4. What works for managers? Case studies from the field

We have seen that initiatives of many kinds have been practised and reported on in the past 20 years. What is known, however, about what works for managers? Evaluations of engagement strategies from this point of view are rare. In part, this is because deciding how to evaluate a process is fraught with conceptual difficulties. What does a ‘good’ consultation or a ‘good’ deliberation look like? When making comparisons, there are few counterfactuals—most policy systems remain hierarchical, with participatory forms occurring at the margins: the Angostura bitters in the cocktail of administrative life.

For their part, agencies like to promote their successes, admitting (usually) only to minor flaws. In assembling the following cases, I have taken the view that it is more productive (although certainly not easier) to assemble case studies that demonstrate particular themes of engagement, rather than simply telling the story of what happened.

The raw material for the new cases presented here comes from a forum specially convened for the ‘Dilemmas’ project, held on 22 August 2008. The forum brought together practitioners, academics and representatives of community groups to discuss a range of cases chosen so as to bring out a broad range of engagement issues and problems, with an emphasis on the public management perspective. The results point to areas of significant achievement and also to emergent difficulties: the true ‘dilemmas of engagement’.

Consultation for regulation

‘Regulation’—that is, rules for the determination of behaviour—is not often considered along with engagement. Regulatory agencies, however, and agencies that develop policies in the field often have longstanding relationships with policy communities. Regulators need reliable information in order to formulate and implement policy. They are, in general, in a strong position vis-a-vis stakeholders, because of the specialised nature of the knowledge they possess. On the other hand, becoming too close to stakeholders runs the risk of ‘capture’—that is, the agency’s decisions are biased towards those it is charged with regulating. In this section, I consider case studies drawn from financial policy making (the Australian Treasury) and from the implementation field (the Australian Competition and Consumer Commission).

Formal and informal channels of consultation

Consultation in the financial sector involves a number of specialised industries, each well organised, well resourced and with good access to government and
an understanding of government processes. The issues involved in financial sector regulation are complex and regulatory frameworks have profound effects on business practices and costs. Consequently, there are often demanding time lines for policy makers, especially when changes to prudential regulation are under consideration. In rising to the challenge of these demands, policy makers use two methods: formal (relating to the staged process of submission, analysis and response) and informal (relating to more nuanced, rapid and personal interactions with stakeholders).

The Financial Sector Legislation Amendment (Review of Prudential Decisions) Act 2007 introduced reforms to improve the efficiency, transparency and consistency of processes for disqualifying individuals from operating financial sector entities and enhancing the accountability of the Australian Prudential Regulation Authority (APRA) for its decisions. There were strong reasons for the government to act and equally strong incentives for the industry to engage with the government. Moreover, in the wake of the Royal Commission into the HIH collapse and the government’s 2006 Taskforce on Reducing Regulatory Burdens on Business, there was a compelling reform agenda to be addressed, involving balancing regulator independence and power on the one hand, and the need, on the other, for an appropriate process of decision review.

An initial consultation paper had proposed that the independent regulator, APRA, have a single general power to give directions to financial sector entities to address prudential risks. The paper also proposed to introduce merits review of APRA decisions by the Administrative Appeals Tribunal, where appropriate, consistent with Administrative Review Council guidelines. Submissions to government on the proposals queried the scope of APRA’s direction power as well as how merits review would work in practice. There were 22 submissions received to this initial consultation paper. In May 2007, a second consultation paper was issued with revised proposals designed to address concerns raised by industry to the initial proposals. Thirteen submissions were received by the government, which broadly supported the revised proposals that subsequently formed the basis of the act that was passed by the Parliament.

In reaching this result, the Treasury stressed the importance of using formal and informal channels of consultation. Formal consultation establishes the general ‘rules of the game’ and ensures transparency and fairness for all stakeholders. Submissions are made publicly available, subject to confidentiality provisions and represent stakeholders’ official views, communicated to their members and to government. It is, however, a static rather than a dynamic process: announced views are weighed up, there may be further informal consultations and adjustments to proposals may be made.

The formal process depends in important respects on an informal process of information exchange and discussion that provides additional flexibility.
Stakeholders are, in any case, in regular contact with policy advisers and the informal process provides for an extension of this contact. Informal industry engagement assists in:

- shaping how proposals should be framed for formal consultation
- clarifying views expressed in formal submissions
- conveying additional context for the government’s approach and clarifying next steps
- identifying the potential for compromise and building consensus.

