could drive improvement. This required a research approach that paid attention to the fine grain of participatory processes as they are implemented.

The principled policy methodology employed in this thesis enables this tracing of how legal requirements for community engagement in natural resource governance are implemented in practice. The empirical analysis collected a 'vertical slice' of data from case studies that translated a legal requirement for participatory processes into project level implementation. The investigative framework sought to uncover normative values about community engagement and chart their influence through participatory processes. The analysis enables attention to the different ways that respondents address complex concepts of governance and community across the investigative framework.

The research finds that current natural resource governance regimes permit flexibility and discretion in the design and implementation of participatory processes. The range of possible processes, a lack of integrity checks and limited avenues for community challenge threaten authentic implementation. Achieving balance between authentic community engagement and accountable government emerges as the central challenge for effective institutional reform.

This research illustrates that different expectations of community participation co-exist under the same legislative framework. These expectations seesaw between transformational and instrumental norms, between ideals of community empowerment and community acceptance (as illustrated in Figure 6.1). Participatory processes are often ill defined and struggle to address community concerns about the influence of power and advantage in their implementation. This leads to

frustration with the gap between community efforts to participate and the objectives of the legislation.

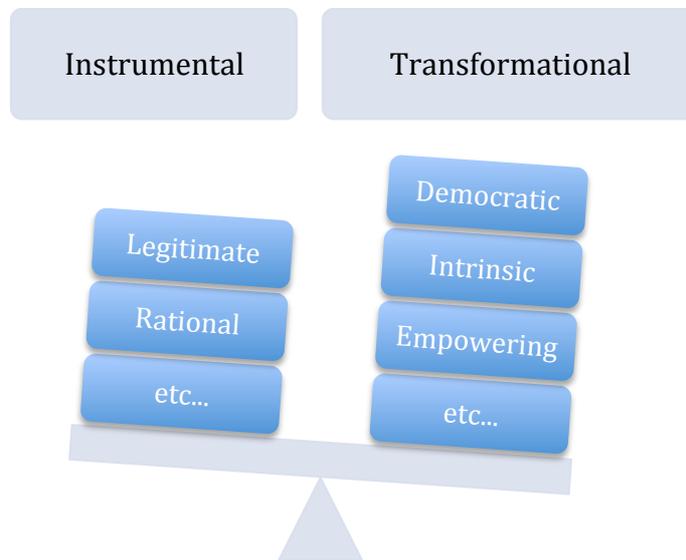


Figure 6.6.1: Seesawing between normative expectations of community engagement

Legislation can provide community members, industry and policy makers with a clear direction. However this research shows that current legal requirements for participation fail to provide this clarity. Community engagement is not clearly prioritised and often jostles with other legislated objectives for attention. This leads to confusion about the degree of effort that should be applied to achieving best-practice participation. A lack of substantive commitment sees community engagement become subordinate to the natural resource outcome. As a result, participatory processes become focused on achieving community acceptance as part of a procedural hurdle. This is the current context of community engagement in natural resource governance in Australia.

6.3 A model for reform

The chapter now presents possible governance reforms to address the second part of the central research question:

How are participatory processes currently defined and experienced in Australian natural governance; **and how could they be improved?**

While each case study example contained variation and diversity, several key commonalities were identified during analysis:

- The role of accountability mechanisms and requirements in driving expectations of participatory processes;
- The influence of the wider policy context on the implementation of participatory processes;
- The significance of vested interests in activating and managing participatory processes;
- The key relationship between legal and policy requirements for participatory processes, and community capacity to participate.

As demonstrated in this research, governance reform to improve community engagement must address problematic aspects of discretion, flexibility and accountability. Participants need to understand the role of participatory processes in the legal and policy context. The regime must create opportunities to challenge inadequate or unsatisfactory processes through procedural mechanisms. Commitments to 'localism' or devolution of decision-making must be closely examined to identify legal or policy barriers that will undermine effective implementation. Ideally, these changes would be informed by a facilitated and active discussion of community values concerning natural resources and their management.

The underpinning influence of the investigative framework is illustrated in Table 6.1. The findings become the foundation for a series of governance reforms. These proposed reforms strive to maintain a connection between institutional frameworks and on-ground implementation of participatory processes in natural resource governance.

Table 6.1: Reform recommendations mapped to the conceptual and investigative framework

Conceptual framework	Investigative framework	Reform recommendations
Substantive	Legislation	<ul style="list-style-type: none"> • Begin to establish a new norm for community engagement by making a substantive commitment to community participation in the objectives of natural resource legislation; • Legislate to establish independent oversight body insulated from political influence; • Legislated objectives clear on how community engagement is to be prioritised in decision making or under legal challenge; • Harmonisation of associated policy through legislative reform to ensure implementation of substantive intent; • Confer legal standing for a defined community to trigger review and challenge of unsatisfactory or inauthentic processes.
Procedural	Policy	<ul style="list-style-type: none"> • Develop a range of procedural mechanisms to support substantive commitment; • Implement a process of administrative review and transparent reporting of these processes; Audit legal and policy requirements to ensure community capacity is aligned with governance objectives; • Negotiate accountability requirements with community participants - incorporate community developed indicators in evaluation procedures; • Address power imbalances through governance support and capacity building for community participants; • Develop best practice standards and procedural guidelines; • Implement regular audit and review procedures through legislated independent body.
Process	Practice	<ul style="list-style-type: none"> • Implement governance support for participatory processes; • Develop industry and agency expertise in community engagement through implementation of best practice guidelines and standards; • Build applied knowledge with community participants to build capacity for participatory processes; • Work with community participants to reflect on power dynamics and build strategies for achieving harmonisation.
	Evidence	<ul style="list-style-type: none"> • Be clear about the objectives of any particular participatory process; • Link these objectives to requirements for evidence and incorporate community negotiated indicators of success; • Build empirical knowledge of implementation dynamics and develop applied theory for community engagement in governance;

Conceptual framework	Investigative framework	Reform recommendations
	Reform	<ul style="list-style-type: none"> • Promote harmonisation of socio-economic and ecological research to identify optimum scale for regional governance; • Link awareness of legitimacy and good government with strategies to build community capacity; Consolidate participatory demands in rural areas; • Build capacity to develop community generated accountability mechanisms; • Offer funding and governance support to develop innovation in the design and delivery of participatory processes.

These reform recommendations are informed by the specific context of the Australian federated system and the socio-ecological landscape of rural Australia. They may be relevant to other federated governments or communities facing similar socio-ecological conditions.

The reform recommendations aim to balance rights to participate with commitments to build community capacity and hold participatory processes to account. Reform must ensure that the community can effectively meet their legislated duties in natural resource governance regimes. The reform recommendations are summarised in Table 6.1 and discussed in more detail in section 6.4.

6.4 Discussion: Implications of the research

The investigative framework developed through the initial literature review and the subsequent thematic analysis became a useful heuristic for the entire research project. In communications with project partners or research participants, the framework provided a short cut for introducing the research approach, embedded assumptions and boundaries. The framework provided a structure not only for designing and analysing the research project but also for presenting conclusions and implications.

The five elements of the investigative framework were arranged on a vertical axis to guide data collection (see Figure 6.2).

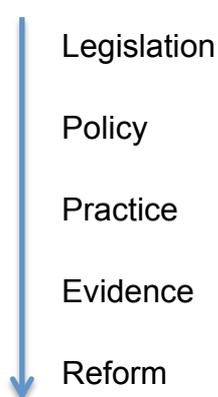


Figure 6.6.2: The vertical slice of the research design

However, during data analysis the interaction between the different governance elements became vital to identifying points of reform. This interaction reveals the real word complexities of natural resource governance and is illustrated in Figure 6.3.

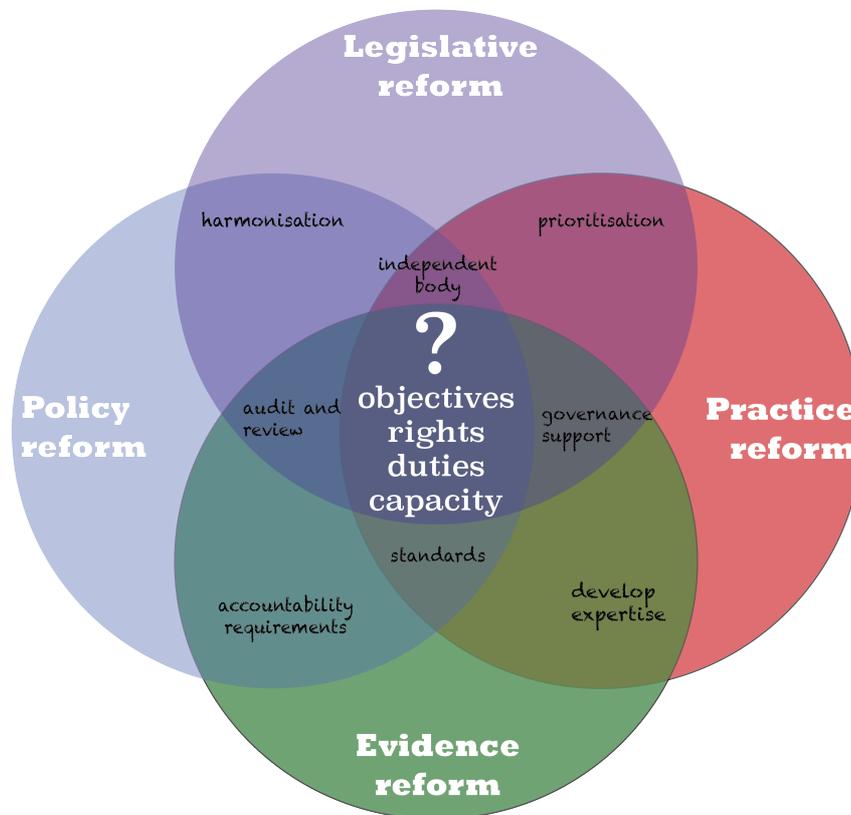


Figure 6.6.3: Illustrating interactions between the elements of the investigative framework.

6.4.1 Legislation: Research question one

International agreements create aspirational benchmarks for substantive rights of public participation. Through ratification and agreement, nation states endorse a norm of community participation that must then find expression in national governance arrangements. Legislation is an essential ingredient of high-level commitments to community engagement in natural resource governance regimes.

The ability of national and intra-national legislation to meet these high-level expectations is a concern of this research, guided by the secondary research question:

What expectations and definitions of community engagement are embedded in current natural resource legislation, and what substantive guidance is provided for their implementation through participatory processes?

The analysis of specific legislation and the associated participatory process provided a window into current natural resource governance in Australia. Two core issues were identified. One was the tension between substantive and procedural forms of legislation for community engagement. The second was the confusion of community development and environmental decision-making. These issues confirmed the guiding assumptions of the secondary research question¹³ and are discussed here in the context of legislative reform.

The Australian environmental legislation reviewed for this research (Appendix Three) shows that key terms such as 'community' and 'public' are rarely defined. Without definition, the use of these terms allows diverse expectations to become established when read by different audiences. This ambiguity is often compounded by the inclusion of community participation as one of several other legislated objectives, without clear identification of how these objectives should be prioritised in decision-making or in circumstances of legal challenge.

Ambiguity in terminology can be useful for progressing discussions or achieving in-principle support on contentious points (Dellinger, 2012). However, ambiguity becomes problematic during implementation. A lack of clarity creates opportunities for different interpretations to co-exist. The success of reform in a federated democracy will be improved where intentions are aligned across jurisdictions and portfolios (Abbott & Marchant, 2010; Riley, 2012; Tan, 2006). This harmonisation requires clear definitions of key terms and legislated mechanisms for checking on how these reforms are implemented.

Legislative reform can establish mechanisms for audit and review of legal requirements in practice. This includes the creation of independent bodies that combine oversight of procedural implementation with recommendations for improvement. Independent audit and review can augment procedural requirements by evaluating progress towards clear and defined objectives. It can also be tied to funding allocations or statutory reporting, increasing the likelihood that findings will be seen as enforceable and actionable. Case study two demonstrated the positive

¹³. Assumptions:

- Community engagement is an ambiguous term which encompasses diverse expectations and confused objectives;
- Community engagement requires substantive definition and clearly articulated expectations to improve its role in natural resource governance.

influence of independent review in stimulating a shift in organisational norms of community engagement.

The tension between substantive and procedural avenues for legislative reform is difficult to reconcile. Participatory processes can be delivered through purely procedural reform. Procedures offer immediate and measurable avenues for change. However they may be inadequate for addressing community dissatisfaction with the outcomes of natural resource decision-making. While evidence demonstrates community support for 'fair' procedures (Tyler, 2006), an over-reliance on procedures can avoid a substantive decision on the value of community perspectives.

Procedural limits also determine whether community can dispute the integrity of a participatory process. Without substantive guidance about the value of community engagement, compliance and accountability checks remain linked to natural resource objectives, rather than achieving quality community engagement (Kirk & Blackstock, 2011).

For community members to challenge unsatisfactory or insincere participatory processes, they must hold legal standing within the legislative framework. Legislative reform to confer standing creates a link between procedural requirements for participation and the substantive quality of that process (Black, 1997; Carson, 2008; Dellinger, 2012). However, the extent to which standing also confers a duty to monitor and uphold the intention of the legislation raises questions of community capacity and obligations.

A confusion of community development and environmental decision-making objectives is a finding from this research and the broader literature (Adams & Hess, 2001; Eversole, 2011; Shortall, 2004). This confusion is linked to the previously discussed lack of clarity in terminology and limited definition of the role participatory processes will play. Natural resource legislation may be considered a vehicle for community development through the design and implementation of participatory processes. This confusion has its origins in international agreements such as Agenda 21 (United Nations Environment Programme, 1992) and Rio+20 (United Nations General Assembly, 2012) that firmly link human rights to participate with environmental issues.

If natural resource legislation attempts to deliver community development through participatory processes, then the balance of power must be altered to achieve this end (Wiersema, 2008). Legislative reform to address power imbalances must include substantive commitments to community leadership and procedural mechanisms to change established power structures (Black, 2001). Power imbalances can be addressed by establishing independent support for participatory processes (Gaventa, 2006). Legal reform for participatory *rights* should be developed in combination with reform for participatory *duties* to ensure that communities are equipped with the necessary skills and resources to meet the objectives of the legislation. Ensuring that community capacity is aligned with legislated objectives requires harmonisation of high-level commitments with policy details (Majchrzak, 1984).

6.4.2 Policy: Research question two

Investigation of the policy element was guided by the secondary research question:

What expectations and definitions of community engagement are embedded in current natural resource policy, and how are these implemented in participatory processes?

The research identifies a range of political pressures and policy dynamics that influence the implementation of participatory processes. The identified lack of legislative clarity about the purpose and form of community engagement led to diverse participatory processes operating under the same legal requirement. The policy documents vacillated between transformational ideals of community empowerment and instrumental claims to community acceptance. These different norms are rarely articulated or linked to the detail of the participatory process being described, supporting the guiding assumptions of research question two.¹⁴

Principles of transparency and access are important international norms for public participation in environmental governance (Jendroska, 2013; Lambropoulos, 2010; Werksman & Foti, 2011). Clarity of purpose and procedural integrity mechanisms are

¹⁴ Assumptions:

- Ambiguity at the substantive level increases the influence of discretionary/ administrative power in the design and implementation of participatory processes;
- There is a tension between functional and transformational perceptions of community engagement

key to meeting these principles. Transparency in political power dynamics must also be a serious ingredient of successful reform (Bratspies, 2011; Whitman, 2008). Ideally a symbiotic relationship between legislation and policy would see high-level aspirations aligned with policy detail to ensure that the intention is translated into action.

However, the difficulty of divorcing political behaviour from policy design suggests that integrity mechanisms are better determined by legislative decree in an attempt to safe guard their operation in a politicised context. Modern democratic politics is reactive to media scrutiny and vocal opposition. Well-resourced lobby groups and powerful interests are able to exert pressure on the policy cycle beyond the limits of election campaigns. Policy is vulnerable to changing political leadership and this flexibility challenges reform that might prioritise community interests or threatened established power dynamics. Legislative reform can be a slower process and may attract more scrutiny through review and debate, although as case study one and two demonstrate, political dimensions remain influential.

Integrity mechanisms such as audit and review encourage attention to the capacity of all parties, including staff and managers, to design and implement community engagement. Auditing performance against best practice standards can move the governance framework beyond an intuitive faith in 'virtuous' engagement, to understanding that key ingredients can be clearly articulated and assessed. Well-designed standards can be used to govern discretion and promote accountability (Arnold & Gunderson, 2014) by ensuring that they are not just 'nice ideas' but legally enforceable (Ross, 2010).

A robust audit and review mechanism can shine a light onto the implementation of community governance without denying flexibility in design. This can support innovative forms of community engagement by auditing both the substantive and the procedural details of any particular participatory process. For audit and review to succeed, it must be insulated from political influence. The independence of the review process then becomes a proxy for the overall legitimacy of the policy framework.

6.4.3 Practice: Research question three

The Practice element of the investigative framework is guided by the secondary research question:

What expectations and definitions of community engagement are embedded in current natural resource practice, and how are these experienced through implementation of participatory processes?

This included attention to how legal and policy requirements for community engagement were implemented and experienced. Natural resource governance is a site of ongoing debate about devolution or centralisation of environmental decision-making and action { Curtis et al., 2014; Kotze, 2014; Pieraccini, 2015). These debates illustrate the power struggle between established norms of representative democracy and concepts of 'local' or regional scale governance, and support the guiding assumptions of Research question three.¹⁵ Relinquishing power through the operation of participatory processes raises questions of accountability (Jacquet, 2014; Prager et al, 2015; Stoker, 2013).

Accountability requirements are a necessary feature of transparent and trustworthy governance. Legitimate community engagement cannot avoid questions of accountability where decisions are made through participatory process.

At the same time, accountability requirements can have an adverse impact on good quality community engagement, by distracting effort and attention from implementation. Accountability requirements are required to focus on the main concern of the legislation. This separation between 'issue' outcomes and 'governance' outcomes is difficult to articulate. It requires clear legal and policy guidance to avoid the common complaint of 'tick the box' community engagement.

Participatory processes can be sites of negotiation. It is here that flexibility and discretion can be creatively harnessed to deliver local or regional governance solutions. This possibility depends on not only the stated purpose of the legal framework but also the procedural details that put commitments into practice. Unless

¹⁵Assumptions:

- Practical experiences are disconnected from substantive and procedural definitions and expectations;
- A tension between functional and transformational perceptions is present throughout the investigative framework.

community engagement is clearly defined and prioritised, procedural mechanisms are likely to remain focused on achieving and demonstrating compliance.

At the practice level, power dynamics are often hidden from view. A history of disadvantage, and poor civic education and geographic distance from centres of political power all contribute to power imbalances. Simply creating a requirement to a participatory process will not address the complex reasons why individuals might not be able or willing to take advantage of this opportunity. To achieve effective participatory processes, building community capacity must be a legitimate focus of all reform efforts in natural resource governance.

Best practice standards and review mechanisms can provide for more integrity in the design and delivery of community engagement. Legal requirements can establish a normative expectation and triggers for challenge. But all of these elements hinge on the ability of the community to successfully meet and negotiate participatory requirements.

6.4.4 Evidence: Research question four

The research interest in evaluation is guided by the secondary question:

How do definitions and expectations of participatory processes differ, and what are the evidence implications for improving community engagement as an element of natural resource governance?

Although purposes of community engagement are articulated in well-established typologies, they are not integrated with legal requirements. A lack of definitions and prioritisation of objectives, combined with a limited reliance on best practice standards, leads to confusion between stated intentions, expectations and desired outcomes. This has serious implications for the collection of empirical evidence about the impact of community engagement in natural resource governance.

