

**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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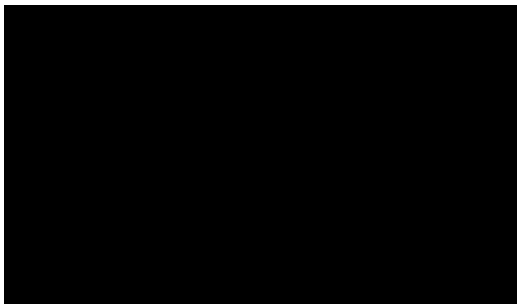
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DECLARATION

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.



Tanya Howard

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As a new arrival to Armidale, I have been grateful for my network of existing friends from Sydney and Alice Springs, as well as new friends made during the past three years. Their encouragement and confidence has kept me going.

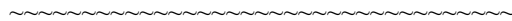
My family has been a source of constant support and I am thankful to my mother, father and sister for regularly 'checking in' on my progress. My parents have always encouraged me to pursue adventure and challenge, even when it gave them sleepless nights. I put this down to their own adventurous nature, and thank them for giving me the opportunity to grow up in Australia.

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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.