Groups outside the immediate policy community tend not to be actively involved in these processes. From one perspective, this could be viewed as a weakness, with consumer groups, for example, most unlikely to be consulted on the detail of financial sector reforms. On the other hand, highly technical matters often held no interest to non-professionals and, in the case of prudential regulation, the overarching public interest principle of maintaining robust regulatory processes had already been established and widely accepted. Moreover, consumer groups preferred to target higher-level issues. In dealing with detailed reform proposals, there was a narrower focus on crafting a result that would be effective and implementable by the industry and the regulator.

**Public and non-public consultation**

Consultation does not always have to be public to be effective, as the example of the Australian Competition and Consumer Commission (ACCC) demonstrates. The ACCC uses public and non-public forms of consultation in highly structured ways in order to maximise access to information from the field. These consultative arenas are legislatively mandated, but, over time, have evolved in ways that might have more general application.

The commission holds non-public consultations when it considers proposals for mergers and acquisitions and public consultations when mergers that would otherwise be anti-competitive are investigated to determine whether they should be authorised in the public interest. The commission also conducts public consultations when it applies public interest tests to applications by firms to register conduct that may be anti-competitive.

The commission is a statutory body governed by a board, comprising a chair, two deputy chairs, a number of full-time members and associate members. Its activities are based in Canberra and in Melbourne and it has offices in every state. Its work is largely mandated by the *Trade Practices Act 1974* and takes place in five main areas:

- consumer law
- mergers and acquisitions
- prices surveillance
adjudication
regulation of particular industries (for example, telecommunications).

The overall objective of the ACCC is to promote competition and fair trade in the marketplace to benefit consumers, businesses and the community. It also regulates national infrastructure services. Its primary responsibility is to ensure that individuals and businesses comply with the Commonwealth competition, fair-trading and consumer protection laws.

The ACCC’s mode of engagement with stakeholders differs according to the type of activity it is regulating. Mergers, for example, involve the commission in extensive interaction with companies wishing to merge with or acquire others. The ACCC advises the firms concerned whether the proposal will adversely affect market competition. This is a form of non-public consultation. The commission has a clear decision to make: it must determine whether the proposed change is anti-competitive or not. It cannot make this decision, however, without obtaining information from the marketplace—from suppliers and customers, from rivals and supporters. Much of this information is highly commercially sensitive—hence the consultation, while wide ranging in its contours and purposes, is not publicly reported. The case of Qantas’s proposed merger with Air New Zealand shows these processes in action.

In 2003, Qantas and Air New Zealand approached the commission regarding plans to merge the two airlines. This was disallowed on the grounds of a substantial lessening of competition. The commission’s role in this non-public process is to establish ‘what would happen if the merger occurred’ by consulting competitors (or potential competitors) of the applicants.

Having failed to secure approval for the proposed merger, the airlines then went to an adjudication process. This is a fully public process, designed to establish whether, in this case, a merger that has been disallowed on anti-competitive grounds might nevertheless be permitted on public interest grounds. During the adjudication, the airlines contended that there would be benefits to the public from the formation of a financially stronger, combined airline. Again, the ACCC found against the proposed arrangements, this time using the public consultation procedures to gauge opinion and implications. While the Federal Court reversed this decision, ultimately, the proposal did not proceed because the High Court in New Zealand blocked the merger.

A further example of the use of public consultation by the ACCC concerned the Internet-based auction web site eBay. In April 2008, eBay lodged an exclusive dealing notification with the ACCC under which it proposed to mandate the use of PayPal (a payment facility owned by eBay) for almost all transactions on <ebay.com.au>. Section 47 of the Trade Practices Act prohibits anti-competitive exclusive dealing that has the purpose or effect of substantially lessening
competition in a relevant market. Activities such as this, however, may be allowed where it can be demonstrated that the loss can be justified in the public interest.

The ACCC’s public consultation function now swung into action. In the eBay case, more than 750 submissions were received, the majority strongly critical of the PayPal requirement. Of particular interest here is that, in addition to evaluating submissions, the ACCC may organise a conference among key interested parties at the request of an interested party.