As previously noted, collecting evidence to meet reporting requirements creates time and accountability pressures. These may inhibit attention to the longer-term outcomes of community engagement, reducing empirical knowledge and evidence-

based improvement. This finding supports the guiding assumptions of Research question four.¹⁶

While gathering evidence about participatory processes is important, indicators must capture diversity rather than struggle for standardisation (Berner et al., 2011).

Beyond the individual's *capacity* to participate is their *motivation* to participate, which relies on subjective values. This subjectivity may be based in a vested interest or an altruistic motivation for the public good, or any combination in between.

Understanding the influence of these subjective motivations could improve the design of participatory processes to address likely power imbalances. Integrity mechanisms could be strengthened by awareness of how different interests might change participants' behaviour, depending on their motivation for becoming involved in the process.

Section 6.4.3 suggests that participatory processes could be seen as negotiation spaces for community involvement in natural resource governance. Negotiation spaces can link participants to the legal and policy objectives of the institutional framework. They can facilitate awareness of the different expectations that may be co-existing in any one participatory process. Reframing community engagement as a creative negotiating space increases the opportunity to capture progress on both subjective and objective values.

Current natural resource governance requires evidence as part of development applications, planning frameworks and permit systems. Standard project development practices are well entrenched and can provide an acceptable avenue for improving norms of community engagement. Developing indicators in accordance with best practice standards could ensure that community participation informs both pre- and post-evaluation procedures. Building these requirements into legislation that clearly prioritises community engagement would combine substantive and procedural elements to enable a shift in the collection of evidence. In this way the need for evidence should not inhibit authentic community engagement.

¹⁶ Assumptions:

- Confusion of intention and ambiguity of definitions leads to a focus on outputs rather than outcomes, and lack of empirical evidence for participatory processes as a governance tool, which makes it difficult to improve beyond the process level;
- An understanding of the functional/transformational divide will improve participatory processes across the investigative frame.

For negotiations to be successful and authentic, changes to the established power dynamics must be possible. The current reliance on quantifiable indicators links ideas of 'good governance' to well-established institutional structures (Lees-Marshment, 2014). This reinforces the status quo and undermines innovation in community engagement. As previously identified, participatory processes present a challenge to dominant power dynamics. By inviting community to negotiate indicators of success and evidence requirements, a pathway to significant reform is possible. The procedural steps on this pathway must then align to accept new indicators of good governance in reporting and accountability mechanisms.

6.4.5 Reform: Research question five

The applied focus of the research led to a series of specific governance reform suggestions. These suggestions are outlined in Table 6.1.

The reform recommendations emerged from the empirical analysis of the case study data and are guided by the secondary research question:

What alternative rules could improve participatory processes in natural resource governance and what are the barriers or enablers to achieving this reform?

The subtle differences between *governance*, *management* and *government* are theorised in the academic literature. These theoretical understandings are useful for understanding community engagement, participatory processes and institutional frameworks. These theories form the basis of best practice guidelines and standards. However the empirical evidence presented in this research demonstrates that during implementation, subjective expectations and values dilute theoretical clarity about best practice community engagement. The distinction between local and regional delivery is not clearly addressed. Community preferences for inter-governmental collaboration and devolution of decision-making sit awkwardly with calls for more centralised responsibility (Brown, 2014; Curtis et al., 2014).

To facilitate better reform, community governance requires further theorising and contextualising in an applied, hands-on sense. Participants need to consider their activities within the context of the mechanism and the wider institutional framework.¹⁷

¹⁷ The capacity of participants to envision alternatives is explored in Chapter 5 (section 5.1.4) and challenges the assumption underpinning Research Question 5: Participants in existing participatory processes can envision effective reform.

Understanding the activity of 'governance' must become a part of building community capacity to participate. This requires theories of community natural resource governance that are accessible beyond academic audiences. High-level commitments to devolved governance cannot succeed without a skilled and capable community.

As previously discussed, participatory processes can offer potential sites of negotiation for community engagement in natural resource governance. The difficulty of balancing accountability and responsibility with community capacity is a real barrier to realising this potential. This research shows that policy harmonisation to support and implement community capacity building is crucial to creating new norms for community engagement in natural resource governance. Integrity mechanisms must be flexible, robust and transparent. Clear objectives, quality standards, audit and review processes need to integrate community visions of accountability, responsibility and evidence.

6.5 Limitations of the research

The empirical research described in this thesis is a qualitative study based on post-positivist values of subjectivity and relativism. As a result, the research design does not seek to establish positivist conditions of experimental validity. The research design is explained and defended in Chapter 3: Methodology. This section outlines the research limitations, possible impacts of these limitations and the strategies employed to address these issues.

The investigative framework employed in this research emerged from a wide-ranging literature review. The review crossed disciplinary boundaries, particularly focusing on the intersection of social science with legal perspectives. The resulting research framework rested on a conceptual division between substantive, procedural and process elements of governance. This framing resonated with similar conceptual divisions found in economics and political science. A challenge for cross-disciplinary scholarship is to adequately address more than one established body of work (Aslin, 2010; Bammer, 2012). A strategy to address this limitation is to submit work for peer-review to a range of academic journals and presenting this research at cross-disciplinary academic conferences. This solicited valuable feedback that was addressed through the publication process.

The applied focus of the analysis also limits the contribution of this research to the development of cross-disciplinary governance theory. The research presented here is focused on building empirical evidence rather than building theory. This limitation is addressed in the research conclusion that community natural resource governance requires further theorising and contextualising in an applied, hands-on sense. There is an identified need for work that builds on theories of power in governance to develop theory that is accessible to community governance participants (Prager et al., 2015; Pattberg & Widderberg, 2015; Pieraccini, 2015).

Two of the original research objectives described in Chapter 3, Table 3.2 were not completed during this research. Objective four intended to develop criteria for balancing competing norms in reform proposals. However, the case study data revealed that this objective would require a different data collection instrument because the variation in individual and institutional understandings of community engagement was too great. Objective six intended to assess the feasibility of the reforms proposed in this chapter and was not completed due to time limits. While it would have been valuable to include this in the final thesis, strategies to meet this objective have included peer-review through publications, three conference presentations to receive feedback, and regular sharing of work in progress with the case study participants. The reform recommendations have formed the basis of a working paper and presentation to research partners during the final stages of the Next Generation of rural governance program.

6.6 Future research

The tension between formal rules and community engagement in practice is the fundamental tension underpinning this thesis. The extent to which expectations of community engagement can be successfully formalised in legislation remains an active research question.

This thesis has responded to calls for more empirical evidence about the implementation and evaluation of institutional frameworks for public participation (McKinney & Field 2008; Rowe & Frewer 2004; Koontz, 2005; Prager et al. 2015). The research provides rich detail that demonstrates the value of extending a principled policy methodology to include in-depth case study data. While in-depth case study analysis is time consuming, it has the ability to ground-truth quantitative

assessment of framework documents. Combined with a clear and accessible investigative framework, application of the methodology across a range of policy areas and scales could build a detailed picture of governance reform and provide a pathway for improved community engagement and cross-disciplinary conversations.

6.6.1 Capacity building: Community rights and duties

Legislated requirements for community engagement lead to questions of community capacity to meet these requirements. Further research is needed to understand how rights to participate create associated duties to meet these obligations, and the implications for community engagement mechanisms. The link between community engagement and community development is under-researched in institutional framework analysis and is worthy of deeper exploration across a range of public policy areas. Connecting concepts of community governance with accountability and responsibility is a research challenge that requires strong vertical and horizontal analysis.

6.6.2 Scale of natural resource governance

Finding the optimum scale for natural resource governance is a common concern of literature in this field (Curtis et al., 2014; Hordijk et al., 2014; Wyborn, 2013). The difficulty of separating scale from issues of community capacity, adequate resourcing and policy harmonisation supports future research that works across disciplinary boundaries to ensure that the impacts of governance reform on fundamental questions of democracy, rights, duties, and community empowerment are understood and articulated.

The need to renegotiate the best scale for rural natural resource governance is a question largely addressed by geographers and economists; this research suggests the need for more effective cross-disciplinary dialogue that embraces socio-legal perspectives and considers the governance implications of scale. Cross-disciplinary research is needed to build a more functional governance model that facilitates community engagement, develops community capacity to participate and encourages sustainable natural resource governance.

6.6.3 Developing norms: Industry, community and vested interests

Despite requirements to implement 'whole of government/whole of community' approaches to natural resource governance, the role of industry and private sector frameworks for community engagement remain under-researched. The important role of private landholders and corporations in rural communities and their associated investment in natural resource management on private lands suggest that future research needs to pay increased attention to how concepts of community, accountability and governance are framed by non-government sectors.

Suggestions of vested interests complicate notions of impartial and equitable governance, however attempts to neutralise these interests can create unanticipated consequences of disengagement, with potentially negative impacts in rural and regional areas. Research is needed to understand how non-government actors envision natural resource governance, what indicators of success they are looking for, and what role they see themselves playing in future governance regimes.

6.7 Conclusion

This research has drawn attention to the way that the 'rules of engagement' are defined and experienced in current Australian natural resource governance. Results illustrate that diverse expectations are embedded in the range of participatory processes operating under the same institutional framework. Fundamental issues of power and participation are present at each level of the investigative framework. Issues of democracy, justice, procedural fairness, social capital and subjective experiences of implementation are captured in current case study examples. The lens of 'governance' brings all of these factors together to question how decisions are made, how they are implemented and how they are evaluated to better understand how norms for community engagement are created and reinforced in participatory processes.

The interaction between procedural fairness, community acceptance and legitimacy is vital to developing good quality community engagement. This research demonstrates the importance of balancing procedural elements with more substantive commitments to inclusive and community-centric decision-making. The interaction between these two elements is complex, and the data shows that

implementation case studies provide valuable insights for learning about this interaction across the investigative framework of the research.

Many of the recommendations from this research are concerned with building community capacity. These lessons are drawn from a study in the natural resources context, where individuals and communities are working on the practical problem of how best to protect, exploit, restore and reclaim environmental values. These communities and individuals are working to ensure that the messages of sustainable development and inter-generational equity are not lost in routine and inadequate forms of natural resource governance. This thesis contributes a methodology for tracing how high-level commitments to community participation are implemented in practice, and demonstrates that rights to participate need to be balanced with commitments to build community capacity and hold governance mechanisms to account to ensure that the community is able to effectively participate in natural resource governance.

The simple answers, such as designing an inclusive public meeting, have already been supplied. The next generation of answers must face the imperfect and complex conditions of community engagement in natural resource governance; this research takes an important step towards providing those answers.

Bibliography

- Abbott, K., & Marchant, G. (2010). Institutionalizing Sustainability across the Federal Government. *Sustainability*, 2(7), 1924-1942. doi:10.3390/su2071924.
- Access Initiative (n.d.). *The Assessment Toolkit*. Retrieved from <http://research.accessinitiative.org/?module=main>.
- Access Initiative (n.d.). *The Assessment Toolkit*. Retrieved from <http://research.accessinitiative.org/?module=main>.
- Adams, D., & Hess, M. (2001). Community in Public Policy: Fad or Foundation? *Australian Journal of Public Administration*, 60(2), 13-23. doi:10.1111/1467-8500.00205
- Adler, M. (2005). Constructing a typology of administrative grievances: reconciling the irreconcilable. In R. Banakar, & M. Travers (Eds.), *Theory and method in socio-legal research*. Hart Publishing.
- Agee, J. (2009). Developing qualitative research questions: A reflective process. *International Journal of Qualitative Studies in Education*, 22(4), 431-447. doi:10.1080/09518390902736512
- Allan, C. (2008). Can adaptive management help us embrace the Murray-Darling Basin's wicked problems? In C. Pahl-Wostl, P. Kabat, & J. Möltgen (Eds.), *Adaptive and Integrated Water Management*. Berlin Heidelberg: Springer.
- Altman, J. (2010) Wild Rivers and informed consent on Cape York. Centre for Aboriginal Economic Policy Research, CAEPR Topical Issue Paper 2(2010), The Australian National University.
- AMR Interactive. (2010). Community attitudes to windfarms in NSW. *Department of Environment, Climate Change and Water NSW*. Sydney: NSW Government.
- Andreoli, S. B. et al. (2002), 'Age-at-first-registration in Schizophrenia: A Comparison of Mental Health Registers from Australia and Brazil' 54 *Schizophrenia Research*, 277.
- Anfara, V., & Mertz, N. (2006). Conclusion: Coming full circle. In V. Anfara, & N. Mertz (Eds.), *Theoretical Frameworks in Qualitative Research*. Sage.
- Ansell, C., & Gash, A. (2007). Collaborative governance in theory and practice. *Journal of Public Administration Research*, 18(4), 543-571. doi:10.1093/jopart/mum032
- Arnold, C., & Gunderson, L. H. (2014). Adaptive law and Resilience (Law School, Trans.). *Legal Studies Research Paper Series*, 37. University of Louisville.
- Arnstein, S. R. (1969). A ladder of citizen participation. *Journal of the American Institute of Planners*, 35(4), 216-224. doi:10.1080/01944366908977225

- Aslin, H., & Blackstock, K. (2010). Now I'm not an expert in anything: Challenges in undertaking transdisciplinary inquiries across the social and biophysical sciences. In V A Brown, J A Harris, & J Y Russell (Eds.) *Tackling wicked problems through the transdisciplinary imagination*. UK: Earthscan.
- Assunção, F., Bursztyn, M. A., & Abreu T. (2010). Participação social na avaliação de impacto ambiental: Lições da experiência da Bahia 10. *Confins – Revue Franco-bresilienne de geographie*. Retrieved from <http://confins.revues.org/6750>
- Australian Centre for Agriculture and Law (2012). Next Generation rural landscape governance. Retrieved from <http://www.une.edu.au/aglaw/contracts.php>
- Australian Government (2012), 'Caring for our Country Review' (Australian Government). Retrieved from http://smtp.auricht.com/docs/aclep/c4oc_report_on_review_2012_a.pdf
- Australian Government (2013). Shaping the future: Caring for our Country 2013-2018.
- Australian Government (2014), Have your say on the National Landcare Programme. Retrieved from <http://www.nrm.gov.au/funding/nlp/index.html>
- Australian Government (2014a). Caring for our Country Review. Retrieved from <http://www.nrm.gov.au/about/caring/review/index.html>
- Australian Government (1992). National Strategy for Ecologically Sustainable Development. Retrieved from <http://www.environment.gov.au/node/13029#WIESD>
- Australian Public Service Commission (2007). Tackling wicked problems: A public policy perspective. Canberra: Commonwealth of Australia.
- The Australian Wind Energy Association (Auswind) (2006). Best Practice Guidelines for Implementation of Wind Energy Projects in Australia.
- Avritzer, L. (2008), 'Instituições participativas e desenho institucional: Algumas considerações sobre a variação da participação no Brasil democrático' (2008) 14 *Opin Publica* 43.
- Bahauddin, K. M. (2014). Environmental system management and governance needs in a developing country. *Environment Systems and Decisions*, 34(2), 342-357. doi:10.1007/s10669-013-9472-3
- Bammer, G. (2012). *Strengthening interdisciplinary research: What it is, what it does, how it does its and how it is supported*. (Report for the Australian Council of Learned Academies). Canberra: ACOLA.
- Banakar, R., & Travers, M. (Eds.). (2005). *Theory and Method in Socio-Legal Research* (Oñati international series in law and society). Oxford: Hart Publishing.

- Banisar, D., Parmar, S., deSilva, L., & Excell, C. (2011). *Moving from principles to rights: Rio 2012 and ensuring access to information, public participation, and access to justice for everyone*. The Access Initiative, World Resources Institute.
- Barbour, L. (2014, 30 May), No New Money for Landcare Groups. ABC Rural (online). Retrieved from <http://www.abc.net.au/news/2014-05-30/landcare-grants-no-money/5488998>
- Barnard, M. (2012). The role of international sustainable development law principles in enabling effective renewable energy policy - a South African perspective. *Potchefstroom Electronic Law Journal*, 15(2). doi:<http://dx.doi.org/10.4314/pelj.v15i2.8>
- Barr, N. (2011). I hope you are feeling uncomfortable now: Role conflict and the natural resources extension officer. In D. J. Pannell, & F. Vanclay (Eds.), *Changing Land Management: Adoption of New Practices by Rural Landholders*. CSIRO publishing.
- Bartel, R. (2013). Vernacular knowledge and environmental law: Cause and cure for regulatory failure. *Local Environment: The International Journal of Justice and Sustainability*. doi:10.1080/13549839.2013.798636
- Bates, G. (2010). *Environmental Law in Australia* (7th ed.). Chatswood: LexisNexis Butterworths.
- Batie, S. (2008). Wicked problems and applied economics. *American Journal of Agricultural Economics*, 90(5), 1176-1191.
- Batty, S. E. (2006). Planning for sustainable development in Britain: A pragmatic approach. *The Town Planning Review*, 77(1), 29-40.
- Becker, M. A. (2010). Russia and the Arctic: Opportunities for engagement within the existing legal framework. *American Universities International Law Review*, 25, 225.
- Beierle, T. C. (1999). Using social goals to evaluate public participation in environmental decisions. *Review of Policy Research*, 16(3-4), 75-103, doi:10.1111/j.1541-1338.1999.tb00879.x
- Bell, D., Gray, T., Haggett, C., & Swaffield, J. (2013). Re-visiting the 'social gap': Public opinion and relations of power in the local politics of wind energy. *Environmental Politics*, 22(1), 115-135, doi:10.1080/09644016.2013.755793
- Bellamy, J. (2007). Adaptive Governance: The Challenge for Regional Natural Resource Management. In A. Brown, & J. Bellamy (Eds.), *Federalism and regionalism in Australia: New approaches, new institutions?* Canberra: ANU.
- Ben-Dor, O. (2007). The institutionalisation of public opinion: Bentham's proposed constitutional role for jury and judges. *Legal Studies*, 27(2), 216-235. doi:10.1111/j.1748-121X.2007.00050.x

- Bernard, H. R., & Ryan, G. W. (2010). *Analysing qualitative data: systematic approaches*. Sage.
- Berndt, A., & N.W. Tomkins (2013), Measurement and Mitigation of Methane Emissions from Beef Cattle in Tropical Grazing Systems: A Perspective from Australia and Brazil. *Animal*, 7(2).
- Berner, M. M., Amos, J. M., & Morse, R. S. (2011). What constitutes effective citizen participation in local government? Views from city stakeholders. *Public Administration Quarterly*, 35(1), 128-163.
- Besley, J. C. (2012). Imagining public engagement. *Public Understanding of Science*, 21(5), 590-605. doi:10.1177/0963662510379792
- Better Planning Network (2015). Retrieved from <http://betterplanningnetwork.good.do/nsw/fund-the-better-planning-network-in-2014/>
- Bevir, M. (2011). Governance as theory, practice, and dilemma. In M. Bevir (Ed.), *The SAGE Handbook of Governance*. SAGE.
- Bevir, M., & Rhodes, R. A. W. (2006). *Governance stories*. Routledge.
- Bishop, P., & Davis, G. (2002). Mapping public participation in policy choices. *Australian Journal of Public Administration*, 61(1), 14-29. doi:10.1111/1467-8500.00255
- Black, J. (1997). New institutionalism and naturalism in socio-legal analysis: Institutional approaches to regulatory decision making. *Law and Policy*, 19(1), 51-93. doi:10.1111/1467-
- Black, J. (2001). Proceduralizing regulation: Part II. *Oxford Journal of Legal Studies*, 21(1), 33-58. doi:10.1093/ojls/21.1.33
- Blaikie, N. (2010). *Designing social research* (2nd ed.). Polity Press.
- Blakester, A. (2012, 27/7/2012). Letter to the Editor. *Armidale Express*, p 6.
- Bold, C. (2012). *Using narrative in research*. Sage.
- Border Rivers-Gwydir Catchment Management Authority (2012a). *Draft Program Logic* (version 5). Internal document.
- Border Rivers-Gwydir Catchment Management Authority (2012b). *Project management plan: Landscape connectivity*. Internal document.
- Border Rivers-Gwydir Catchment Management Authority (2012c). *Project management plan: Riparian regeneration*. Internal document.
- Border Rivers-Gwydir Catchment Management Authority (2013a). *Border rivers-Gwydir catchment action plan*.
- Border Rivers-Gwydir Catchment Management Authority (2013b). *Border rivers-Gwydir catchment action plan 2013-2023: Support document*.