In this case, a conference was organised including eBay representatives, representatives of competing payment systems and regular users of the site. The tenor of opinion was again negative, although the deputy chair of the consultation did note that few interventions really addressed the substantive issue of market competition. As with many such consultations, most participants wanted to discuss their individual relationships with eBay, rather than the more abstract issues of interest to the commission. The commission, however, welcomed and absorbed this information in order to satisfy itself that it understood ‘the whole story’. In June 2008, the ACCC issued a draft notice, giving its view that the move was likely to substantially lessen competition. eBay subsequently withdrew its notification, meaning that it no longer enjoyed immunity from prosecution under the act for the proposed arrangement with PayPal.

Managing the politics of consultation

Unlike many service delivery agencies that form part of departments of state, the ACCC has strong bulwarks against the political process. Provided it does not intrude into policy areas, it has considerable legislated independence of action. This means that the commission is able to use, and has developed, many processes over the years in order to do its work more effectively, and it may use public and non-public processes as the occasion demands. The problems of ‘twin channels’—in which interests go straight to ministers—are not unknown, but the ACCC is in a good position to resist political pressure to undertake (or not to undertake) particular inquiries.

While most agencies do not have the luxury of statutory independence, the experience of the Treasury and the ACCC suggests the importance of what might be called ‘the structured mandate’—that is, a clear set of objectives to be achieved through consultation and a strong reason for participation by consultees. The structured mandate is, however, only part of the story. The ACCC’s watchdog role requires that it knows what is going on ‘in the field’.

To this end, the ACCC maintains a number of specialised consultative bodies as a source of information on a range of consumer issues. A Consumer Consultative Committee addresses broad consumer issues; there is also a small-business advisory group and a franchising consultative panel. In addition to more general
concerns, the consultative bodies are encouraged to raise issues to do with compliance—for example, in relation to pricing. In addition, the commission is often alerted to dubious practices through its complaints database and is then able to follow up through either legal action or, if more general matters are involved, by issuing (or reissuing) a consumer guide.

Managing multiple streams

One of the most difficult issues for agencies is to manage consultations involving the general public and stakeholders, particularly where stakeholders are able to lobby the minister separately from the consultation process. Treasury officials involved in the prudential review mentioned earlier stressed the importance of good communication with the minister’s office and the use of informal channels to keep abreast of developments.

In the case of the ACT Planning and Land Authority, the ‘multiple streams’ problem arose in two ways: first, in relation to the ministerial and political dimensions of policy development; and second, in maintaining meaningful communication on a variety of highly technical issues with stakeholders and the general public.

In 2006, the ACT Government launched an ambitious plan to revamp the territory’s planning and development legislation. The new act was designed to streamline the development approvals process and clarify the bases on which decisions would be made. This clarification would be achieved by defining ‘tracks’ that would specify the type of assessment required for particular types of development. An application assigned to the ‘code’ track, for example, would be automatically approved because it conformed to the relevant code—for example, the residential housing code—for land use in that area. Developments that did not conform to the code would be assessed on their merits.

The new act was voluminous and went through 52 major and minor iterations before the ACT legislature finally approved it. Many of these changes were made in response to a major consultation strategy that was coordinated by the authority. Because the new system was a major change from the old, it was essential to explain, as clearly as possible, the principles underlying the new system. At the same time, the legal form of the new system, and the draft codes through which it would be implemented, had to be progressed. As land use in the Australian Capital Territory is controlled by a leasing system, interactions between the new legislation and development rights relating to existing leases had to be carefully thought through.

The authority consulted with the industry (stakeholders) and with the community. The planners wanted to be sure that the legislation would work as intended and would be reasonably well accepted by the development industry and the public. A multi-pronged strategy was chosen: a ‘roadshow’
communicating with community groups and a sequence of more directed consultations with invited participants. At the same time, the authority had to ensure that lines of communication with the minister remained clear and open, as the minister engaged directly with stakeholders and made a number of key judgment calls.

The time frame for developing the legislation was restricted, so the authority began its consultation with a directions document, then an exposure draft setting out the broad architecture of the new legislation. The interest of stakeholders and the community, however, lay in the detail of the bill—what it would mean in specific situations—rather than in the broad principles of the legislation. Thus, as the consultation evolved, the authority increasingly used case studies as ways of engaging consultees. As an ACT Planning and Land Authority officer put it, ‘Most people wanted to know what the rules meant for their particular situation, not the broad principles underlying the legislation. So we made a lot of use of case studies.’ By illustrating what would happen in specific situations, the case studies were more effective than more abstract formulations.