- Border Rivers-Gwydir Catchment Management Authority (2013c). *Border rivers-Gwydir catchment action plan signed, sealed and ready to deliver*. Media release.
- Border Rivers-Gwydir Catchment Management Authority (2013d). *Monitoring, evaluation, reporting and improvement activities for the Border Rivers-Gwydir Catchment Management Authority*. Internal document.
- Border Rivers-Gwydir Catchment Management Authority (2014). *Brigalow Nandewar Biolinks Steering Committee DRAFT collaborative governance agreement*. Internal document.
- Boronyak, L., & Herriman J. (2013). *Review of Namoi Catchment Management Authority Community Reference Panels*. Namoi Catchment Management Authority.
- Borrini-Feyerabend, G., Bueno, P., Hay-Edie, T., Lang, B., Rastogi, A., & Sandwith, T. (2014). *A primer on governance for protected and conserved areas*. IUCN
- Bottomley, S., & Bronitt, S. (2012). *Law in Context* (4th ed.): Federation Press.
- Bottrill, K., & Cordonier Segger, M. (2005). *The principle of public participation and access to information and justice: Recent developments in international law related to sustainable development*. Oxford, UK: Centre for International Sustainable Development Law.
- Boulding, K. (1990) *Three Faces of Power*. Sage Publications, New York.
- Boxelaar, L., Paine, M., & Beilin, R. (2006). Community engagement and public administration: Of silos, overlays and technologies of government. *Australian Journal of Public Administration*, 65(1), 113-126. doi:10.1111/j.1467-8500.2006.00476.x
- Boyd, E., Nykvist, B., Borgström, S., & Stacewicz, I. A. (2015). Anticipatory governance for social-ecological resilience. *AMBIO*, 44(S1), 149-161. doi:10.1007/s13280-014-0604-x
- Brackertz, N., & Meredyth, D. (2009). Community consultation in Victorian local government: A case of mixing metaphors? *Australian Journal of Public Administration*, 68(2), 152-166. doi:10.1111/j.1467-8500.2009.00627.x
- Bratspies, R. (2011). Sustainability: Can law meet the challenge? *Suffolk Transnational Law Review*, 34(2), 283-316.
- Bridger, J. C., & Alter, T. R. (2006). The engaged university, community development, and public scholarship. *Journal of Higher Education Outreach and Engagement*, 11(1), 163.
- Brigalow Nandewar Biolinks Project Capacity Building and Community Engagement working group. (2013). *Capacity building and community engagement strategy*. Border Rivers Gwydir Catchment Management Authority. Internal document.

- Brody, S. D., Godschalk, D. R., & Burby, R. J. (2003). Mandating citizen participation in plan making: Six strategic planning choices. *Journal of the American Planning Association*, 69(3), 245-264.
- Brown, A. (2007). Reshaping Australia's federation: The choices for regional Australia. *The Australasian Journal of Regional Studies* 13(3), 235-252.
- Brown, A. (2014). Australian constitutional values survey. Griffith University: Centre for Governance and Public Policy.
- Brown, W., Deakin, S., Hudson, M., Pratten, C., & Ryan, P. (1998). The individualisation of employment contracts in Britain. (Research Paper for the Department of Trade and Industry). Cambridge UK: University of Cambridge.
- Browne, A. L., & Bishop, B. J. (2011). Chasing our tails: Psychological, institutional and societal paradoxes in natural resource management, sustainability, and climate change in Australia. *American Journal of Community Psychology*, 47(3-4), 354-361. doi:10.1007/s10464-010-9390-1
- Brugnach, M., Dewulf, A., Henriksen, H. J., & van der Keur, P. (2011). More is not always better: Coping with ambiguity in natural resources management. *Journal of Environmental Management*, 92(1), 78-84. Brunckhorst, D., & Reeve, I. (2006). A geography of place: Principles and application for defining "eco-civic" resource governance regions. *Australian Geographer*, 37(2), 147-166. doi:10.1080/00049180600672334
- Brush, L. D. (2003). *Gender and governance*. AltaMira Press.
- Bryson, J. M., Quick, K. S., Slotterback, C. S., & Crosby, B. C. (2012). Designing public participation processes. *Public Administration Review*. doi:10.1111/j.1540-6210.2012.02678.x
- Buchy, M., & Race, D. (2001). The twists and turns of community participation in natural resource management in Australia: What is missing? *Journal of Environmental Planning and Management*, 44(3), 293-308. doi:10.1080/09640560120046070.
- Burchardt, T. (2014). Deliberative research as a tool to make value judgements. *Qualitative Research*, 14(3), 353-370. doi: 10.1177/1468794112469624
- Cappelli, S. (2003). Acesso à justiça, à informação e participação popular em temas ambientais no Brasil. In M. Leite & M. Dantas (Eds.), *Aspectos Processuais do Direito Ambiental*. Rio de Janeiro: Forense Universitária).
- Carson, L., & Lewanski, R. (2008). Fostering citizen participation top-down. *International Journal of Public Participation*, 2(1).
- Catchment Management Authorities Act No.104, 2003*, (NSW).
- Central Office of Information (2009). *Effective public engagement: A guide for policy makers and communications professionals*. Government of the United Kingdom.

- Center for Economic and Community Development. (29/05/15). What is Community Engagement? *Penn State University*. Retrieved from <http://aese.psu.edu/research/centers/cecd/engagement-toolbox/engagement/what-is-community-engagement>
- Chambers, P. (2003). Narrative and reflective practice: Recording and understanding experience. *Educational Action Research*, 11(3), 403-414. doi:10.1080/09650790300200229
- Chapman, S. (2013). New study: Wind turbine syndrome is spread by scaremongers. Retrieved from <http://theconversation.com/new-study-wind-turbine-syndrome-is-spread-by-scaremongers-12834>
- Chapman, S., St.George, A., Waller, K., & Cacic, V. (2013). *Spatio-temporal differences in the history of health and noise complaints about Australian wind farms: Evidence for the psychogenic, "communicated disease" hypothesis.* , University of Sydney: Sydney Medical School.
- Chen, M., Qian, X., & Zhang, L. (2015). Public participation in environmental management in China: Status quo and mode innovation. *Environmental Management*, 55(3), 523-535. doi:10.1007/s00267-014-0428-2.
- Christidis, T., & Law, J. (2012). Annoyance, health effects, and wind turbines: Exploring Ontario's planning processes. *Canadian Journal of Urban Research*, 21(1), 81-105.
- Clandinin, D. J., & Connelly, F. M. (2000). *Narrative enquiry: Experience and story in qualitative research*. Jossey-Bass.
- Clayton, H., Dovers, S., & Harris, P. (2011). *Synthesis of broad issues and opportunities: Natural resource management policy and planning in Australia*. ANU, Canberra: H. C. Coombes Policy Forum and Fenner School of Environment and Society Initiative.
- Clean Energy Council (2012). *Economic benefits of wind in Australia*.
- Clean Energy Council (n.d). *Community engagement guidelines for the Australian wind industry*.
- Climate Institute (2011). *Clean energy jobs snapshot: New England Tablelands*. Sydney: Climate Institute.
- Climate Spectator (2014). *Wind tower maker sheds 100 jobs amid RET uncertainty*. Retrieved from http://www.businessspectator.com.au/news/2014/10/23/wind-power/wind-tower-maker-sheds-100-jobs-amid-ret-uncertainty?utm_source=exact&utm_medium=email&utm_content=966552&utm_campaign=cs_daily&modapt=
- Coggan, A., Buitelaar, E., Whitten, S., & Bennett, J. (2013). Factors that influence transaction costs in development offsets: Who bears what and why?

- Ecological Economics*, 88(0), 222-231. doi:
<http://dx.doi.org/10.1016/j.ecolecon.2012.12.007>
- Cohen, A., & McCarthy, J. (2015). Reviewing rescaling: Strengthening the case for environmental considerations. *Progress in Human Geography*, 39(1), 3-25. doi:10.1177/0309132514521483
- Colebatch, H. K. (2009). Governance as a conceptual development in the analysis of policy. *Critical Policy Studies*, 3(1), 58-67. doi:10.1080/19460170903158107
- Commonwealth of Australia (2011). The social and economic impact of rural wind farms. (Report to the Community Affairs References Committee) Australian Governments, Canberra: The Senate
- Commonwealth of Australia Constitution Act, (1900).*
- Connell, D., & Grafton, R. Q. (2008). Planning for water security in the Murray-Darling basin. *Public Policy*, 3(1), 67-86.
- Constitution Act [1902], No 32 (NSW).*
- Cooksey, R., & McDonald, G. (2011). *Surviving and thriving in postgraduate business research*. Tilde University Press.
- Cork, S., & Delaney, K. (2007). Namoi environmental scan. (Report by Delaney and Associates for Namoi CMA). Internal document.
- Cornwall, A. (2002). Locating citizen participation. *IDS Bulletin*, 33(2), i-x. doi:10.1111/j.1759-5436.2002.tb00016.x.
- Corvellec, H. (2007). Arguing for a license to operate: The case of the Swedish wind power industry. *Corporate Communications*, 12(2), 129. doi:<http://dx.doi.org/10.1108/13563280710744810>.
- Council of Australian Governments (COAG) (1992), *Intergovernmental Agreement on the Environment* (Canberra: Australian Government).
- Courtis, C. (2009), Notes on the implementation by Latin American countries of the ILO Convention 169 in Indigenous Peoples' *Sur*, *International Journal of Human Rights*.
- Cowell, R., Bristow, G., & Munday, M. (2011). Acceptance, acceptability and environmental justice: The role of community benefits in wind energy development. *Journal of Environmental Planning and Management*, 54(4), 539-557. doi:10.1080/09640568.2010.521047
- Crawford, S. E. S., & Ostrom, E. (1995). A grammar of institutions. *The American Political Science Review*, 89(3), 582-600.
- Curtis, A., Ross, H., Marshall, G. R., Baldwin, C., Cavaye, J., Freeman, C., et al. (2014). The great experiment with devolved NRM governance: Lessons from community engagement in Australia and New Zealand since the 1980s.

Australasian Journal of Environmental Management, 21(2), 175-199.
doi:10.1080/14486563.2014.935747

- "Degrees in activism" put brake on growth. (2015, 15 March) *The Australian* Melbourne. Retrieved from <http://www.theaustralian.com.au/news/degrees-in-activism-put-brake-on-growth/story-e6frg6n6-1227090673642>
- Dellinger, M. (2012). Ten years of the Aarhus Convention: How procedural democracy is paving the way for substantive change in national and international environmental law. *Colorado Journal of International Environmental Law and Policy*, 23(2), 311-367.
- Denzin, N. K., & Lincoln, Y. S. (2008). *The landscape of qualitative research*. Sage Publications.
- Department of Environment and Climate Change NSW (2009). *Evaluation framework for CMA natural resource management*. Sydney: Government of New South Wales.
- Department of Environment. (2009). *Review of the Catchment Management Authorities Act 2003*. Sydney: NSW Government.
- Department of Heritage and Environment. *Renewable energy precincts*. Retrieved from <http://www.environment.nsw.gov.au/climatechange/renewableprecincts.htm>
- Department of Planning & Infrastructure (2011). *Draft NSW planning guidelines: Wind farms*. Sydney: State of New South Wales.
- Dernbach, J. C., & Mintz, J. A. (2011). Environmental laws and sustainability: An introduction. *Sustainability*, 3(3), 531-540.
- Dovers, S. (2010). Embedded scales: Interdisciplinary and institutional issues. In V. Brown, J. Harris, & J. Russel (Eds.), *Tackling wicked problems through the transdisciplinary imagination*. Earthscan Ltd.
- Dryzek, J. S. (2000), *Deliberative democracy and beyond: Liberals, critics, contestations*. NY: Oxford University Press.
- Ecological Australia (2011). Proposed framework for assessing the cumulative risk of mining on natural resource assets in the Namoi catchment (Prepared for Namoi CMA) Internal document.
- Environment Protection and Heritage Council (EPHC) (2008). Report on Impediments to Environmentally and Socially Responsible Wind Farm Development. (Commonwealth Government).
- Environmental Defenders Officer NSW (2010). *The state of planning in NSW: With reference to social and environmental impacts and public participation*. NSW Nature Conservation Council (NCC) and the Total Environment Centre (TEC).

- Environmental Defenders Officer NSW, & Total Environment Centre (2010). Reconnecting the community with the planning system. Sydney.
- Environmental Planning and Assessment Act 1979*, No 203 (NSW).
- Epstein, G., Bennet, A., Gruby, R., Acton, L., & Nenadovic, M. (2014). Studying power within the social-ecological system framework. In M. Manfredo, J. J. Vaske, A. Rechkemmer, & E. Duke (Eds.), *Understanding Society and Natural Resources*. SpringerOpen.
- Epuron Pty Ltd (2011). White Rock wind farm consultation plan. Retrieved from http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=3963. Internal document.
- Epuron Pty Ltd (2012a). *Community Consultation Framework*. Internal document
- Epuron Pty Ltd (2012b). Presentation to Whiterock CCC. Retrieved from <http://www.epuron.com.au/project/white-rock/downloads>
- Epuron Pty Ltd (2012c). White Rock Wind Farm. *Newsletter no.5*.
- Epuron Pty Ltd (2013). *Request to modify a major project application*.
- Evans, M., & Reid, R. (2014). *Public participation in an era of governance: Lessons from Europe for Australian local government*. Australian Centre of Excellence for Local Government.
- Evely, A. C., Fazey, I., Lambin, X., Lambert, E., Allen, S., & Pinard, M. (2010). Defining and evaluating the impact of cross-disciplinary conservation research. *Environmental Conservation*, 37(4), 442-450. doi:<http://dx.doi.org/10.1017/S0376892910000792>
- Everatt, D., Marais, H., & Dube, N. (2010). Participation ... for what Purpose? Analysing the Depth and Quality of Public Participation in the Integrated Development Planning Process in Gauteng. *Politikon*, 37(2-3), 223-249. doi: 10.1080/02589346.2010.522333.
- Eversole, R. (2011). Community Agency and Community Engagement: Re-theorising Participation in Governance. *Journal of Public Policy*, 31(1), 51-71, doi:10.1017/s0143814x10000206
- Feagin, J., Orum, A., & Sjoberg, G. (Eds.). (1991). *A case for the case study*. University of North Carolina Press.
- Fischer, F. (2005). *Citizens, experts and the environment: The politics of local knowledge*. Duke University Press.
- Fischer, F., & Gottweis, H. (2013). The argumentative turn in public policy revisited: Twenty years later. *Critical Policy Studies*, 7(4), 425-433. doi:10.1080/19460171.2013.851164
- Fisher, D. (2006). Water resources governance and the law. *Australasian Journal of Natural Resources Law and Policy*, 11(1), 1-41.

- Fisher, E., Lange, B., Scotford, E., & Carlarne, C. (2009). Maturity and methodology: Starting a debate about environmental law scholarship. *Journal of Environmental Law*, 21(2), 213-250.
- Fitzsimons, J., & Wescott, G. (2013). The importance of interdisciplinary research in conservation networks: Lessons from south-eastern Australia. In I. Pulsford, J. Fitzsimons, & G. Wescott (Eds.), *Linking Australia's landscapes : Lessons and opportunities from large-scale conservation networks*. CSIRO Publishing.
- Flynn, B., & Kröger, L. (2003). Can policy learning really improve implementation? Evidence from Irish responses to the Water Framework Directive. *European Environment*, 13(3), 150-163. doi:10.1002/eet.320
- Flyvberg, B. (2001). *Making social science matter: Why social inquiry fails and how it can succeed again*. Cambridge University Press.
- Fonseca, I. & M. Bursztyn (2009), A banalização da sustentabilidade: Reflexões sobre governança ambiental em escala local. *Sociedade e Estado* 25(17).
- Ford-Thompson, A., Snell, C., Saunders, G., & White, P. (2012). Stakeholder participation in management of invasive vertebrates. *Conservation Biology*, 26(2), 345-356. doi:10.1111/j.1523-1739.2011.01819.x
- Fountain, C., Libânio, P., & Lane, G. (2011, August). *Differences between the engineering cultures of Australia and Brazil*. Presentation at MetPlant Conference, Perth.
- Fung, A. (2006). Varieties of participation in complex governance. *Public Administration Review*, 66(S1). doi:<http://onlinelibrary.wiley.com/doi/10.1111/j.1540-6210.2006.00667.x/abstract>
- Gardner, J., Dowd, A.-M., Mason, C., & Ashworth, P. (2009). A framework for stakeholder engagement on climate adaptation. *CSIRO Climate Adaptation Flagship Working paper* (Vol 3). CSIRO.
- Gaventa, J. (1980) *Power and Powerlessness: Quiescence and Rebellion in the Appalachian Valley*. University of Illinois Press.
- Gaventa, J. (2006). Finding the spaces for change: A power analysis. *Institute of Development Studies Bulletin*, 37(6), 23.
- Gaventa, J., & Barrett, G. (2012). Mapping the outcomes of citizen engagement. *World Development*, 40(12), 2399-2410. doi:<http://dx.doi.org/10.1016/j.worlddev.2012.05.014>.
- Goepel, M. (2010). Formulating future just policies: Applying the Delhi sustainable development law principles. *Sustainability*, 2, 1694-1717. doi:10.3390/su2061694

- Goodie, J. (2001). The invention of the environment as a subject of legal governance. In G. Wickham, & G. Pavlich (Eds.), *Rethinking law, society and governance: Foucault's bequest*. Hart.
- Goodson, I., Biesta, G., Tedder, M., & Adair, N. (2010). *Narrative learning*. Routledge.
- Gottweis, H. (2008). Participation and the new Governance of Life. *BioSocieties*, 3(3), 265-286. doi:10.1017/s1745855208006194.
- Gray, B. (2003). Framing of environmental disputes. In R. Lewicki, B. Gray, & M. Elliot (Eds.), *Making sense of intractable environmental conflicts*. Island Press.
- Gray, J. (2011). Water trading and regulation in Australia. In A Saddy & A. M. Linares (Eds.), *Infrastructure law: A study of regulated markets* (Rio de Janeiro: Lumen Juris).
- Green, J., & Thorogood, N. (2009). *Qualitative methods for health research*. Sage.
- Griffith, R. (2009). NRM models and frameworks: Advantages and pitfalls. Natural Resources Commission.
- Gross, C. (2008). A measure of fairness: An investigative framework to explore perceptions of fairness and justice in a real-life social conflict. *Research in Human Ecology*, 15(2).
- Guba, E. G., & Lincoln, Y. S. (2005). Paradigmatic controversies, contradictions, and emerging confluences. In N. K. Denzin, & Y. S. Lincoln (Eds.), *The Sage handbook of qualitative research* (3rd ed.). Sage.
- Gubrium, J. F., & Holstein, J. A. (2009). *Analysing narrative reality*. Sage.
- Guilliat, R. (2014, 13 September). How a row over land clearing left compliance officer Glen Turner dead. *Weekend Australian*. Retrieved from <http://www.theaustralian.com.au/news/features/how-a-row-over-land-clearing-left-compliance-officer-glen-turner-dead/story-e6frg8h6-1227055190971>
- Gunningham, N. (2009a). Environment law, regulation and governance: Shifting architectures. *Journal of Environmental Law*, 21(2).
- Gunningham, N. (2009b). The new collaborative environmental governance. *Journal of Law and Society*, 36(1), 145-166.
- Guttentag, M. D., Porath, C. L., & Fraidin, S. N. (2008). Brandeis' policeman: Results from a laboratory experiment on how to prevent corporate fraud. *Journal of Empirical Legal Studies*, 5(2), 239-273. doi:10.1111/j.1740-1461.2008.00124.x
- Haglund, L. (2015). New forms of environmental governance in Sao Paulo: Implications for human rights. *Latin American Perspectives*. doi:10.1177/0094582X15573243

- Hall, N., Ashworth, P., & Devine-Wright, P. (2013). Societal acceptance of wind farms: Analysis of four common themes across Australian case studies. *Energy Policy*, 58(0), 200-208. doi:<http://dx.doi.org/10.1016/j.enpol.2013.03.009>.
- Hall, N., Ashworth, P., & Shaw, H. (2012a). Exploring community acceptance of rural wind farms in Australia: A snapshot. *CSIRO National Research Flagships Energy Transformed*. Canberra: CSIRO.
- Hall, N., Ashworth, P., & Shaw, H. (2012b). Acceptance of rural wind farms in Australia: a snapshot. *CSIRO National Research Flagships Energy Transformed*. Canberra: CSIRO.
- Halvorsen, K. E. (2006). Critical next steps in research on public meetings and environmental decision making. *Human Ecology Review*, 13(2), 150-160.
- Harding, R., Hendriks, C., & Faruqi, M. (Eds.). (2009). *Environmental decision-making: Exploring complexity and content*. Federation Press.
- Harrington, C., Curtis, A., & Black, R. (2008). Locating communities in natural resource management. *Journal of Environmental Policy & Planning*, 10(2), 199-215. doi:10.1080/15239080801928469
- Hartley, J. (2014) Indigenous Peoples and FPIC: When does the 'C' mean 'Consent'? *Regarding Rights: Academic and activist perspectives on human rights*. Retrieved from <http://asiapacific.anu.edu.au/regarding-rights/2014/03/21/indigenous-peoples-and-fpic-when-does-the-c-mean-consent/>
- Hasham, N. (2014, 15 October). Coal seam gas company licence cancelled after alleged breaches. *The Sydney Morning Herald*. Retrieved from <http://www.smh.com.au/business/mining-and-resources/coal-seam-gas-company-licence-cancelled-after-alleged-breaches-20141014-115tqr.html#ixzz3GGxdwTxC>
- Hendriks, C. (2010). Inclusive governance for sustainability. In V. Brown, J. Harris, & J. Russel (Eds.). *Tackling wicked problems through the transdisciplinary imagination.*: Earthscan Ltd.
- Herda, E. (1999). *Research conversations and narrative: A critical hermeneutic orientation in participatory enquiry*. Praeger Publishers.
- Herriman, J. (2011). Local government and community engagement in Australia. Australian Centre of Excellence for Local Government: University of Technology.
- Herriman, J., & Chong, J. (2012). Advice for managing and facilitating community reference panels. Namoi Catchment Management Authority: Institute for Sustainable Futures.

- Hillman, M., & Howitt, R. (2008). Institutional change in natural resource management in New South Wales, Australia: Sustaining capacity and justice. *Local Environment*, 13(1), 55-66. doi:10.1080/13549830701581929
- Hillman, T., Crase, L., Furze, B., Ananda, J., & Maybery, D. (2005). Multidisciplinary approaches to natural resource management. *Hydrobiologia*, 552(1), 99-108. doi:10.1007/s10750-005-1508-3
- Hillyard, P. (2007). Law's empire: Socio-legal empirical research in the twenty-first century. *Journal of Law and Society* 34(2), 266-279. doi:10.1111/j.1467-6478.2007.00391.x.
- Hindmarsh, R. (2010). Wind farms and community engagement in Australia: A critical analysis for policy learning. *East Asian Science, Technology and Society: An International Journal*, 4, 541-563.
- Holley, C. (2010). Public participation, environmental law and new governance: Lessons for designing inclusive and representative participatory processes. *Environmental and Planning Law Journal*, 27(5), 32.
- Hollway, W., & Jefferson, T. (2000). *Doing qualitative research differently: Free association, narrative and the interview method*. Sage.
- Hordijk, M., Sara, L. M., & Sutherland, C. (2014). Resilience, transition or transformation? A comparative analysis of changing water governance systems in four southern cities. *Environment and Urbanization*. doi:10.1177/0956247813519044.
- Howard, T. (2014). From international principles to local practices: A socio-legal framing of public participation research. *Environmental Development and Sustainability*. Springeronline. doi 10.1007/s10668-014-9572-3
- Howard, T., & Lawson, A. (2015). Soil governance: Accessing cross-disciplinary perspectives. *International Journal of Rural Law and Policy*, (Special issue: Soils governance).
- Howard, T., & Teles da Silva, S. (2015). Implementing public participation: Australia and Brazil. In Paul Martin and Amanda Kennedy (Eds.), *Implementing Environmental Law*. Edward Elgar, United Kingdom.
- Howard, Tanya. (2015a). The rules of engagement: A socio-legal framework for improving community engagement in natural resource governance. *Onati Socio-Legal Series*, (forthcoming).
- Howard, Tanya (2015b). Olivebranches and idiot's guides: Frameworks for community engagement in Australian wind farm development. *Energy Policy*, 28, 137-147.
- Howlett, M. (2009). Governance modes, policy regimes and operational plans: A multi-level nested model of policy instrument choice and policy design. *Policy Sciences*, 42(1), 73-89.

- Howlett, M., Ramesh, M., & Perl, A. (2009). *Studying public policy: Policy cycles and policy subsystems* (3rd ed.). Oxford University Press.
- Hugo, G., Feist, H., Tan, G., & Harris, K. (2015). Population Dynamics in Regional Australia, *The Regional Australia Institute*.
- Hussey, K. & S. Dovers (eds) (2007), *Managing water for Australia: The social and institutional challenges*. Collingwood, Vic: CSIRO.
- Hutchinson, T. (2010). *Researching and writing in law* (3rd ed.). Lawbook Company.
- ILO Convention 1969, *Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development* (2012)
- Innes, J. E., & Booher, D. E. (2004). Reframing public participation: strategies for the 21st century. *Planning Theory & Practice*, 5(4), 419-436. doi: 10.1080/1464935042000293170
- Institute for International Development Limited (2009). *Audit report: Namoi Catchment Management Authority*. Natural Resources Commission.
- Instituto Brasileiro de Geografia e Estatística (IBGE) (2008), *Perfil dos municípios brasileiros: gestão pública 2008*. Rio de Janeiro: IBGE.
- Inter-departmental Liaison Group on Risk Assessment (2002). *The Precautionary principle: Policy and application*.
- International Association for Public Participation (IP2) (2012). Core values. Retrieved from <http://www.iap2.org.au/resources/cid/1/parent/0/t/resources//layout>
- Interpretations Act 1987* (NSW).
- Ipsos-Eureka Social Research Institute (2007). Research highlights: Namoi Catchment Management Authority stakeholder & community benchmarking study 2007. Namoi Catchment Management Authority.
- Ipsos-Eureka Social Research Institute (2010). Research highlights: Namoi Catchment Management Authority stakeholder & community tracking study 2010. Namoi Catchment Management Authority,.
- Ipsos-Eureka Social Research Institute (2013). Research highlights: Namoi Catchment Management Authority stakeholder survey. Namoi Catchment Management Authority.
- Irvin, R. A., & Stansbury, J. (2004). Citizen participation in decision making: Is it worth the effort? *Public Administration Review*, 64(1), 55-65.
- Ison, N., Hicks, J., Gilding, J., & Ross, K. (2012). The Australian community renewable energy sector: Challenges and opportunities. NSW Office of Environment and Heritage.
- IUCN Environmental Law Centre. (2009). Conservation with justice. A rights-based Approach. In T. Greiber (Ed.), (pp. xiv, 118). Gland, Switzerland: IUCN.

- Jackson, S. & J. Morrison. (2007). Indigenous perspectives in water management, reforms and implementation. in K. Hussey & S. Dovers (Eds.), *Managing water for Australia: The social and institutional challenges* (Collingwood, Vic: CSIRO).
- Jacquet, J. B. (2014). The Rise of "Private Participation" in the Planning of Energy Projects in the Rural United States. *Society & Natural Resources*, 28(3), 231-245. doi: 10.1080/08941920.2014.945056
- Jeffery, S. (2012. 09/07/12). Support for Herbert Park wind farm site. *Armidale Express*.
- Jendroska, J. (2013). Public participation in environmental decision-making: Interactions between the Convention and EU law and other key legal issues. in M. Pallemarts (Ed.), *The Aarhus Convention at ten: Interactions and tensions between conventional international law and EU environmental law*. Groningen: Europa Law Publishing.
- Jerit, J. (2008). Issue framing and engagement: Rhetorical strategy in public policy debates. *Political Behavior*, 30(1), 1-24. doi:10.1007/s11109-007-9041-x
- Joffe, H. (2012). Thematic analysis. In D. Harper & A. R. Thompson (Eds.), *Qualitative research methods in mental health and psychotherapy: a guide for students and practitioners* (1 ed.): John Wiley and Sons.
- Johnson, B., & Christensen, L. (2008). *Educational research: Quantitative, qualitative and mixed approaches* (3rd ed.). Sage
- Johnson, N., Lilja, N., Ashby, J. A., & Garcia, J. A. (2004). The practice of participatory research and gender analysis in natural resource management. *Natural Resources Forum*, 28(3), 189-200. doi:10.1111/j.1477-8947.2004.00088.x
- Johnston, K. (2010). Community engagement: Exploring a relational approach to consultation and collaborative practice in Australia. *Journal of Promotion Management*, 16(1), 217-234.
- Kearney, K., & Hyle, A. (2006). A look through the Kubler-Ross theoretical lens. In V. Anfara, & N. Mertz (Eds.), *Theoretical frameworks in qualitative research*. Sage.
- Kelly, B., Merrick, N., Dent, B., Milne-Home, W., & Yates, D. (2007). Groundwater knowledge and gaps in the Namoi Catchment management area. (Report prepared for Namoi CMA).
- Kennedy, A. (2006). *Exploring individualism and collectivism within Australian universities: Procedural, substantive and process elements of the academic employment relationship*. University of New England,

- Keogh, M. (2014). Time to rethink farmland environmental policies. Retrieved from http://www.farminstitute.org.au/newsletter/2014/November_2014/November_2014_featurearticle.html. Accessed 06/01/15 2015.
- Kim, P. T. (2011). Beyond principal-agent theories: Law and the judicial hierarchy. *Northwestern University Law Review*, 105(2), 535-575.
- Kirk, E. A., & Blackstock, K. L. (2011). Enhanced decision making: Balancing public participation against "Better Regulation" in British environmental permitting regimes. *Journal of Environmental Law*, 23(1), 97-116. doi:10.1093/jel/eqq024.
- Kirk, E. A., & Reeves, A. D. (2011). Regulatory agencies and regulatory change: Breaking out of the routine. *Environmental Law Review*, 13(3), 155.
- Koch, P. (2013). Overestimating the Shift from Government to Governance: Evidence from Swiss Metropolitan Areas. *Governance*, 26(3), 397-423. doi: 10.1111/j.1468-0491.2012.01600.x
- Koontz, T. M. (2005). We finished the plan, so now what? Impacts of collaborative stakeholder participation on land use policy. *Policy Studies Journal*, 33(3), 459-481.
- Koontz, T. M., & Thomas, C. W. (2006). What do we know and need to know about the environmental outcomes of collaborative management? *Public Administration Review*, 66(S1), 111-121.
- Kotze, L. J. (2014). Rethinking global environmental law and governance in the Anthropocene. *Journal of Energy & Natural Resources Law*, 32(2), 121.
- Kravchenko, S. (2010). Procedural rights as a crucial tool to combat climate change. *Georgia Journal of International and Comparative Law*, 38(3), 613-648.
- Kruger, H., Stenekes, N., Clarke, R., & Carr, A. (2011). Biosecurity engagement guidelines: Principles and practical advice for involving communities. Canberra: Australian Bureau of Agricultural and Resource Economics and Sciences.
- La Camera, F. (2013). Economy, ecology and environmental democracy. In M. Pallemmaerts (Ed.), *The Aarhus Convention at Ten: Interactions and tensions between conventional international law and EU environmental law* (Vol. The Avosetta Series 9): Europa Law Publishing.
- Lal, S., Suto, M., & Ungar, M. (2012). Examining the potential of combining the methods of grounded theory and narrative inquiry: A comparative analysis. *Qualitative Report*, 17(41), 1-22.
- Lambropoulos, V. (2010). What can Australia learn from the Europeans about public participation? Article 6 of the Aarhus Convention and environmental impact statements. *Environmental and Planning Law Journal*, 27(4), 21.

- Land and Water Australia. (2006). *People, practice and policy: A review of social and institutional research*. Canberra ACT: LWA.
- Lane, M. B. (2005). Public participation in planning: An intellectual history. *Australian Geographer*, 36(3), 283-299. doi:10.1080/00049180500325694
- Lange, B. (2005). Researching discourse and behaviour as elements of law in action. In R. Banakar, & M. Travers (Eds.), *Theory and Method in Socio-Legal Research*. Hart Publishing.
- Larson, S., & Brake, L. (2011). Natural resources management arrangements in the Lake Eyre Basin: An enabling environment for community engagement? *Rural Society*, 21(1), 32-42.
- Lawrence, R. J. (2010). Beyond disciplinary confinement to imaginative transdisciplinarity. In V. Brown, J. Harris, & J. Russel (Eds.), *Tackling wicked problems through the transdisciplinary imagination*. Earthscan.
- Lees-Marshment, J. (2014). The ministry of public input: Report and recommendations for practice. Department of Politics and International Relations: University of Auckland.
- Lewanski, R. (2013). Institutionalizing deliberative democracy: The "Tuscany laboratory", *Journal of Public Deliberation* 9(1).
- Lewicki, R., & Gray, B. (2003). Introduction. In R. Lewicki, B. Gray, & M. Elliot (Eds.), *Making sense of intractable environmental conflicts*. Washington: Island Press.
- Lewis, P. (2008). Uncertainty, power and trust. *Review of Austrian Economics*, 21(2-3), 183-198. doi:10.1007/s11138-007-0038-9.
- Lindquist, E., Vincent, S., & Wanna, J. (Eds.). (2013). *Putting citizens first: Engagement in policy and service delivery for the 21st century*. ANU ePress.
- Lingard, K. (2012). The impact of the law on consultation practices and purposes: A case study of Aboriginal cultural heritage consultations in NSW. *International Journal of Rural Law and Policy* (Speciawool issue).
- Lister, R. (2002). (De)regulating the rural environment. *Environmental and Planning Law Journal*, 19(1), 24.
- Llewellyn, D., & Tehan, M. (2004). "Treaties", "agreements", "contracts", and "commitments" - What's in a name? The legal force and meaning of different forms of agreement making *Balay: Culture, Law and Colonialism* 7 (University of Melbourne Legal Studies Research Paper No. 134), 6-40.
- Local Land Services Act 2013* no. 51 (NSW).
- Local Land Services Bill 2013* (Second reading) (2013).
- Lockwood, M., & Davidson, J. (2010). Environmental governance and the hybrid regime of Australian natural resource management. *Geoforum*, 41(3), 388-398.

- Lockwood, M., Davidson, J., Curtis, A., Stratford, E., & Griffith, R. (2009). Multi-level Environmental Governance: Lessons from Australian natural resource management. *Australian Geographer*, 40(2), 169-186.
- Lockwood, M., Davidson, J., Curtis, A., Stratford, E., & Griffith, R. (2010). Governance principles for natural resource management. *Society & Natural Resources*, 23(10), 986-1001.
- Lovelock, L., & Evans, J. (2008). The legislative process. In *New South Wales Legislative Council Practices*. Federation Press.
- Majchrzak, A. (1984). *Methods for Policy Research*. Sage.
- Malpas, J. (2001). Governing theory: Ontology, methodology and the critique of metaphysics. In G. Wickham, & G. Pavlich (Eds.), *Rethinking Law, Society and Governance: Foucault's bequest*. Hart.
- Margerum, R. D. (2008). A typology of collaboration efforts in environmental management. *Environmental Management*, 41(4), 487-500. doi:10.1007/s00267-008-9067-9.
- Markell, D. L. (2006). Understanding citizen perspectives on government decision making processes as a way to improve the administrative state. *Environmental Law*, 36(3), 651-708.
- Marshall, G. R. (2007). Nesting, subsidiarity, and community-based environmental governance beyond the local scale. *International Journal of the Commons*, 2(1), 75-97.
- Marshall, G. R. (2011). What 'community' means for farmer adoption of conservation practices. In D. J. Pannell, & F. Vanclay (Eds.), *Changing land management : Adoption of new practices by rural landholders*. CSIRO publishing.
- Marshall, G. R. (2013). Transaction costs, collective action and adaptation in managing complex social-ecological systems. *Ecological Economics*, 88, 185-194. doi:10.1016/j.ecolecon.2012.12.030
- Martin, P. & Shephard, M. (2011). What is meant by the social license? In J Williams & P. Martin (Eds.), *Defending the social license of farming: Issues, challenges and new directions for agriculture* (Collingwood, Vic: CSIRO).
- Martin, P., & Gunningham, N. (2011). Leading reform of natural resource management law: Cores principles. *Environmental and Planning Law Journal*, 28(137), 21.
- Martin, P., Kennedy, A., & Williams, J. (2012). Creating next generation rural landscape governance: The challenge for environmental law scholarship. In P. Martin, L. Zhiping, Q. Tianbo, A. Du Plessis, & Y. Le Bouthillier (Eds.), *Environmental Governance and Sustainability* (IUCN Academy of Environmental Law Series, London: Edward Elgar).