Planning, as with most forms of policy, is necessarily a work in progress. Although the legislation was the end product, regulations, procedures and practices had to be established as time went on. As ACT Planning and Land Authority says, ‘Consultation never ends. The conversations continue.’

**Participatory decision making: natural resource management**

Engagement is undoubtedly easier when there are structured relationships to work with. The Treasury case study, for example, showed the advantages, from the manager’s point of view, of dealing with settled policy communities, with an agreed language of consultation. Policy communities, however, particularly in unfamiliar policy terrain, are rarely settled. Building governance—that is, the relationships that underpin and express policy—is a long-term process.

When an area is new, there is often no alternative but to experiment. John Butcher, a participant in the processes leading to the first Commonwealth–State Disability Agreement (CSDA) in 1991, recalled how early versions of the draft agreement drew strong criticism from peak bodies. In addition to meeting these objections, however, there was a need to go beyond the peak bodies, to take the agreement to the people it would be affecting most: those who would have to implement it and those who would have to live with it. As Butcher put it, there was no road-map as to how to proceed: ‘We made it up as we went along.’

Over time, new forms of governance might develop. In the case of natural resource management, the need for ‘fine-grained’ decisions in the field has lent itself to participatory forms of interaction. The example of the east and west coast tuna fisheries shows the importance of structure (and timing) in this context,
but also the capacity of experienced facilitators—in this case, public servants and consultants—to battle through ambiguity and conflict.

Governance of the two fisheries had evolved over a number of years. In the early 1990s, it was based on ‘command and control’—attempts were made to conserve the resource by restricting the industry’s capacity to catch fish. There was little consultation and limited conservation success. Recreational and commercial fishers were often in conflict over the terms of their respective access to the resource.

During the 1990s, clearer arrangements were established, at least as far as the commercial industry was concerned, with specified and tradable entitlements to the resource and a stronger scientific management regime, overseen by a statutory authority. Many issues remained, however, particularly relating to resource access for recreational game fishers with big boats and sophisticated equipment.

In 2002, the Commonwealth Department of Agriculture, Forests and Fisheries (DAFF) facilitated a national workshop in Coolangatta, Queensland, designed to achieve a broad consensus across all stakeholders. The government’s objectives were to avoid conflict, to manage the resource sustainably and to develop mutually acceptable arrangements for resource sharing between the commercial and recreational sectors.

After an unresolved stalemate between the two sectors, a consultant (Ewan Colquhoun from Ridge Partners) was engaged to help the parties to reach specific agreements. As a result of the process, a clearer demarcation between the two levels of government was reached, stakeholders were clearly identifiable and allocations could be transferred between the two sectors. Colquhoun’s role allowed the government to stand back a little from the process. As he put it, ‘The role of the facilitator is to establish trust in the process.’ At the same time, he could not afford to be everyone’s friend. ‘Both sides were annoyed with me, so I knew I must be getting it right.’

This was a hard-edged process, in which claims for attention had to be backed up with facts and data. This tended to disadvantage the recreational fishing industry, which had not previously quantified its activities to any great degree, but to be in the process at all, the industry had to conform to its requirements. Expectations of influence had to be matched by information. ‘Where are your data? If you want to be listened to, you must have data.’

As the process unfolded, discussion literally edged to a compromise. Finer-scale data were generated. Specific zones of conflict, between recreational and commercial fishers, were identified. As a result of the participatory process, there was better analysis of the data and a more rigorous definition of total
biological load—that is, the extent to which the fishery was to be exploited. Social, biological and economic considerations were included in the analysis.

The facilitator’s role was that of honest information broker. Transparency was essential as, without trust, little could be achieved. As information accreted, the facilitator had to ensure that it was disseminated, so that parties understood the exact positions of others. Motivation for the consultation was strong, based on a shared desire to secure fishery access rights, sustain the marine environment and to build data and management capacity.

In this type of consultation, language and numbers are of equal importance. Data are key—they must be relevant, accurate and timely. While the ultimate policy advice remained with the department (and the final decisions with the minister), the facilitator allowed the department to maintain (or reduce) its distance from the negotiators. The skills required of the facilitator included technical knowledge, the ability to chair sessions, attention to detail and being firm on principles, even when this courted unpopularity. As DAFF officer Dr Liz Foster put it, ‘In theory, it’s as easy as carving up a pie, except that the size of the pie is unknown, the sizes of the pieces are unknown, and there are many managers of the same pie. Perceptions, as well as realities, must be managed.’