- Martin, P., Williams, J., Stone, S., & Alter, T. (2010). Researcher lessons from community partnership and trans-disciplinary research in a peri-urban setting: The WISER experience in western Sydney. (CRC for Irrigation Futures Technical Report Series No. 05/10. Sydney).
- Maurer, C., Ehlers, S., & Buchman, A. (2003). Aligning commitments: Public participation, international decision-making, and the environment. (Issue Brief, Washington: World Resources Institute).
- McLean, I. W. (2012). *Why Australia Prospered: The Shifting Sources of Economic Growth*. Retrieved from <http://UNE.ebib.com.au/patron/FullRecord.aspx?p=1042913>
- McGee, R., Bazaara, N., Gaventa, J., Nierras, R., Rai, M., Rocamora, J., et al. (2003). Legal frameworks for citizen participation: Synthesis report. *Research Report Series*. Logolink.
- McKinney, M., & Field, P. (2008). Evaluating community-based collaboration on federal lands and resources. *Society & Natural Resources*, 21(5), 419-429. doi:10.1080/08941920701744215
- McKinney, M., & Kemmis, D. (2011). Collaboration and the ecology of democracy. *Human Dimensions of Wildlife*, 16(4), 273-285. doi:10.1080/10871209.2011.585435
- Mehta, L. L., Newell, M., Scoones, P., Sivaramakrishnan, I., & Way. S-A (1999). *Exploring understandings of institutions and uncertainty: New directions in natural resource management* (Vol. 372). University of Sussex, Institute of Development Studies.
- Metgasco goes to court over drilling suspension. (2014). *The Australian*. Melbourne.
- Metgasco referred to ICAC (2014, 15 May), *ABC News online*. Retrieved from <http://www.abc.net.au/news/2014-05-15/government-suspens-metgasco-licence-at-bentley/5454442>
- Miller, L. (2012). (Mis)Understanding American federalism: On constitutions, collective action, competition and quiescence. *The social and political foundations of constitutions*. Oxford: The Foundation for Law, Justice and Society.
- Minerals Council of Australia. (2014), Implementation of Free Prior and Informed Consent in Australia. *Position Statement*. Retrieved from http://www.minerals.org.au/file_upload/files/statements/140714_FPIC_-_Position_Statement.pdf
- Mirra, Á. L. V. (2011). *Participação, processo civil e defesa do meio ambiente* (São Paulo: Letras Jurídicas).
- Mitchell, M., Curtis, A., Sharp, E., & Mendham, E. (2012). Directions for social research to underpin improved groundwater management. *Journal of*

Hydrology, 448-449(Journal Article), 223-231.
doi:10.1016/j.jhydrol.2012.04.056

- Montoya, D. (2013). NSW planning reforms: Sustainable development. (Briefing paper. Sydney: NSW Parliamentary Research Services).
- Moore, T., & Dyer, R. (2012). The way ahead for planning in NSW. (Recommendations of the NSW planning system review (Vol. 1), NSW Government).
- Morris, R. (2012). *Community engagement in rural-remote and Indigenous local government in Australia*. Australian Centre of Excellence for Local Governmen, Sydney: UTS.
- Moynihan, D. P. (2003). Normative and instrumental perspectives on public participation. *The American Review of Public Administration*, 33(2), 164-188. doi:10.1177/0275074003251379
- Muir-Cochrane, E. C., & Fereday, J. (2006). Demonstrating rigor using thematic analysis: A hybrid approach of inductive and deductive coding and theme development. *International Journal of Qualitative Methods*, 5(1).
- Mulvaney, K. K., Woodson, P., & Prokopy, L. S. (2013). Different shades of green: A case study of support for wind farms in the rural midwest. *Environmental Management*, 51(5), 1012-1024, doi:http://dx.doi.org/10.1007/s00267-013-0026-8
- Munro-Clark, M. (Ed.). (1992). *Citizen participation in Government*. Hale and Iremonger.
- Muro, M., & Jeffrey, P. (2012). Time to talk? How the structure of dialog processes shapes stakeholder learning in participatory water resources management. *Ecology and Society*, 17(1). doi:10.5751/es-04476-170103
- Musheno, M., & Maynard-Moody, S. (2009). *Doing story-based research in socio-legal studies*. Retrieved from <https://www.law.berkeley.edu/centers/center-for-the-study-of-law-society/empirical-research-methods-workshops/doing-story-based-research-in-socio-legal-studies/>
- Mutamba, E. (2004). Community participation in natural resources management: Reality or rhetoric? *Environmental Monitoring and Assessment*, 99(1-3), 105-113. doi:10.1007/s10661-004-4010-x
- Myśliak, J., Brown, J. D., Jansen, J. M. L., & Quinn, N. W. T. (2008). Environmental policy aid under uncertainty. In A. J. Jakeman, A. A. Voinov, A. E. Rizzoli, & S. H. Chen (Eds.), *Environmental modelling, software and decision support* (Vol. 3). *Developments in Integrated Environmental Assessment* Elsevier.
- Nabatchi, T., & Farrar, C. (2011). Bridging the gap between public officials and the public. *A report of the deliberative democracy consortium*. Washington: Deliberative democracy consortium (1-64).

Namoi Catchment Management Authority (2007). *Partnership Policy*.

Namoi Catchment Management Authority (2011). *Namoi Catchment Action Plan 2010-2020*.

Namoi Catchment Management Authority (2012a). *Community Reference Panels Expression of Interest Form*.

Namoi Catchment Management Authority (2012b). *Community Reference Panels Terms of Reference*.

Namoi Catchment Management Authority (2012c). *Connecting with the Community: Engagement and Communications Framework*.

Namoi Catchment Management Authority (2012d). *Engagement and Communications Strategy*.

Namoi Catchment Management Authority (2012e). *Media Release: Community Reference Panels established for the Namoi Catchment*.

Namoi Catchment Management Authority (2013a). *Namoi Catchment Action Plan 2010-2020: 2013 Update summary*.

Namoi Catchment Management Authority (2013b). *Namoi Catchment Action Plan 2010-2020: Supplementary document 2*.

National Water Commission (2013). *Murray–Darling Basin Plan implementation: initial report*. Canberra: National Water Commission.

Native Vegetation Act 2003, No 103 (NSW).

Natural Resources Commission (2005). *Standard for quality natural resource management*. Sydney: NSW.

Natural Resources Commission (2006). *Progress of Catchment Action Plans: Their place in current and future natural resource management in NSW*. Sydney: NSW.

Natural Resources Commission (2008). *Progress report on effective implementation of Catchment Action Plans*. Sydney: NSW

Natural Resources Commission (2010a). *Progress report towards state-wide standard and targets*. Sydney: NSW.

Natural Resources Commission (2010b). *Progress report towards state-wide standard and targets: Summary*. Sydney: NSW.

Natural Resources Commission (2011a). *Assessment and recommendation report: Namoi upgraded Catchment Action Plan*. Sydney: NSW.

Natural Resources Commission (2011b). *Upgrading catchment action plans: report on the pilot upgrades in the Central West and Namoi catchments*. Sydney: NSW.

- Natural Resources Commission (2013a). *Assessment of the Border Rivers-Gwydir upgraded Catchment Action Plan*. Sydney: NSW.
- Natural Resources Commission (2013b). *Strategic Plan 2013-14*. Sydney, NSW.
- Natural Resources Commission (2013c). *Upgrading Catchment Action Plans: Lessons for Local Land Services*. Sydney: NSW.
- Natural Resources Commission (2014). *Performance standard for Local Land Services*. Sydney: NSW.
- Natural Resources Commission Act 2003*, No 102 (NSW).
- Neef, A., & Neubert, D. (2011). Stakeholder participation in agricultural research projects: A conceptual framework for reflection and decision-making. *Agriculture and Human Values*, 28(2), 179-194. doi:10.1007/s10460-010-9272-z
- Neuman, W. L. (2011). *Social research ,ethods* (7th ed.). Allyn and Bacon.
- New England Wind (2011). *Submission* (Clean Energy Finance Corporation).
- New England Wind (2012a). *Minutes from Herbert Park local area committee meeting*.
- New England Wind (2012b). *Near neighbours support New England wind farm site*.
- New England Wind (2012c). *Submission: Draft NSW Wind Farm planning guidelines*.
- New England Wind (2012d). *Submission: NSW Renewable Energy Action Plan*.
- Nicholls, S. (2013, 30 October), ICAC: mining licence corruption “almost inevitable” in NSW, *The Sydney Morning Herald*. Retrieved from <http://www.smh.com.au/nsw/icac-mining-licence-corruption-almost-inevitable-in-nsw-20131030-2wf2y.html>
- North West Local Land Services (2014). *Media Release: Community reference panels*.
- NSW Department of Planning and Environment (2014). *New Process for Wind Farm Assessments*. Retrieved from <http://www.planning.nsw.gov.au/NewsCentre/LatestNews/TabId/775/ArtMID/1658/ArticleID/227/New-Process-for-Wind-Farm-Assessments.aspx>
- NSW Department of Premier and Cabinet (2013). *NSW 2021 - Performance Report 2013-14*. NSW Government.
- NSW Farmers Association (2012). *Wind farm guide for host landholders*.
- NSW Government (2010). *Director General's requirements*. NSW Planning and Infrastructure Department.
- NSW Government, N. (2011). *NSW 2021: A plan to make NSW number 1*.

- NSW Government (2012a). Strengthen our local environment and communities. In *NSW 2021: A plan to make NSW number one*. Sydney: NSW Government.
- NSW Government (2012b). *Draft NSW Renewable Energy Action Plan*. Sydney.
- NSW Government (2012c). *A New Planning System for NSW—Green Paper*. Sydney.
- NSW Government (2012d). *A New Planning System for NSW—Green Paper Feedback Summary*. Sydney.
- NSW Government (2013a). *Renewable Energy Action Plan*.
- NSW Government (2013b). *White Paper – A new planning system for NSW*. (Sydney: NSW Government).
- O Dia que Durou 21 Anos* (2012), Camilo Tavares & Flavio Tavares, Pequi Filmes.
- Office of Environment and Heritage (n.d.). *Renewable energy precincts*. Retrieved from <http://www.environment.nsw.gov.au/climatechange/renewableprecincts.htm>. Accessed 27/9/13 2013
- Ortas, E., Alvarez, I., & Garayar, A. (2015). The environmental, social, governance, and financial performance effects on companies that adopt the United Nations Global Compact. *Sustainability*, 7(2), 1932-1956. doi:10.3390/su7021932
- Ostrom, E. (2009). A General Framework for Analyzing Sustainability of Social-Ecological Systems. *Science*, 325(5939), 419-422. doi: 10.1126/science.1172133
- Ostrom, E. (2007). A diagnostic approach for going beyond Panaceas. *Proceedings of the National Academy of Sciences of the United States of America*, 104(39), 15176-15178.
- Ostrom, E. (2010). Beyond markets and states: Polycentric governance of complex economic systems. *American Economic Review*, 100(3), 641-672. doi:10.1257/aer.100.3.641.
- Ostrom, E. & M. Cox (2010), Moving beyond Panaceas: A multi-tiered diagnostic approach for social-ecological analysis, 37(4) *Environmental Conservation* 451
- Parola, G. (2013). *Environmental democracy at the global level: Rights and duties for a New citizenship*. Versita. doi:10.1017/s0376892910000834
- Pattberg, P., & Widerberg, O. (2015). Theorising global environmental governance: Key findings and future Questions. *Millennium - Journal of International Studies*, 43(2), 684-705. doi:10.1177/0305829814561773.
- Peters, S., Alter, T. R., & Schwartzbach, N. (2010). *Democracy and higher education: Traditions and stories of civic engagement*. Michigan State University Press.

- Peterson, N. (2011). Excluding to include: (Non)participation in Mexican natural resource management. *Agriculture and Human Values*, 28(1), 99-107. doi:10.1007/s10460-010-9258-x.
- Pieraccini, M. (2015). Rethinking participation in environmental decision-making: Epistemologies of marine conservation in south-east England. *Journal of Environmental Law*, 27(1), 45. doi:10.1093/jel/equ035
- Piore, M. (2006). Qualitative research: Does it fit in economics? In E. Perelman, & S. Curran (Eds.), *A handbook for social science field research*. Sage.
- Planning Administration Bill 2013* (NSW).
- Planning and Environment Department (n.d). *Planning for our future*. Retrieved from <http://www.planning.nsw.gov.au/newplanningsystem>.
- Planning Bill 2013a* (Exposure Bill) (NSW).
- Planning Bill 2013b* (Introduced) (NSW).
- Planning Bill 2013c* (Legislative Council amendments) (NSW).
- Planning Institute of Australia (2011). *National position statements: Public participation*.
- Podger, A., Wanna, J., Chan, H., Ma, J., & Su, T.-T. (2012). Putting the citizens at the centre: Making government more responsive. *Australian Journal of Public Administration*, 71(2), 101-110. doi:10.1111/j.1467-8500.2012.00773.x
- Poteete, A. R., & Ostrom, E. (2008). Fifteen years of empirical research on collective action in natural resource management: Struggling to build large-N databases based on qualitative research. *World Development*, 36(1), 176-195. doi:<http://dx.doi.org/10.1016/j.worlddev.2007.02.012>
- Poth, S., & Selck, T. J. (2009). Principal agent theory and artificial information asymmetry. *Politics*, 29(2), 137-144. doi:10.1111/j.1467-9256.2009.01349.x
- Power, M. (2010). Emissions trading in Australia: Markets, law and justice under the CPRS. *Environmental and Planning Law Journal*, 27(2).
- Prager, K., Nienaber, B., Neumann, B., & Phillips, A. (2015). How should rural policy be evaluated if it aims to foster community involvement in environmental management? *Journal of Rural Studies*, 37(0), 120-131. doi:<http://dx.doi.org/10.1016/j.jrurstud.2014.12.006>.
- Prior, J. (2012a). *CMA-Landcare partnerships project*. Border Rivers Gwydir.
- Prior, J. (2012b). *A collaborative governance model for BR-G CMA*. Border Rivers Gwydir.
- Programs Committee of the Natural Resource Management Ministerial Council (2002). *Overview guidelines for community engagement by regional NRM*

- bodies*. (NRM knowledge online digital archive, Canberra ACT: Commonwealth of Australia).
- Public forums to examine wind farm potential. (2011, 16 March). *Armidale Express*.
- Rapley, T. (2007). *Doing conversation, discourse and document analysis*. Sage.
- Rawlins, J., Gramenz, E., & Haxton, N. (2014, 17 June). Wild rivers declarations for Stewart Basin, Archer and Lockhart ruled invalid. *ABC News* online. Retrieved from http://www.abc.net.au/news/2014-06-17/queensland-government-wild-rivers-declarations-declared-invalid/5529148?WT.mc_id=newsmail
- Reed, M. (2008). Stakeholder participation for environmental management: A literature review. *Biological Conservation*, 141(10), 2417-2431. doi:10.1016/j.biocon.2008.07.014
- Reis, D. (2014). A ditadura faz cinquenta anos: Historia e cultura politica nacional-estatista. In D. Reis, M. Ridenti, & R. Motta (Eds.), *A ditadura que mudou o Brasil: 50 anos do golpe de 1964*. Rio de Janeiro: Zahar.
- Renewable Energy Target Independent Review (2014). *Renewable Energy Target review report*. Australian Government.
- Richards, L., & Morse, J. M. (2007). *Readme first for a user's guide to qualitative research*. Sage.
- Riley, S. (2012). Law is order, and good law is good order: The role of governance in the regulation of invasive alien species. *Environmental and Planning Law Journal*, 29(1).
- Ritchie, J., & Spencer, L. (1994). Qualitative data analysis for applied policy research. In A. Bryman, & R. Burgess (Eds.), *Analysing qualitative data*. Routledge.
- Rittel, H., & Webber, M. (1973). Dilemmas in a general theory of planning. *Policy Sciences*, 4, 155-169.
- Roan, L. (2012, 18 July). Letter to the Editor: No transparency from wind consortium. *Armidale Express*.
- Roberts Evaluation Pty Ltd (2009). *Using Partnerships: An evaluation of the partnership between the Namoi CMA and the Cotton Catchment Communities CRC and A Partnership Strategy for the Future*. Namoi Catchment Management Authority.
- Robins, L., & Kanowski, P. (2011). Crying for our Country: Eight ways in which 'Caring for our Country' has undermined Australia's regional model for natural resource management. *Australasian Journal of Environmental Management*, 18(2), 88-108. doi:10.1080/14486563.2011.566158
- Rocha, C. (2014), 'Globalization of spiritism: Tracking flows between Australia and Brazil in John of God Religious Movement' 52 *Revista de Antropologia* 571.

- Rockloff, S. F., & Moore, S. A. (2006). Assessing representation at different scales of decision making: Rethinking local is better. *Policy Studies Journal*, 34(4), 649-670. doi:10.1111/j.1541-0072.2006.00196.x
- Rosener, J. B. (1978). Citizen participation: Can we measure its effectiveness? *Public Administration Review*, 38(5), 457-463.
- Ross, A. (2010). It's time to get serious - why legislation is needed to make sustainable development a reality in the UK. *Sustainability*, 2, 1101-1127. doi:10.3390/su2041101
- Rowe, G. & Frewer, L. J. (2005). A typology of public engagement mechanisms. 30 *Science, Technology & Human Values*, 251.
- Rowe, G., & Frewer, L. J. (2004). Evaluating Public-Participation Exercises: A Research Agenda. *Science, Technology & Human Values*, 29(4), 512-557.
- Ryan, S., Broderick, K., Sneddon, Y., & Andrews, K. (2010). Australia's NRM governance system: Foundations and principles for meeting future challenges. Australian Regional Natural Resource Management Chairs.
- Ryan, T. (n.d.). Report on the review of the NSW Livestock Health and Pest Authority (LHPA) Model. (report to the Minister for Primary Industries; New South Wales Government.
- Scottish Community Development Centre (2005). National Standards for community engagement.
- Segger, M.-C. C. (2004). Significant developments in sustainable development law and governance: A proposal. *Natural Resources Forum*, 28(1), 61-74. doi:10.1111/j.0165-0203.2004.00072.x.
- Shackleton, C. M., Willis, T. J., Brown, K., & Polunin, N. V. C. (2010). Reflecting on the next generation of models for community-based natural resources management. *Environmental Conservation*, 37(1), 1-4. doi: 10.1017/S0376892910000366
- Shepherd, M. & Martin, P. (2011). Using the moot court to trial legislation about land stewardship, 28(2), *Land Use Policy*, 371.
- Shortall, S. (2004). Social or Economic Goals, Civic Inclusion or Exclusion? An Analysis of Rural Development Theory and Practice. *Sociologia Ruralis*, 44(1), 109-123. doi: 10.1111/j.1467-9523.2004.00265.x
- Silverman, D. (2010). *Doing qualitative research: A practical handbook* (3rd ed.). Sage.
- Simons, H. (1981). Conversation piece: The practice of interviewing in case study research. In C. Adelman (Ed.), *Uttering, muttering: Collecting, using and reporting talk for social and education research*. Grant McIntyre Ltd.

- Sjoberg, G., Williams, N., Vaughan, T., & Sjoberg, A. (1991). The Case Study approach in social research: Basic methodological issues. In J. Feagin, A. Orum, & G. Sjoberg (Eds.), *A Case for the case Study*. University of North Carolina Press.
- Smith, J. (2003). *The changing nature of environmental law: Recent developments in public participation*. Environmental Defender's Office Ltd.
- Smith, T. F., Darbas, T., Hall, C., Bellamy, J., Fisher, J., Gambley, C., et al. (2005). Development of a typology of engagement in natural resource management for the western catchments of south east Queensland. Paper presented at the International Conference on Engaging Communities, Brisbane, Australia.
- Souter, D. (2012). *ICTs, the internet and sustainability: A discussion paper*. Manitoba, Canada: International Institute for Sustainable Development.
- Starfish Enterprises (2011). *New England Windfarm Feasibility Study*.
- Steelman, T. A. (2010). *Implementing innovation: Fostering enduring change in environmental and natural resource governance* (Washington, DC: Georgetown University Press).
- Stoker, G. (2013). Engaging Citizens: Can Westminster coexist with meaningful citizen-centric engagement? In E. Lindquist, S. Vincent, & J. Wanna (Eds.), *Putting citizens first: engagement in policy and service delivery for the 21st century*: ANU E-Press.
- Stokes, R. (2012). *Submission to the review of the Renewable Energy Target*. NSW Parliament.
- Strang, V. (2009). Integrating the social and natural sciences in environmental research: A discussion paper. *Environment, Development and Sustainability*, 11(1), 1-18. doi:10.1007/s10668-007-9095-2.
- Taft, K. (2014). Fossil fuels, global warming and democracy: A report from a scene of the collision. In Whitlam Institute (Ed.). Australian Policy Online: University of Western Sydney.
- Tan, P.-L. (2006). Legislating for Adequate Public Participation in Allocating Water in Australia. *Water International*, 31(4), 455-471. doi: 10.1080/02508060608691950
- Taylor, M. (2007). Community participation in the real world: Opportunities and pitfalls in new governance spaces. *Urban Studies*, 44(2), 297-317. doi:10.1080/00420980601074987
- Torgler, B., Garcia-Valinas, M., & Macintyre, A. (2010). *Participation in environmental organisations*. Routledge.
- Toth, B. (2010). Public participation and democracy in practice – Aarhus Convention principles as democratic institution building in the developing world. *Utah Environmental Law Review*, 3021(6).

- Turner, S. J. (2013). Factors in the development of a global substantive environmental right. *Oñati Socio-Legal Series*, 3(5), 893-907.
- Tyler, T. R. (1988). What is procedural justice? Criteria used by citizens to assess the fairness of legal procedures. *Law and Society Review*, 22(1).
- Tyler, T. R. (2006). *Why people obey the law*. Princeton University Press.
- United Nations Environment Programme (1992). *Agenda 21*. Retrieved from <http://www.unep.org/documents.multilingual/default.asp?documentid=52>
- United Nations European Commission on the Environment (1998), *UNECE Convention on Access to Information, Public participation in decision-making and access to justice in environmental matters (Aarhus Convention)*.
- United Nations General Assembly (1992). *Rio Declaration on environment and development*. Retrieved from <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>
- United Nations General Assembly (2012). *Rio+20: The future we want*. Retrieved from <http://www.un.org/en/sustainablefuture/>.
- United Nations General Assembly (2012b), *Rio+20 concludes with big package of commitments for action and agreement by world leaders on path for a sustainable future*. Retrieved from http://www.un.org/en/sustainablefuture/pdf/rio20%20concludes_press%20release.pdf
- United Nations General Assembly, (1992) Rio Declaration on environment and development . Retrieved from <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>
- United Nations General Assembly (2007). Declaration on the Rights of Indigenous Peoples (UNDRIP).
- United Nations Open Working Group (2015). *Proposal for sustainable development goals*. Retrieved from <https://sustainabledevelopment.un.org/sdgsproposal.html>.
- van den Hove, S. (2000). Participatory approaches to environmental policy-making: The European Commission climate policy process as a case study. *Ecological Economics*, 33(3), 457-472. doi:[http://dx.doi.org/10.1016/S0921-8009\(99\)00165-2](http://dx.doi.org/10.1016/S0921-8009(99)00165-2)
- van Tol Smita, E., de Loëab, R., & Plummer, R. (2015). How knowledge is used in collaborative environmental governance: Water classification in New Brunswick, Canada. *Journal of Environmental Planning and Management*, 58(3), 423-444. doi:10.1080/09640568.2013.860017
- Victorian Auditor-General's Office (2015). *Public participation in government decision-making: A better practice guide*. Victorian Auditor-General's Office.

- Visseren-Hamakers, I. J. (2013). Partnerships and sustainable development: The lessons learned from international biodiversity governance. *Environmental Policy and Governance*, 23(3), 145-160. doi:10.1002/eet.1612
- Vorrath, S. (2014). Coalition pushes new Senate Inquiry in bid to stop wind. Retrieved from <http://reneweconomy.com.au/2014/coalition-pushes-new-senate-inquiry-in-bid-to-stop-wind-79577>
- Walker, G. (2011). The role for "community" in carbon governance. *Wiley Interdisciplinary Reviews: Climate Change*, 2(5), 777-782. doi:10.1002/wcc.137
- Wallington, T. J., & Lawrence, G. (2008). Making democracy matter: Responsibility and effective environmental governance in regional Australia. *Journal of Rural Studies*, 24(3), 277-290. doi:10.1016/j.jrurstud.2007.11.003
- Wallington, T., Lawrence, G., & Loechel, B. (2007). Reflections on the legitimacy of regional environmental governance: Lessons from Australia's experiment in natural resource management. *Journal of Environmental Policy & Planning*, 10(1), 1-30. doi:10.1080/15239080701652763
- Wallis, P. J., & Ison, R. L. (2011). Appreciating Institutional complexity in water governance dynamics: A case from the Murray-Darling basin, Australia. *Water Resources Management*, 25(15), 4081-4097. doi:10.1007/s11269-011-9880-4
- Walters, M. (2006). The nature of social science research. In M. Walter (Ed.), *Social research methods: An Australian perspective*. Oxford University Press.
- Waring, P. (2001). A greenfield in black coal - The Bengalla open cut mine. *Personnel Review*, 30(3), 280-296. doi:10.1108/00483480110386121
- Weber, E. (2003). *Bringing society back in: Grassroots ecosystem management, accountability and sustainable communities*. MIT Press.
- Webster, L., & Mertova, P. (2007). *Using narrative inquiry as a research method*. Routledge.
- Werksman, J., & Foti, J. (2011). Improving participation in international environmental governance *perspectives*. UNEP.
- Whiterock Windfarm Community Consultative Committee (2012). *Minutes of Meeting no.1*. Epuron Pty Ltd.
- Whitman, D. (2008). "Stakeholders" and the politics of environmental policymaking. In J. Park, K. Conca, & M. Finger (Eds.), *The crisis of global environmental governance: Towards a new political economy of sustainability*. Abingdon: Routledge.
- Wiersema, A. (2008). A train without tracks: Rethinking the place of law and goals in environmental and natural resources law. *Environmental Law*, 38(4), 1239.

- Wilkinson, R. (2011). The many meanings of Adoption. In D. J. Pannell & F. Vanclay (Eds.), *Changing land management : Adoption of new practices by rural landholders*. CSIRO publishing.
- Williams, J. (2007). *Success attributes of regional NRM systems in Australia*. (PhD manuscript), University of Queensland, Brisbane.
- Williams, J., Kennedy, A., & Craig, D. (2012). Lost in Translation: Threatened Species in Australia. Presentation at the *Global Environmental Law at a Crossroads: 10th Annual Colloquium of the IUCN Academy of Environmental Law, Baltimore, Maryland. 1-5/8/2012* 2012: Digital Commons.
- Williams, M. L. (2009). Socio-legal studies and the humanities - law, interdisciplinarity and integrity. *International Journal of Law in Context*, 5(3), 243-261.
- Wogan, J. B. (2014). Lessons in gun control from Australia and Brazil. Retrieved from <http://www.governing.com/topics/public-justice-safety/gov-gun-control-lessons.html>
- Woods, P. (2014, 10 September) Residents lock the gate on coal. *The Gympie Times*, Retrieved from <http://www.gympietimes.com.au/news/residents-lock-the-gate-on-coal/2381379/>
- Woolcock, G., & Brown, V. (2005). *Principles of community engagement: From the literatures on natural resource management, local community development, human services and sustainability*. unpublished manuscript.
- Woolgar, S., & Neyland, D. (2013a). Conclusions. In S. Woolgar & D. Neyland (Eds.), *Mundane Governance*. Oxford University Press.
- Woolgar, S., & Neyland, D. (2013b). Structures of governance. In S. Woolgar, & D. Neyland (Eds.), *Mundane Governance*. Oxford University Press.
- Workshop IDS. (1998). Participation, policy change and empowerment. In J. Holland & J. Blackburn (Eds.), *Whose Voice? Participatory research and policy change*. London: Intermediate technology publications.
- World Health Organisation. (2015). Country report: Australia. Retrieved from <http://www.wpro.who.int/countries/aus/en/>
- Wyborn, C. (2013). Collaboration across scales: the governance challenges of linking landscapes. In Pulsford, J. & Wescott, G. (Ed.), *Linking Australia's Landscapes : Lessons and Opportunities from Large-scale Conservation Networks* CSIRO publishing.
- Yin, R. (2009). *Case study research: Design and methods* (4th ed.). Sage.

APPENDICES

Appendix One: Journal-article format Guidelines

At UNE the PhD course is described as one of 'advanced study and research' and the resulting thesis should be 'substantially an original contribution to the subject concerned' (UNE *Handbook 2008*). Exclusive of appendices, the thesis should not exceed 100,000 words for non-science subjects and for scientific subjects, the word length would normally not exceed 50,000 words.

Where the thesis contains supporting articles and/or papers which have been authored jointly, ***the candidate is required to indicate the extent and nature of their own and others' contributions***. The nature and extent of the candidate's input must be precisely expressed for each paper at the end of the *Statement of Originality* (to the extent of identifying which figures or text are the candidate's original work). The nature and extent of the intellectual input by others must be explained clearly and acknowledged in the *Statement of Contribution by Others*. Where publications of others have been used, these must be stated, and clear and appropriate acknowledgment must be made to the other authors. The name of the principal author must be clearly stated.

Two statements shall appear at the end of each chapter, the *Statement of Contribution by Others*, and the *Statement of Originality*. These must be signed by the candidate and the Principal Supervisor, who must certify that all co-authors have given their consent for having their work included in the thesis and that they accept the student's contribution as indicated in the *Statement of Originality*. In addition, the thesis should present an integrated body of work.

Guidelines for structuring journal-article-format theses are as follows:

Fore-section needs to include:

1. *Title page* showing the title of the thesis, the full name of the candidate together with their prior degrees and other qualifications indicating the awarding institutions, and the date when submitted for the degree;
2. *Declaration* – a statement signed by the candidate certifying that the work has not been and is not being submitted for any other degree to this or any other university. The candidate will also certify that all help received in preparing the thesis and all sources used, are duly acknowledged;
3. *Acknowledgements* – these are optional;
4. *A table of contents* indicating clearly how the thesis is structured and how the journal articles are organised;
5. *Tables, diagrams and abbreviations* where appropriate; and
6. *An abstract or summary* of approximately 300-400 words.

The body of the thesis then follows, with pages numbered consecutively.

1. The first section of the body of the thesis should be an ***Introduction*** which should make clear the aims and focus of the study, identify its significance, and set the frame and sequence for each of the papers that follow. Its maximum length need only be 20-30 pages.
2. A number of chapters, which may be written in the format of a self-contained journal article, will follow. These need not have been submitted to any journal. Each chapter must include by the candidate a signed *Statement of Originality* and *Statement of Contribution by Others*.
3. Chapters of the thesis and self-contained articles need to be integrated and therefore need to flow cogently from one to another. It needs to be made clear how the chapters are linked and how they contribute to each other.
4. The final chapter should provide integrative ***Conclusions***, drawing together all the work described in the journal-article-format parts of the thesis and relating this back to the issues raised in the Introduction.
5. A consolidated list of references for all chapters should be included.

Appendix Two: Research questions;

Theoretical framework	Assumptions	primary research questions	Secondary questions	Tertiary questions
Socio-legal framing of natural resource governance	research statement - <i>Improving the 'rules of engagement': understanding the expectations, definitions and purposes of community engagement in Australian natural resource governance</i>	How are participatory processes currently defined and experienced in Australian natural governance; and how could they be improved?		
LEGISLATION (Substantive elements) - CONTENT OF legislated rules, definitions, objects, goals	<p>A1 Community engagement (CE) is an ambiguous term which encompasses diverse expectations and confused objectives</p> <p>A2 CE requires substantive definition and clearly articulated expectations to improve its role in natural resource governance.</p>		RQ 1 What expectations and definitions of community engagement are embedded in current natural resource legislation, and what substantive guidance is provided for their implementation through participatory processes?	<p>Q1(a) How are the terms "community" and "community engagement" defined in NRM legislation?</p> <p>Q1(b) How is implementation (operationalisation) of community engagement requirements addressed?(including evaluation)</p> <p>Q1(c) What mechanisms are there for judicial/administrative assessment of compliance with this element of the legislation?</p> <p>Q1(d) Are expectations of community engagement implicit or explicitly stated?</p> <p>Q1(e) What are the pros and cons of substantive definitions for implementation?</p>
POLICY (Procedural elements) - METHODS TO DELIVER policy, guidelines, organisational culture	<p>A3 Ambiguity at the substantive level increases the influence of discretionary/ administrative power in the design and implementation of participatory processes</p> <p>A4 there is a tension between functional and transformational perceptions of CE</p>		RQ2 What expectations and definitions of community engagement are embedded in current natural resource policy, and how are these implemented in participatory processes?	<p>Q2(a) How are the terms "community" and "community engagement" defined in NRM policy documents?</p> <p>Q2(b) What expectations are attached to these definitions of community engagement?</p> <p>Q2(c) Are expectations of community engagement implicit or explicitly stated?</p> <p>Q2(d) How is discretionary/ administrative power exercised in interpreting and operationalising community engagement in NRM governance? (including evaluation)</p> <p>Q2(e) Have definitions of community engagement evolved from those articulated the substantive level?</p> <p>Q2(f) How is community engagement evaluated at the procedural level?</p>

PRACTICE (Process elements) - practical, onground application	A5	Practical experiences are disconnected from substantive and procedural definitions and expectations		RQ3	What expectations and definitions of community engagement are embedded in current natural resource practice, and how are these experienced through implementation of participatory processes?	Q3(a) Q3(b) Q3(c) Q3(d) Q3(e) Q3(f)	How are the terms "community" and "community engagement" defined in NRM practice? Have these definitions evolved from those articulated at the substantive and procedural levels? What expectations are attached to these definitions of community engagement? Are expectations of community engagement implicit or explicitly stated? <i>question deleted: to be picked up in additional questions at Q3c</i> How is community engagement evaluated at the process level?
	A6	A tension between functional and transformational perceptions is present throughout the conceptual framework					
Evidence elements - improvement, knowledge, change, feedback	A7	Confusion of intention and ambiguity of definitions leads to a focus on outputs rather than outcomes, and lack of empirical evidence for CE as a governance tool, which makes it difficult to improve beyond the process level		RQ4	How do definitions and expectations of participatory processes differ, and what are the evidence implications for improving community engagement as an element of natural resource governance?	Q4(a) Q4(b) Q4(c)	Are there different definitions of community engagement operating simultaneously in Australian NRM governance? Are there different expectations of community engagement operating simultaneously in Australian NRM governance? What impact do definitions and expectations have on the evaluation of community engagement and the collection of evidence of effectiveness as an element of NRM governance?
	A8	an understanding of the functional/transformational divide will improve CE across the conceptual frame.				Q4(d)	Could substantive definitions improve the process and practice of community engagement in Australian NRM governance?
Reform elements - visioning alternative arrangements and reform possibilities	A9	Participants in existing participatory processes can envision effective reform		RQ5	What alternative rules could improve participatory processes in natural resource governance and what are the barriers or enablers to achieving this reform?		

Appendix Three: Principle analysis

Jurisdiction	Instrument	Does "community" or "public" appear in the Objects of the law?	Is "community" or "public" defined?	Are any standards or principles of engagement referenced?	Are ESD principles referenced in the Objects of the Act?	Does the Act provide for public consultation in design of the legislation itself?	Does the Act provide for public consultation during implementation of the legislation?	Does the Act specify evaluation indicators for public consultation?	If yes, who approves this has been adequately met?	Does the Act mandate transparency/ access to information provisions?	Who is granted standing to appeal if consultation is unsatisfactory to community members?	Who has the discretion to offer or restrict these avenues?	Does the Act include detail about how consultation will influence decision making?	What is the purpose of public consultation according to the prescriptions of the Act?			
Federal	Commonwealth of Australia Constitution Act (1900)	X	✓ Queen's subject	X	X	X	X	X	-	X	-	-	-	-			
Federal	Environment Protection and Biodiversity Conservation Act 1999	✓	X	X	✓	✓	✓	X	-	✓	unclear	Minister	Advice only	Inform and command			
Federal	Water Act 2007/ Basin Plan 2012	X	X	✓	✓	X	✓	✓	Federal minister	✓	X	-	X	Inform and command			
NSW	NSW Environmental Planning and Assessment Act 1979 No 203	✓	X	X	✓	✓	✓	✓	Relevant planning authority	X	✓	Minister or Director General	Advice only	Inform and command			
NSW	NSW Catchment Management Authorities Act 2003 No 104	✓	X	✓	X	✓	✓	X - NRC Standards	Minister	X	X	-	X	Facilitate democratic principles			
NSW	Native Vegetation Act 2003 No 103 (2003)	X	X	X	✓	X	✓	X	-	X	-	Land and Environment Court	Court's discretion	Inform and command			
NSW	Mining Act 1992 No 29	X	X	X	X	X	✓	X	-	✓	X	-	X	Inform and command			
NSW	Protection of the Environment Administration Act 1991 No 60	✓	X	X	✓	✓ Committees	✓	-	-	✓	-	-	Advice only	Inform			
NSW	Protection of the Environment Operations Act 1997 No 156	✓	X	X	✓	X	X	X	-	✓	-	-	✓	Inform and command			
NSW	Local Land Services Bill 2013	✓	X	X	X	X	✓	X	-	✓	-	-	-	Inform and command			
NSW	Water Act 2000	✓	X	X	✓	X	✓	✓	-	-	-	-	-	Inform and command			



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HUMAN RESEARCH ETHICS COMMITTEE

MEMORANDUM TO: Prof Paul Martin & Ms Tanya Howard

School of Law

This is to advise you that the Human Research Ethics Committee has approved the following:

PROJECT TITLE: Improving the 'rules of engagement': how is community engagement currently defined and experienced in Australian natural resource legislation, policy and practise: and how could it be improved?

APPROVAL No.: HE13-176

COMMENCEMENT DATE: 01 September, 2013

APPROVAL VALID TO: 01 September, 2014

COMMENTS: Nil. Conditions met in full

The Human Research Ethics Committee may grant approval for up to a maximum of three years. For approval periods greater than 12 months, researchers are required to submit an application for renewal at each twelve-month period. All researchers are required to submit a Final Report at the completion of their project. The Progress/Final Report Form is available at the following web address:

<http://www.une.edu.au/research-services/researchdevelopmentintegrity/ethics/human-ethics/hrecforms.php>

The NHMRC National Statement on Ethical Conduct in Research Involving Humans requires that researchers must report immediately to the Human Research Ethics Committee anything that might affect ethical acceptance of the protocol. This includes adverse reactions of participants, proposed changes in the protocol, and any other unforeseen events that might affect the continued ethical acceptability of the project.

In issuing this approval number, it is required that all data and consent forms are stored in a secure location for a minimum period of five years. These documents may be required for compliance audit processes during that time. If the location at which data and documentation are retained is changed within that five year period, the Research Ethics Officer should be advised of the new location.

Jo-Ann Sozou
Secretary/Research Ethics Officer

Appendix Five: Information sheet for participants



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School of Law
University of New England
Armidale NSW 2351
Australia
Phone 02 6773 3282
Fax 02 6773 2084
Thoward8@myune.edu.au
www.une.edu.au/aglaw/

INFORMATION SHEET for PARTICIPANTS

I wish to invite you to participate in my research project, described below.

My name is Tanya Howard and I am conducting this research as part of my PhD in the Australian Centre for Agriculture and Law at the University of New England. My supervisor is Professor Paul Martin.

Research Project	Improving the 'rules of engagement': community engagement in Australian natural resource legislation, policy and practice.
Aim of the research	The research aims to improve the way that community is involved in natural resource governance in rural Australia by investigating how laws, policies and on-ground experiences interact.
Interview	I would like to conduct either a face-to-face or telephone interview with you at a time and location convenient to you. The interview will take approximately one hour. With your permission, I will make an audio recording of the interview to ensure that I accurately recall the information you provide. Following the interview, a transcript will be provided to you if you wish to see one.
Confidentiality	Any information or personal details gathered in the course of the study will remain confidential. No individual will be identified by name in any publication of the results. All names will be replaced by pseudonyms; this will ensure that you are not identifiable.
Participation is Voluntary	Please understand that your involvement in this study is voluntary and I respect your right to withdraw from the study at any time. You may discontinue the interview at any time without consequence and you do not need to provide any explanation if you decide not to participate or withdraw at any time.
Questions	The interview questions will relate to your particular case and are designed to capture your perceptions of the challenges and opportunities for better natural resource governance in Australia.
Use of information	I will use information from the interview as part of my doctoral thesis, which I expect to complete in January 2015. Information from the interview may also be used in journal articles and conference presentations before and after this date. At all time, I will safeguard your identity by presenting the information in way that will not allow you to be identified.
Upsetting issues	It is unlikely that this research will raise any personal or upsetting issues but if it does you may wish to contact your local branch of Lifeline

Storage of information

Australia, by dialling the toll-free number 131 114.