Water policy provides further examples of evolving governance. The field is immensely complex in Australia, involving multiple levels of governance (local, regional, state and national) and a plethora of public agencies and organised interests, all interacting with each other to produce recurrent and, with the advent of seemingly endless drought, chronic environmental problems. The ‘community’ component of this complex tapestry comprises catchment management authorities, established under state legislation and bringing together representatives from government, the community and industry.

For more than 20 years, catchment management authorities formed part of the intricate tapestry of Australian environmental federalism. These were highly participatory bodies, established by the states, to align decision making with ecological and community boundaries. Not surprisingly, many catchment management authorities had an uneasy relationship with the governments that had given rise to them and, more particularly, with the long-established water-management departments that exercised executive power. The NSW State Government disbanded the Hawkesbury-Nepean Trust, for example, in 2001 and its powers were absorbed back into the Department of Land and Water Conservation.

In 2006–07, residents of Queensland’s Mary River Valley, who, as participants in a catchment management group, had worked hard on a water management plan for many years, found that the state government had decreed that a new dam was to be built on the river in the heart of their valley, completely overturning community-oriented planning and interests. In these cases, the
politics of growth and the interests of existing bureaucracies worked against participatory governance.

The takeover of water management powers by the Federal Government in 2007–08 and the formation of a National Water Commission allowed the states to focus on the implementation of change. Implementation involved consultation and participation: the terms of the National Water Initiative required state governments to consult communities and to report on their progress. In New South Wales, for example, catchment management authorities were involved in consultations about the classification of the water-sharing rules for each of 43 water-sharing plans (NSW 2006). In every state, catchment management authorities are invoked as the mechanism for consultation, although in most instances, existing agencies take the lead role.

Once a basis for action has been established, consultation gives way to decision making. As with the tuna fisheries example discussed earlier, participatory processes have become more prominent as managers have battled to bring together the data and the action needed to produce outcomes. Irrigators in south-eastern South Australia have, through participatory processes, provided data for the conversion of area-based licences to volumetric water licences (Carruthers et al. 2006).

Similar processes were used to establish a water-pricing mechanism after the damming of Queensland’s Burnett River. The Queensland Water Act 2000 required a water-pricing pathway for the next 10 years. A consultation was organised to provide data for the construction of a demand/price function, facilitated by a consultant. Once again, while the final ratification of the water-sharing plan rested with the minister, the consultative process—perhaps we might call it ‘participatory consultation’—enabled decisions to be mapped with a precise understanding of their real effects on stakeholders.

These consultations have a decision-making and a learning function. As consultant Colquhoun describes it, farmers often do not understand their business dynamics or the impact of particular issues. If the process succeeds, however, as Carruthers et al. (2006:1) put it, ‘broad community involvement in data collection and decision making promotes shared ownership of outcomes’. This type of consultation would appear to have many other applications—for example, in modelling the effects on greenhouse-gas emitters of particular emissions-reductions scenarios. It would also appear to have considerable applicability to at least some of the ‘retrenchment’ scenarios outlined later in this chapter.

**Using the right language for engagement**

There is a need to create a language of engagement and a language for engagement. The way we see policy has a strong bearing on the types of language
that are considered appropriate. If we see policy solely in terms of rational inquiry and report, we miss the felt sense of engagement, the stories that are told to illuminate or justify positions.

The choice of target group reflects a certain understanding as to what the consultation is about and what it can do. As one commentator at our forum put it, ‘Who you talk to determines the meaning.’ The need to have data in order to have a seat at the table can legitimate the consultation from a rational perspective, but it creates a sense of exclusion. On the other hand, genuine efforts to present technical information in clearly argued ways might enlarge the consultation space, as the 2008 Garnaut reports on emissions trading showed.

Scientific information poses particular problems. Scientists do not deal in certainties and sometimes not even in probabilities. Managers and policy makers, however, need information on which they can act. Communities need technical information ‘translated’ into terms they can understand. This is particularly important in consulting about water-quality standards. What does ‘so many parts per million’ of a specified pollutant in a much-loved river mean in human terms? Can you swim in the water?

As we saw in the case of the ACT Planning and Land Authority, the key to successful engagement proved to be the use of case studies that addressed the question ‘What will the change mean for me?’. Preparation of this type of material, however, is expensive and time consuming. Members of the public who wish to make representations about specific development applications must wrestle with the opacities of planning language and conventions, rather than enjoying the convenience of three-dimensional representations of planned change (although this might change with the advent of new software for modelling building information). The way information is presented is as political as the consultation itself.

Consultation as learning: the role of parliamentary committees

Political necessity, time and resources often circumscribe executive-initiated inquiries. Parliamentary inquiries do not have these same constraints. They get ‘out and about’ to an extraordinary degree. As the secretary to an inquiry into an environmental issue put it, ‘It was only when we actually got to the area that the committee began to understand what the community was talking about.’

Academic Ian Holland points out that parliamentary inquiries constitute an opportunity for politicians to ‘de-role’ (act outside their customary party-political roles) and to learn in an open way from those contributing. 2 A good secretariat can tap into a wide range of invited opinion. The committee can talk ‘in real time’ to participants in ways that are intimate while also being public. As Annette Ellis, chair of a House of Representatives social policy committee, put it,
‘[H]earing the stories of carers, sitting around the table with them, created a really powerful impression on us all.’

Public servants, much more constrained in how they talk to the public, could make more use of parliamentary sources of information. At the same time, public servants might find parliamentary processes immensely frustrating. As servants of the Executive, it is not their role to suggest questions to the politicians. ‘Often,’ said one senior officer, ‘valuable time is wasted because the Parliament does not know the right questions to ask.’

**Speaking to government, speaking to constituents**

Agenda setting requires the delineation of an issue in a way that will fit with the priorities of government. Organisations that wish to lobby government on behalf of a widely dispersed membership base need to find good issues to highlight and good ways of using the resources of members to attract government’s attention.

In 2007, the Australian Local Government Association (ALGA), frustrated by the lack of attention given to local government issues, decided to try something new. The association, a peak body with a membership consisting of state associations, developed an ‘ideas register’ to bring the run-down state of community infrastructure to the attention of the Federal Government. The register would not only record words, it would use photographic evidence (‘pictures’) to make its point.

The association knew, however, that, in the hard-edged world of government, it needed to communicate using a number of modes. In 2006, ALGA had commissioned a study by consultants into the financial sustainability of local government. The study recommended the establishment of a ‘community infrastructure initiative’ that would assist councils to renew aged and failing community infrastructure such as swimming pools, community halls and libraries.

In March 2007, the ideas register was launched via the ALGA web site. The objective of the register was to give councils and private citizens the opportunity to identify specific examples of local community infrastructure that would benefit from such an initiative. By November 2007, more than 1000 ideas—and associated photographs—had been lodged on the register. The response from local communities and local government was overwhelming. Most submissions (28 per cent) related to run-down facilities.

The funds were not, however, immediately forthcoming. The incoming Rudd Labor Government implemented a review into the previous government’s Regional Partnerships Program, through the House of Representatives’ Standing Committee on Infrastructure, Transport, Regional Development and Local Government. ALGA made a submission to this inquiry, using material from the ideas register.
The agenda might have been influenced, but securing real funding would be another matter. Local government’s ability to influence the Federal Government directly had, perhaps ironically, to be channelled through an examination of the previous government’s program (which had favoured relatively few applications for assistance from local government).

Managing expectations

Managing expectations in situations of power imbalance and ambiguity is, obviously, a difficult thing to do. Explaining to consultees the politics of a particular situation is not normally the job of public servants. Even if it were, political processes are complex and there is much that cannot readily be predicted. Having some sense of what community expectations really are, and addressing them up front, is useful.

One of the criticisms of community consultation voiced most frequently by those consulted is that no notice is taken of the views expressed. There might be many reasons why decisions do not reflect community views, but in many cases, community disappointment is as much about the process as the outcome. Clearly, where this is the case, there has been a failure by those running the consultation to explain to those consulted why their views are being sought and what difference they might make to the final outcome.

Researchers report many instances where consultation has had little or no impact on the structures and processes it was, ostensibly, meant to effect. In 2005, Mark Walters documented the lack of influence of the Police Accountability Community Teams that were meant to make NSW policing more responsive to the needs of communities. With no leadership ‘from the top’, control rested solely in the hands of police who chose how much or how little effect the meetings with the community would have on community policing. Where police representatives reported back on specific issues raised by the team, resident participation and interest remained strong. Where there was little interest, the meetings dwindled away (Walters 2005).