I will keep hardcopy recordings and notes of the interview in a locked cabinet at the researcher's office at the University of New England's School of Law. Any electronic data will be kept on a password protected computer in the same School. Only the research team will have access to the data.

Disposal of information

All the data collected in this research will be kept for a minimum of five years after successful submission of my thesis, after which it will be disposed of by deleting relevant computer files, and destroying or shredding hardcopy materials.

Approval

This project has been approved by the Human Research Ethics Committee of the University of New England (Approval NoHE13-176 Valid to 01/09/2014).

Contact details

Feel free to contact me with any questions about this research by email at thoward8@myune.edu.au or by phone on 0417 002 084.

You may also contact my supervisors. My Principal supervisors name is Prof Paul Martin and he can be contacted at pmartin9@une.edu.au or 02 6773 3881.

Complaints

Should you have any complaints concerning the manner in which this research is conducted, please contact the Research Ethics Officer at:
Research Services
University of New England
Armidale, NSW 2351
Tel: (02) 6773 3449 Fax: (02) 6773 3543
Email: ethics@une.edu.au

Thank you for considering this request and I look forward to further contact with you.

regards,



Signed electronically

Tanya Howard

Appendix Six: Interview questions prompts

<p>1. To start our conversation, tell me about your role in this particular case and the personal and professional journey that has brought you here?</p>	<p>Prompt for professional or personal descriptions. What perspective is this described from e.g. active or passive participant, instigator, facilitator?</p>
<p>2. From your perspective, tell me about the process of community engagement in this case and what you think the community's role is?</p>	<p>Who are the community in this particular case? What is the purpose of community engagement in this particular case? What do you expect to see arising from community engagement in this particular case What would you like to see arising from community engagement in this case? If there are differences, prompt for an explanation of the reasons as they see them. When did it start? Did it include information provision? Funding or donations to the community? How was the project introduced to the community? What records are available? Did you use a consultant? How involved were you? Ongoing communication? What role does media play?</p>

<p>3. Tell me about the decision-making structure of this case, and what role do you see community playing in this structure?</p>	<p>What kind of activities or processes? How would you describe them in terms of decision-making in this particular case? Probe for feedback loops, representative forums, formal and informal mechanisms</p>
<p>4. Can you tell me what legal requirements, policies or guidelines have influenced or guided your work in this case?</p>	<p>Looking for references either specific to this case or more general e.g. references to international principles, standards etc. guidelines, specific policy docs. Provide list of guidelines; principles eg IAP2 principles; Clean energy council guidelines; NRM Council guidelines; etc</p>
<p>5. One of the interests of this research is to understand whether ideas of community engagement might change as they are put into practice. What are your thoughts about this? Have you experienced this?</p>	<p>Prompt for articulation of any evolution of objectives from legislation to practice? How does this affect your community engagement practice?</p>

<p>6. Thinking about the current situation regarding environmental governance and community engagement, tell me what you think of the role of the legal system in guiding community engagement in natural resource governance?</p>	<p>Where do you source information about the rules and laws that might affect this particular case?</p> <p>Can you tell me what rules or laws were used to guide community engagement in this case, or more generally?</p>
<p>7. In your opinion, what changes to existing laws and policies could improve the role of community in natural resource governance, and how would you know that things were improving?</p>	<p>What kind of indicators would you be looking for?</p> <p>Transparency; happy punters; environmental outcomes; etc.</p> <p>Look for distinctions between decision-making, on ground actions, legislated requirements etc.</p> <p>Obstacles; barriers</p>

<p>8. So based on this, if you were evaluating community engagement in this case, how would you describe the outcomes?</p>	<p>Improvements, aspirations –functional or transformational. Concepts of procedural justice, access to information, transparency. Were you involved in any evaluation of community engagement in this particular case? Describe how the evaluation was organized and carried out from your perspective? In your opinion, what did community engagement achieve in this case?</p>
<p>9. Thank you, our conversation has covered a lot of ground. Do you have any other ideas or stories that you would like to add before we finish up?</p>	
<p>10. Can you suggest any other people that I should talk to about the details of this case or about the research topic in general?</p>	

Appendix Seven: Code book

Code name	number of coded segments	Memo describing code
Indicators	78	reference to the possible ways that engagement is assessed by the respondent
Metaphor	4	descriptive device
good quotes	176	
key engagement event	159	reference to key event that describes the ups and downs of engagement
Factoid	118	facts to include in case study description
Place based	64	References to physical locations or factors that are important to the case
Reasons for community engagement	0	Created this code to separate indicators from objectives
Capacity	0	collapsing codes into binary category for analysis
connection	4	connection between community and developer
Motivate action	14	Evidence for engagement - action outcome
Influence decision/ action	18	engagement has impacted somehow on decision making or taking a particular action
Encourage ownership/participation	23	references to community buy in
Build capacity to participate	44	reference to skills and capacity to participate in governance mechanisms
Support	0	collapsing codes together for quant analysis
Manage expectations	29	When engagement creates expectations
Listen to others views	37	
Inform/educate	53	Engagement mechanisms focused on information sharing
Gain social license	9	expectations
Create support	31	
Build trust	24	or distrust
Address opposition/distrust	31	
Reform agenda	155	References made to reform agenda
democracy	2	
Environmental outcome	16	
social change	26	Transformational perspective
Networks and key individuals	132	References to key drivers and people/networks that seem to make things happen
Leadership	7	CAPACITY
Government	55	government as an actor, at all tiers
Local government	42	references to local government
community led	101	References to where community self organised without government requirements
Media	15	
Industry	56	references to industry
NGOs	21	
Evidence for engagement	310	References to evaluation of engagement
Practice and implementation	216	References to experiences of engagement in practice or in implementation

agency churn	22	references to changing institutional framework
Vested interests	5	
Where's the blood?	21	attention to the power dynamics that might be operating under the surface
real world considerations	64	references to the "reality" of the situation
voices missing?	81	references or omissions regarding community members who may NOT have been engaged
Equity	44	References to considerations and/or motivations of equity access to benefits profit share missing out
Power	71	references to power dynamics also references to democracy/ government/ institutionalised power
one-on-one	19	references to intensive engagement approaches
governance design	258	references to mechanisms for community
Frameworks	65	
Policy settings	156	Policy settings concerning community engagement
Uncertainty	33	
Legal requirements	81	Conceptual framework - reference to legal requirements for community
interview subject background	31	
qualifications and experience	41	references to formal qualifications, job experience, volunteer and life experience
personal contribution	44	
important influences	34	

Appendix Eight: Sample codes extracts

Document name	Code	Segment
Case1a_2and3	Evidence for engagement\Indicators	Respondent1: You reach it on terms of what, I think the perception of who was engaged and to what level are they engaged -- when you've got a room of 30, 40 people who all want to talk, and who all want to get involved, and who all want to put their stickers up; I think that you think it's been a pretty good engagement.
Case1a_2and3	Evidence for engagement\Indicators	And also, an example in Glen Innes when a couple of people were quite agro, and sort of raised voices a bit; and another couple who were sort of neutral, they said; "Hang on a minute, these people are trying to help us work out what our future is". So there was, within the meeting it didn't have to be the person running it to turn things down. The people themselves said; "Hang on a minute", and calmed it down a bit.
Case1a_2and3	Evidence for engagement\Indicators	Respondent1: Guess not shutting off people who are negative. Because that's a temptation, is not to give them much voice in that. Interviewer: Yeah. RESPONDENT2: Yeah. So let people run -- Interviewer: So if there's negativity coming out on the floor, that's not -- Respondent1: That's not a bad thing. RESPONDENT2: No, it's not a bad thing at all. I mean, you learn from it. Quite seriously. Yeah.
Case1a_2and3	Evidence for engagement\Indicators	Respondent1: I suppose another example would be if we started getting a lot of people asking us to take them off our email list.
Case1a_2and3	Evidence for engagement\Indicators	Respondent1: Or if there were postings. RESPONDENT2: Or letters to the editor, but none of that. Interviewer: Yeah. Respondent1: It's also interesting to watch the Facebook site.
Case1a_2and3	Evidence for engagement\Indicators	Respondent1: And what kind of hits you're getting there. Because (consortium member also interviewed) posts a huge amount of material on there
Case1_5	Evidence for engagement\Indicators	There have to be subjective -- we have this problem, and obviously it's a constant problem, the indicators that I mentioned before for politicians tend to be very blatant ones: there are no bad articles in the press, that Alan Jones doesn't get too much run with the meeting down in Canberra against wind farms, and that local government doesn't take a very strong stand against new renewable energy projects in it's precincts.
Case1a_4	Evidence for engagement\Indicators	Respondent: I don't know. I suppose, we get some word-of-mouth feedback, which is one thing. And you tend to get the bad feedback that way, more than the good feedback. So that's the lack of that, I suppose is one thing.
Case1a_1	Evidence for engagement\Indicators	some of the broad indicators are just the number of supporters that we have on databases and the like. Interviewer: Yeah. Respondent: The attendance of public forums and meetings, all of which are really strong. Interviewer: Mm-hmm. Respondent: Level of media support.

Case1a_1	Evidence for engagement\Indicators	a couple of years ago, we were going head to head in the media because he was rolling out a red carpet for coal seam gas. But, I was invited to stand up and talk about the community wind farm at his fundraiser.
Case1a_1	Evidence for engagement\Indicators	So, yeah, in terms of how we assess then, like for a while there, not very long, but for a month or two, we had negative letters to editors, ABC Radio loved it, it was controversial. They'd interview them one day and me the next.
Case1a_1	Evidence for engagement\Indicators	Like they're good indicators, they're really good indicators that we're very confident that we're listening, that we have a very genuine intent.
Case1a_2and3	Evidence for engagement\Indicators	RESPONDENT2: It's hard to say, because the progress of the project is slow and so if we get to the point where we're setting up an organization or structure, then we go back to publicity and public meetings, discussions and so on. So we'd get a feel from that, but on an ongoing basis, there isn't -- Respondent1: It's who do you speak to down in the mall (Laughs)
Case1_5	Evidence for engagement\Indicators	Interviewee: Yeah, okay. All community engagement for Office of Environment Heritage is every point at which the department and in its regulatory and legislative role touches the community either in an enhancement of the environment or protection of the environment or a compliance role.
Case1_7	Evidence for engagement\Indicators	So some of the issues were they were getting some negative media.
Case1_7	Evidence for engagement\Indicators	Respondent: Well, I think one of the basic, which is by no means is any big indicator, but one of the basic indicators is publicity. Negative or positive. Say if a project is going belly up, you're going to hear about it through the local media. Everyday I monitor the media around wind.
Case1_7	Evidence for engagement\Indicators	So having a channel of communication is really vital. That's a really clear indicator of whether they're actually engaging with the local community. Interviewer: Okay. Respondent: Or whether they're just trying to develop a project. Interviewer: Yeah. Yeah. Respondent: It's true. It's simple but it true. Like having a contact person and name and number that people can, ongoing, have conversations with about a project, is vital, even if nothing is going on. And often the developers will say, "We don't need to talk to them because we've got nothing to say." Well, that doesn't matter.
Case1_7	Evidence for engagement\Indicators	Also, in terms of social license and having some sort of relationship, one of the key things that I don't think has been done well, is really good stakeholder mapping and also the social impact assessments. Just having some of those basic things documented. Having strong processes is also not always a good indicator of relationship, but a good indicator of a desire and a structured, a structured process for actually relating and managing expectations and those sorts of things.
Case1_7	Evidence for engagement\Indicators	That's one thing that the mining industry does very well. It has a structured set of processes, which it may not demonstrate -- things still could go wrong, which they do, but at least there's a demonstrated commitment to do the right thing. Because they looked at the elements and they've mapped it and there's a commitment across the whole project lifecycle from the top to the bottom about how things should be done.

Case1_7	Evidence for engagement\Indicators	So it's simple stuff like that that really brings people undone and makes the community get really cranky. Like if they've been promised a new update on a road. The junior guy might say, "Yeah, mate. We're going to upgrade that." Then there's expectation that's spread amongst the community that may never have been communicated to the project manager. It's kind of managing community expectations sometimes is a big issue and keeping processes and registers on those sorts of things.
Case1_7	Evidence for engagement\Indicators	Having a hierarchy of approval.
Case1_7	Evidence for engagement\Indicators	Sounds really simple, but you can imagine some of the communities are very remote, all they've got is their own conversations and their local newspaper. This stuff is very important to them. Whereas you've got big city slickers coming in, promising the earth and getting out of there. It leaves a very bad taste in peoples' mouths.
Case1_6	Evidence for engagement\Indicators	that projects are getting approved in a timely and effective manner. But, they're being approved in areas -- that it's been directed into areas where communities want to see renewable energy projects developed
Case1_6	Evidence for engagement\Indicators	the other thing is that the fights over these things, they're going to continue to be robust, but that they are contained and managed rather than being left to get out of hand at the last minute.
Case1b_11	Evidence for engagement\Indicators	If we're not doing our job well then the Department of Planning gets phones calls and letters, (laughs) so we know.
Case1b_11	Evidence for engagement\Indicators	Sometimes we are not given them directly, but we get told that they had complaints, or submissions, or whatever. I suppose there's the formal process is, we put our environmental assessments on exhibition and there's submissions, which then we respond to. Sometimes people write or phone into the Department, saying "we don't like this", even if it's not the time for exhibition, or whatever, so we get comments on that. I think people phone us or email us anyway or we read something in the paper, or hear it on the local radio, and then we know we're not doing our job well enough. So it's pretty direct feedback.
Case1b_11	Evidence for engagement\Indicators	Then talking to people or turning up at a CCC meeting, people will say "this is an issue".
Case1b_11	Evidence for engagement\Indicators	If we've got a wind farm in Yass, we look at the Yass Tribune online every week or a Google Alert that picks up 'Yass' and 'wind farm' or something; 'Glen Innes' and 'wind farm'. We're tracking those kind of things.
Case1b_10	Evidence for engagement\Indicators	What you end up with is natural resource management becomes a government problem, not a community problem. See what I mean? Interviewer: Yeah, absolutely. Respondent: That's a bad outcome.
Case1b_10	Evidence for engagement\Indicators	There was 19 roadshow things around the State. We never heard anybody anywhere, and you probably won't, say "we love our CMA". Have you ever heard anyone say, "we love our CMA?" Interviewer: No. Respondent: Isn't that a problem? I think it's a massive problem. Interviewer: Oh absolutely. Respondent: But you'll hear people say "we love our..." What's something that's valuable to the community? "We love Landcare. Don't take Landcare from us". CMA? "Oh you can have the CMA". That's kind of like an indicator.

Case1b_9	Evidence for engagement\Indicators	<p>You need to have a sense that this actually has a purpose. You know? Which means that there needs to be some real influence in the CCC on some aspects, some decisions. There has to be some decisions the CCC can influence and have input into. Otherwise, its very two dimensional and Epuron could probably just hold information sessions frequently and anyone could drop in. I think that there has to be a quest... it needs some quest, it needs a task.</p> <p>The CCC needs... yes, the information sharing and the question answering, all that is important and useful but the CCC also needs a task, something to actually get their teeth into. And then the CCC can go figure how it's going to contribute to that task. And most of the time I would recommend the CCC then go into community, goes out to that community, does some engagement, comes back, goes out to the community, does some engagement, comes back.</p> <p>It's really a conduit to the broader community, it has a role and to actively organize things and ask the hard questions and keeps local government mobilized where it needs to be, keeps local business owners mobilized where they need to be, so that it's a really a conduit. That the wind farm company can use. So I would say it's successful if it's real rich conversation happening which is not just... which actually is contributing to better outcomes for people.</p> <p>Yes, it's building trust, yes it's building relationships, yes the information flow is improved but it also should contribute to better outcomes. The project should end up being better and the way project happens should end up being better, than if</p>
Case1b_9	Evidence for engagement\Indicators	<p>But it's all this commercial side of things that is making things really hard for everybody on the ground. And a huge amount of risk and investment for people, like the development companies. And I think because of that, they're very tense and they can tend to act in a way that isn't really sending signals to the community that "we're with you".</p> <p>Interviewer: Yeah.</p> <p>Respondent: You know (laughs) they're so busy with their own concerns for making money because it's so tenuous. And it's not their fault it's just the reality.</p>
Case1b_9	Evidence for engagement\Indicators	<p>And I think that that, unfortunately, has the potential to continue to make things like CCC have a bit of a bad name or a bit of a lameness about them.</p>
Case1b_9	Evidence for engagement\Indicators	<p>And they'll have to start all over again when a new company comes in. And we don't know who they're going to be, or how they are going to be, or are they gonna pull the rug out from under us, given everything we've developed by now? What are they going to be like? And how's that going to change the dynamic? So yeah, I think it is a bit of an issue, for sure.</p> <p>Interviewer: Yeah.</p> <p>Respondent: With a change, we'll have to transition through that period, and not have actually lived through it I can only imagine what might happen there. So I think really you wouldn't be able to assess how well these CCCs can function (laughs) until they've been around for about four or five years, and seeing through pre-development. Around their planning approval stage, through to all the pre-construction and the construction period and the post-construction period. You could really sort of, follow the life cycle then across a few, then we'll really know if it's possible for them to be valuable</p>

Case1b_8	Evidence for engagement\Indicators	Another thing this consultation, too, is I think there's a perception that good consultation means the community gets what they want and that's sort of a benchmark; like if a development... if we listen to the community and we refuse a development, that's "Oh, Inverell has done well with their consultation." But I think it's up front, you've got to make people aware and say, "We will listen to you but it doesn't mean we're going to do what you want."
Case1b_8	Evidence for engagement\Indicators	Yes, and I think media plays on that, too, because it makes a good story if council listens to community, refuses, whatever; but if... we could still listen to them and we approve it, were we successful in our consultation? How do you measure it?
Case1b_8	Evidence for engagement\Indicators	How do you measure it? What do you do now to measure it? Respondent: We don't. Interviewer: Okay. Respondent: We... you could measure the level of participation on development applications that actually go to council, which is less than 5%, I think, over the last five years. Interviewer: Okay. Respondent: So, that could mean that people come to the front counter and they get the answers they want, so they don't object; or it could mean that I go out and I talk to people, so they don't object. So there's a lot of reasons; it could be that people don't really care? Or... you know.
Case1b_8	Evidence for engagement\Indicators	So, does that mean if we notify more people and get more submissions- did we do better consultation? I suppose, at the end of the day, did we get a better outcome? So, did we make the developer spend an extra hundred thousand dollars to change the project for the sake of one submission? Is that a good outcome? Or did it take my staff two weeks to assess an application because we got 80 submissions? It didn't change the nature of the development. It just - So, is that a better outcome? Not for council, because it's taking away resources that we don't have. And that's what I said to you before. Sometimes, when you notify neighbours, you cross your fingers and hope you don't get a submission because it means we can approve the development in two weeks; half a day to do the report and the conditions. If we get a submission, it's two weeks report; then, you've got to go to council and --
Case2b_19	Evidence for engagement\Indicators	The way we coped with it organizationally, as part of our organization monitoring and evaluation strategy, was quantitative and qualitative evaluations on every single program we did. Interviewer: Okay. Respondent: Every single program.
Case2b_20	Evidence for engagement\Indicators	the sub-regional resilience assessment and that document is as it is because of the input and reflects their view of the most important things and the conceptual models of their regions.