Economic interests often have overwhelming power. Susan Oakley (2007) reported on plans to revitalise the Port Adelaide waterfront that stressed high-density, up-market development designed to bring a designated return on investment. Residents who participated in consultation sessions felt they were being pressured to endorse a particular kind of ‘re-imagined’ waterfront, one that would exacerbate differences between those living in the redeveloped area and others (Oakley 2007).

This kind of pre-existing bias has been documented across a range of fields, such as efforts to find sites for nuclear waste (Holland 2002). It is not, however, only members of the public who find themselves on the outer. On occasion, stakeholders have found themselves subject to a ‘Clayton’s’ consultation. In the
mid-1990s, although they were ostensibly consulted, juvenile justice practitioners in Queensland found themselves sidelined by the Goss Government’s desire to show itself to be ‘tough on crime’ for political reasons (Hill and Roughley 1997).

On occasion, consultation has underlined the extent of community frustration with consultation itself. As far back as 1994, community-controlled health organisations in the Northern Territory were telling the then Federal Labor Government how tired they were of being consulted, their weariness with the many reports that had been produced ‘and the failure of this to come back to Aboriginal people, with there being no demonstrable benefits to health resulting from this activity to date’ (Department of Health and Aging 1995).

The continuing battle between pro-development state governments and local communities, the latter often championed by local government, washes through many institutional structures. Prospects might be better when consultation is itself the result of hard-fought battles. Local residents had an important role to play in the retention in public hands of Callan Park, the site of a mental health facility occupying 61 hectares of prime land in Sydney. Because of determined activism by the community, detailed consultations were held about the development of public plans for the site, leading to the granting to Leichhardt Council of a 99-year lease over 40 hectares of the site (Sydney Harbour Foreshore Authority 2008; Parker 2008).

What do communities expect of consultation processes? While few practitioner-based evaluations of consultations are available, we do have some evidence from the environmental field. In 1997–98, the NSW Environment Protection Authority (NSW EPA) conducted an interim evaluation of its community consultation on environmental flows and water quality. The original program was designed ‘to give a statewide perspective on what people participating in the consultation program thought of the health of their river systems, the values they place on their waterways, and the environmental issues they identified as priority concerns’ (Environment Protection Authority of New South Wales 1998).

The format of the consultation was an ambitious one, with some deliberative elements, although this was not a term the NSW EPA used. A discussion paper was prepared and community meetings organised in 44 places. More than 4000 people attended the meetings, at which facilitated discussions on water quality were held. Subsequently, more than 800 written submissions were made to the NSW EPA, of which more than 600 were from individuals. When the draft interim guidelines on water quality were published, further community input was obtained and substantial changes made as a result. The draft guidelines were then submitted to the government.

When the NSW EPA asked those involved what they thought of the process, many people responded in ways that suggested impatience with or scepticism
about the purpose of the consultation. There was a cynical element: many people thought that the NSW Government had already made up its mind and the consultation was for show only. Others said that the consultation was not necessary and that action, rather than further discussion, was required.

Clearly, it is important for regulators in these situations not to allow inflated expectations of the engagement process to emerge. In 2001, the EPA in Western Australia conducted a public consultation on the environmental values of Perth’s coastal waters. The WA EPA’s discussion document, referring to earlier consultations, was at pains to point out that holistic options for environmental management were not available (Government of Western Australia, n.d.). Important activities such as fishing continued to be regulated by other agencies. In reflecting on this history in a public way, the agency was communicating to communities what the management framework could (and could not) do. Such realism might not excite communities and might diminish participation in the exercise, but this might be a reasonable price to pay for not overloading the process.

**Summing up**

The case studies suggest that Australian public managers are not often in a situation in which they are able to choose their engagement strategy. The mandate and powers of their agency shape purpose and practice. Within these parameters, however, many choices are made—and outside them, an appreciation of the contending forces that might be at work suggests pathways of influence and, on occasion, avoidance.

Strategies that work make use of public and non-public aspects of consultation, they manage expectations by communicating clearly and establishing trust and they emphasise ‘getting out there’ into the field. Engagement is about understanding where people are coming from and making sure they know which of their concerns might (or might not) be affected as a result of their participation.

**Endnotes**

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2 Ian Holland, speaking at the Dilemmas of Engagement Consultation Forum, 22 August 2008.

3 Annette Ellis MP, speaking at World Mental Health Day Function, Canberra, 10 October 2008.