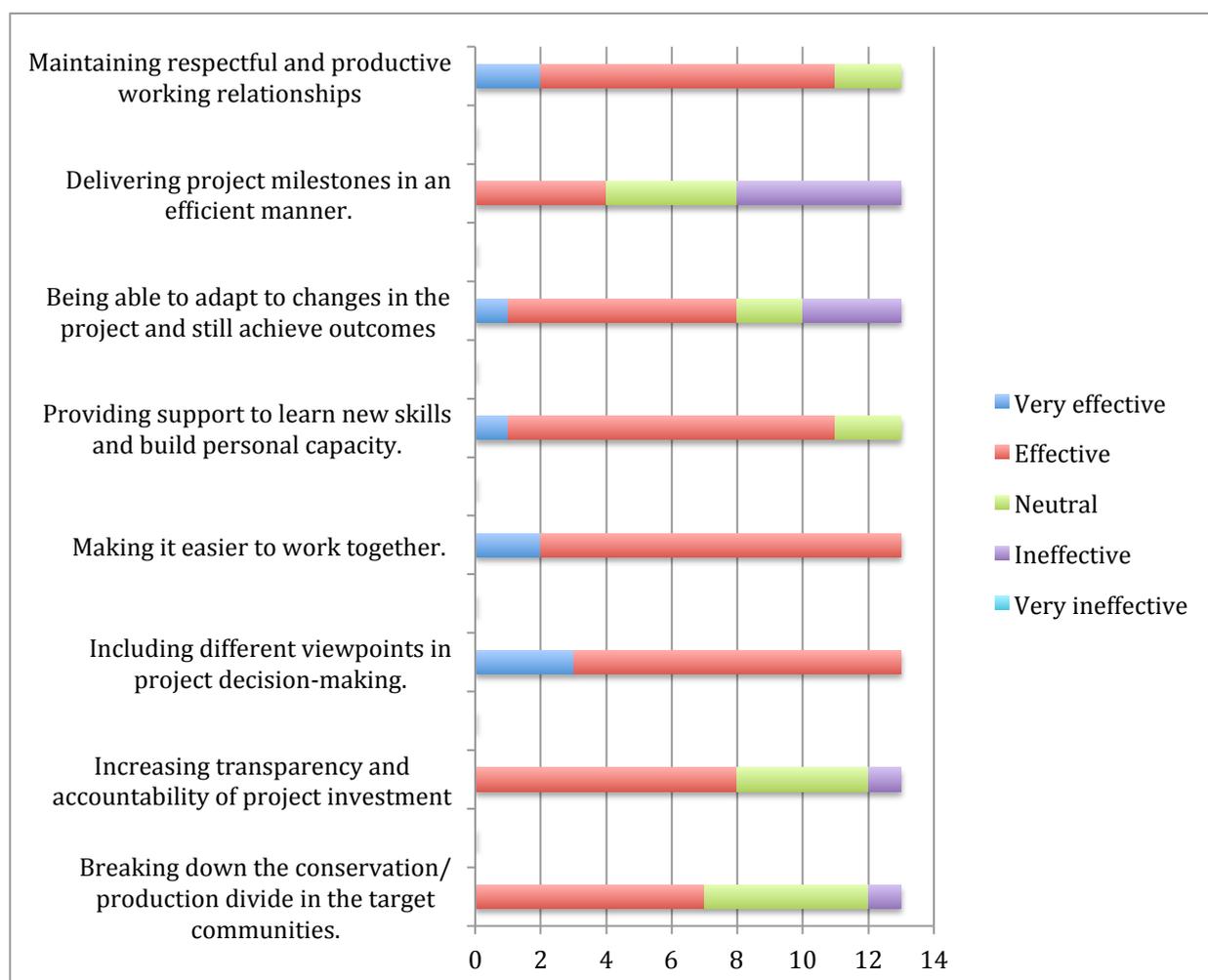
Case2b_20	Evidence for engagement\Indicators	If you've got a process that is working well and people participate in it, are keen to continue participate, and are able to voice their concerns if they think things are not going on the way in which they expected. And generally from, if you like, free and frank discussion that you get at the panel. It seemed that they were working very well and we also received kind of third party feedback from the panel members that said to Directors or to other staff that they really enjoyed being on the panel and really enjoyed the work. And yeah, and the response at the end of our Narrabri meeting was really gratifying. But yeah, all of them indicated that they really enjoyed both the process and the work that they'd done and hoped it would continue in some form in the future. I'm pretty sure that was a universal feeling.
Case2b_21	Evidence for engagement\Indicators	Nobody turning up to events (laughs) was a bit of an indicator! I think, yeah, just basically, that we basically, particularly with our vegetation projects, so, anything around any vegetation biodiversity, it's, if we had any... our on ground projects and our capacity building workshops that we had on veg-planning or biodiversity management or whatever, we just weren't engaging people.
Case2b_21	Evidence for engagement\Indicators	if there are workshops and field days, it's numbers that turned up. And also, what sort of contact you have with those... after those events and the feedback that you get from those events.
Case2b_21	Evidence for engagement\Indicators	for example, with the kayak trips and the spotlight nights, I always get e-mails back from people that attended them about it and I think that shows an engagement. If they're going to make the time to talk to you and send you an e-mail about the event, then obviously, they're being quite engaged by that process.
Case2b_21	Evidence for engagement\Indicators	it's not only events but it's also what happens after those events; whether the conversations have happened but also then, do... does that then lead to on-ground works or meeting any of the other CAP targets.
Case2b_21	Evidence for engagement\Indicators	through participation in MyBMP and, whether you had people that would then follow through to inquiring about that or participating in the MyBMP Program, which was often talked about at those events, as well.
Case2b_21	Evidence for engagement\Indicators	there are many programs in place to evaluate the success of the on-ground programs and so, by undertaking certain activity, has it actually made a difference to the natural resources' health but also, there was questions around there but that engagement process with landholders, you know: did they find it effective? Has it helped them address other issues on their farm? So, there's a whole MERI process that would be put in place with those on ground projects, but I'd have to say, I've never seen anything come out of that process to know - as a staff member, I never saw anything come out of that process. I'm sure it did. I just never quite followed up on it!
Case2b_21	Evidence for engagement\Indicators	for all of these events that, for the last couple of years, there are always people that turn up; like we probably had - I don't know - maybe 200 people turn up to the events over the last couple of years and in terms of seeing whether that's been a success or not, I think - I would say that it has, to some extent, but what we - what you need to have in place with those events to better evaluate them is that they need to be - need to be really strongly linked to the next step and so, last year, with our Bio-links programs, we held these engagement events; got people along, started talking about native vegetation, conservation or how to better link vegetation in the landscape and why you'd want to do that and we created a guidebook to show them how to do that, as well.
Case2b_21	Evidence for engagement\Indicators	And then, we had our Bio-links program and so we had a contact list that we could follow up with and talk to about it and say, "At the workshop we spoke about this, are you interested?" like that. So, it gave you, I guess, those contacts or that starting point from where you could then try and engage them in the Bio-links program. It was still difficult.

Appendix Nine: Biolinks evaluation

Brigalow Nandewar Biolinks – collaborative governance evaluation December 2014
Prepared by Tanya Howard, Australian Centre for Agriculture and Law, UNE.

1

Q1: How effective you think the collaborative approach has been in achieving the following project outcomes?



Graph displays responses to question 1; n=13

Points to note:

- No responses in the 'very ineffective' category, although 'ineffective' appears against several questions – this suggests the project governance has room for improvement but is not fundamentally flawed.
- Majority of responses are in the 'effective' category for all questions except 'achieving project milestones in an efficient manner' – this is not surprising considering the slow progress of the project during the start-up phase. Consider the impact of the LLS reforms on project continuity and the time needed to establish collaborative protocols.
- Positive agreement and no neutral responses for 2 questions – 'making it easier to work together' and 'include different viewpoints in project decision making' – these are core ambitions of the collaborative governance model.

The remaining questions are verbatim from the survey responses. This enables you to make your own evaluation. N.B. Not all respondents answered every question.

Q2: What do you think has worked well with the collaborative governance of the project and why?

Sharing of roles; meeting across the region; understanding varying viewpoints. Better across the board involvement and meeting aspirations. Collaboration proved a good buffer against organisational changes and staff turnover (in the agencies). It provides a good basis for further projects.

Having ownership of a project across various stakeholders in the community. Having people with different backgrounds, perspectives and areas of expertise add value to the project. I think the diversity always makes the project stronger and more resilient. This proved true when CMA's were abolished and 2 LLS's then needed to cover the Biolinks region. The Steering committee provided the consistency in the project.

Having more people to promote and find the most appropriate projects. It was also good to have the additional input.

Decisions made by a project steering committee. - It is good to have a broad range of views, opinions and knowledge to make important decisions for the direction of the project.

Open discussion - gain more understanding of why things happen the way they do, meeting a wider group of engaged participants, expansion of networks, the feedback provided, the larger discussions held, the importance of having landholders involved, that government and community can work well together.

Getting multiple stakeholders involved helps raise awareness of the program and improves overall engagement within the community. There is also a range of ideas and experiences and viewpoints that helps the program in many ways. For example; excellent technical input from private contractors and universities and improved landholder input and their advice on how to best engage other landholders.

Generating ownership of the broader community of the project. Bringing some new ways of working into the closed world of CMAs.

The amount of time and effort voluntarily contributed to the steering committee and working groups is amazing. I think a reason this has worked well is that participant's feel that their contributions are worthwhile, are respected, and they feel they make a real difference. The UNE PhD projects and the involvement of the students in the overall BNB project is a great success for the project, because it has focussed research onto specifically required questions, it has and will build capacity in the steering committee and WG members, in the students themselves, and in land managers that the students interact with. The Steering Committee meetings and processes are

now maturing into an effective and efficient system - this wasn't always the case but the people involved have stuck with it and we have developed required skills. Stakeholders have been respectful and good-natured towards each other - even when there are sometimes differences of opinion. The camaraderie makes participation enjoyable as opposed to onerous. In general the projects have been meeting their targets and expending their budgets - although the MERI project has been significantly forward paid. The willingness of stakeholders to rotate meeting locations and to travel to different places to participate has been effective and conveys a spirit of fairness and equality.

The 'forcing' of regular steering group meetings helps the project stays on track and not be diverted or combined into other projects. The different perspectives build a better understanding, this is good for all parties involved as we hear each others' sides', share knowledge and seek to understand/compromise. The involvement of landholders is great, brings a realistic balanced perspective.

I think the steering committee works well. Members are drawn from a range of professions and organisations and bring to the committee a breadth of perspective that would be difficult to achieve otherwise. Having the working groups report back to the steering committee through the Chair of the working groups ensures all in the project can contribute to the project.

New skills, linking with people with other expertise.

The opportunity to hear everyone's view or reports on other project areas. There has been a lot of cross-disciplinary learning.

Q3: What activities haven't worked well with the collaborative governance of the project? What would you change?

Financial management and reporting could be significantly improved. I note there is no person with an accounting background on the steering committee and consequently I am, and I'm sure other members are hazy about the finances of the project.

I think continuity may also be a bit of an issue. I don't believe having a rotating chair is a good idea and there have been quite a few changes in the steering committee membership.

Collaboration was driven by a few champions. In their absence business slipped back to conventional roles and practice, especially when collaboration requires extra time, costs, dissonance with participant's employers, or perceived risks (e.g. to contracted delivery). This points to the fact that there are certain passionate leaders, and others who are happy to go along with the collaborative approach, but do not necessarily have the commitment or understanding of the approach to see when it is not working and to do something to see that it does. Collaboration required added time especially for communication.

With so many stakeholders involved in the project it has hard for decisions to occur quickly and as a result the project under achieved on outcomes and milestones in its first year. These models take a while to set up and it meant that there were very few projects in the first year. I think at time its hasn't been clear on what the steering committee role has been v's CMA (or LLS) in running the project. And there has also been confusion on the roles of the working group. I think that next time it would be worth developing terms of reference very early that would define how the committee and working groups operate. This could be done jointly to ensure everyone is clear on their roles. And also what decisions/changes the committee can make (e.g. Where the project is targeted, how communities are engaged) and what can't (eg. standard government contracts or state government procurement processes).

Some things have taken far to long to develop. Protocols for project development were not developed quickly enough to be useful in the first year.

Funding for projects. Its very hard to have one organisation responsible for the funding and have all the outcomes required ultimately fall to that organisation.

Some time delays in the early stages of the project with developing guidelines + strategies, on some occasions information to and from working groups delayed simply because of the large nature of the project -

Not sure exactly why but the program was very slow to start achieving milestones in the first couple of years. This model obviously takes a lot more effort to make work but there are also advantages with this model. There also seemed to be issues initially with governance and conflicts of interest which can be hard to avoid in this type of model.

The implementation by the CMA of policies generated by the Steering Committee because of poor internal communication in the CMA(s).

The assessment of proposed projects applying for funds has often been rushed - both in terms of preparing proposals for assessment by the panel and distributing that before the panel meeting, and in the amount of time allocated to process each application by the panel. Only the MERI working group and the Community Engagement and Capacity Building working group have had regular programmed meetings. The other working groups have been ad-hoc. We haven't exactly been swamped with funding applications. It can be difficult matching the CMA/LLS reporting and auditing requirements to the commonwealth govt. with the timing of steering committee or working group deliberations. There has been a significant turnover in CMA/LLS staff involved in the project, and in what staff roles are - not least the splitting of the project across two LLS's. I'm not sure how this might be changed. The project is still at risk from the impact of drought. There is not yet any formal contingency to replant trees if they die - it will be left to the landholder to resource. This should be changed by reserving a contingency fund to replant (at least some) trees if the first plantings don't survive, and perhaps individual grants should include more \$ for watering and maintenance. The process chain from collecting seed, storing it with provenance info, planting it directly or providing it to nurseries, the nurseries germinating and growing tube stock, the timing of germination and growth and finally the delivery and planting of a mixed set of species for a given project is incredibly complex and can be chaotic. It's really difficult to pre-empt requirements and put them in train up to a year in advance, and to pay for them without being wasteful. And then at the end of all that the drought conditions delay planting and seedlings may not be able to be held back.

The resourcing required to run steering committee meetings, develop recommended actions was too great in the initial stages for what resources (human) were available. The actual project implementation suffered. i.e. by the time all the governance model was sorted we were way behind on actions that needed to be undertaken to actually get the re-vegetation work done. There were some assumptions from participants that were inflammatory in the first year, this caused conflict which wasted a lot of time. The aggressive approach with which some steering committee members approached the collaboration could have been 'toned down' for the benefit of the whole. A get to know you session right at the start could have avoided the misunderstandings that seemed to arise 6mths to 1 year in. I would have resourced the collaboration much more heavily at the start. It was unfortunate that the BR-G CMA had a staff restructure at the beginning of the project and it was unfortunate the project was never 'self sufficient' in term of employment costs to run it. The collaborative model demanded a high staff investment at the beginning which was just not feasible, this caused frustration and delays.

CMA/LLS has retained too much control, treating the project as their project on which they take advices from a committee. Not enough timely sharing of agendas for meetings or communication about project progress.

People not participating, working groups giving feedback and direction.

Q4. What have you learnt by participating in the collaborative governance model?

That collaboration requires additional effort; there rewards are there to be had, but may not be easily measured and reported on, especially in the short term.

I have learnt that true collaboration is hard! It means devolving ownership and decisions. It takes time to set up a truly collaborative model and sometimes it can be at odds with the short timeframes given by funding bodies and can also conflict with milestones that need to be achieved. Also I noticed the committee/working groups had lots to do in the initial few years of project setup but have perhaps lost some focus or clear direction now the project is setup. Which is why communication is key and for everyone to be clear on roles. Despite being challenging I think collaborative governance models give projects real strength, helping to open channels of communication and also allowing relationships to be developed. Working with people with differing opinions and views is always a challenge but if there are clear channels on how to communicate and deal with conflict if it arises then I think it is a very strong and worthwhile model.

I have learnt about different research that is being completed

Aspects of it work well, and other areas need to be looked at. And despite all the broad range of people involved in steering the project, community "buy in" to the project has still been difficult to achieve.

That collaborative governance requires patience, that its ok to seek assistance, that it can work

Their needs to be a nominated, strong and effective, but inclusive, management team, from the start to ensure the program gets momentum early, has good governance and achieves milestones. If possible I would involve someone who has had previous experience in this type of model.

The difficulty and benefits of collaboration. Its hard work but I think it is always better in the end.

The importance of developing good procedures and following through - it helps with transparency and effectiveness. The importance of being respectful, and in making sure that steering committee and working group participants can make a real difference to the governance of the project (so that they stay motivated and involved). There's a lot we don't know about engaging land managers, designing good projects, and re-establishing and managing ecosystems. It requires a lot of effort to participate or coordinate a collaborative governance model for a project.

I now think that this model of collaboration is a better approach than a regional body running something and making all the decisions on their own. I would make the terms of the steering committee quite tight at the start. I would make sure everyone was aware of the decision-making hierarchy and

method so there was no 'going back over old ground'. Collaboration works better if people develop a shared appreciation for each other and agree on some shared goals/ values at the start. The investment of time at the start is critical, better to intensively invest time, get and agreed framework and then get straight into project implementation. Defining the scope of the project is critical. The BNB project tried to 'bite off more than it could chew' for the available resources. In the first 2 years there seemed to be a lot of talking and funding spent on things that did not directly get vegetation on ground. I think this is because the steering committee did not clearly define the scope of the project in line with available resources. In future collaborations I would spend a lot more time scoping the project out first.

The importance of process – agendas, minutes, opportunities for consultation and discussion.

Moving the meetings around or meeting by teleconference allows more people to get involved.

Information dissemination and reporting makes for better collaboration. When reports are provided prior to a meeting and when reports are presented well at Steering Committee meetings, contributions and considerations by others on the steering committee are more productive.

New skills

Q5: Do you have any other comments about the progress of the project so far? (doesn't have to be about the governance model)

It's a shame it's been so dry or more could have been achieved. The change from CMA to LLS impacted the project especially with changes in systems, promotional stagnation and uncertainty over staffing. Perhaps in the next 3 years, the stability and the establishment of the collaborative model will enable the project to really take off.

The Steering Committee probably held the project together during the very difficult period of transition from one CMA to two LLS's.

At the implementation level not enough ownership has been given to landholders in relation to the revegetation works. They do have a financial stake in the project but all the ordering of seed and seedlings, organising of contractors to plant etc. is left with agency staff. This can be an issue because, first, the landholder has less of a stake in the project, second, it places a high work load on staff and there are now less staff to do this, third, with agency staff turnover there can be issues with new staff not having a stake in the project they didn't develop and they are not familiar with the project.

I have generally enjoyed my involvement,

I think we are just starting to see results of the project being implemented on-ground with landholders and getting some good results. The Steering Committee is still developing how it meets and operates but it is starting to flow much better with a clearer understanding and better reporting to the committee from LLS.

The project has shown good resilience, especially spanning organisational change and staff turnover. Excellent communication has grown, based on trust, leading to open and frank discussions and the ability to adapt and learn and thereby keep the project on track. The project has recently begun to look back to its original objectives and be able to see that it has been effective or in some cases to make the necessary adjustments to align with those objectives

As a PhD student working on the project I feel that effective relationships are being built with land managers who I am in contact with. This all helps in the longer term in building connections between scientists and land managers – something that is desperately needed as extension services (and therefore the link between scientists and farmers) are being continually eroded to the point of being almost non-existent.

I'm not sure whether it was linked to the collaborative governance model/BNB Biolinks project, but there was a survey that came out a few months ago from Local Land Services. I attempted to fill it out but it was time consuming and very user-unfriendly and I gave up in the end. In my opinion a poorly planned survey like that does more harm than good for relationship building between different industry bodies and is more than a waste of time and money and care should be taken when preparing surveys such as that.

I think the project is progressing well. Many on ground projects have been approved and are being undertaken and will form part of the connectivity from east to west consistent with the project objectives.

I like the involvement of the PhD students and their presentations at the conclusion of Steering Committee members.

The change in structure and boundaries for CMA/LLS has been a major challenge. The collaborative governance model really helped the project survive this change. However NTLLS has been less and less collaborative since the change and would most likely walk away if they could.

