THE CITY OF YARRA PLANNING COMMUNITY ADVISORY COMMITTEE - A CONSULTATION CASE STUDY

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INTRODUCTION

This case study investigates the rhetoric and practice involved in the establishment and performance of the controversial City of Yarra Planning Community Advisory Committee (PCAC) from 2003 to 2004.

The motivation for the study derives from the experiences of the author in having been on the committee and closely involved with Yarra Council from 1999 until 2006 as a community activist, a council candidate, a professional planning consultant and as a member of several residents' planning groups. In this capacity, the author retains a large amount of documentation either not available to most researchers or difficult to access.

This has enabled the presentation of a unique and critical vignette of a particular example of one model of community consultation about town planning issues, against a background of high levels of community dissatisfaction with planning in general, despite greater legislative requirements for councils to consult their communities on their performance.

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Community consultation at the municipal level is briefly reviewed. The research methodology and the establishment and performance of PCAC are then detailed, as well as the influence it had on the new Yarra Community Consultation Policy developed in 2005. These issues are analysed with reference to the relevant literature and conclusions drawn.

CONSULTATION AT YARRA - BACKGROUND

Shortly after Council amalgamations in 1994, the new Yarra Council established formal community-based Special Purpose Advisory Committees (SPACs) to deal with high profile issues of the day, like City Link and the implementation of Compulsory Competitive Tendering.

The role and terms of reference of these SPACs broadened following the election of the Labor State Government in 1999, which also saw the subsequent introduction of new "Best Value" legislation covering council services and community consultation.

A Community Advisory Committee (CAC) structure was established at Yarra "to provide broad policy and strategic advice on a range of Council's operations with a particular emphasis on community input" (CoY 2003b). However, CAC agendas and issues were generated by Council staff and focused mainly on operational issues.

After several critical reports on statutory planning processes at Yarra and in light of growing community dissatisfaction with the 1999-2001 PCAC and with council planning and enforcement in general, the new council elected in 2002 proposed a broader-based CAC structure and a more significant role for community members (CoY 2003b).

Five new CACs were finally set up early in 2003, covering urban planning (PCAC), traffic and parking, environment, disability issues and community development. An arts CAC already existed and still does today (YAARTS, established in 1997). It always seems to have functioned in quiet harmony with Council because of its non-controversial nature and the links of many of its members and supporters to local cultural community organizations and the Department of Premier and Cabinet (which includes the arts portfolio).

URBAN PLANNING ISSUES - BACKGROUND

By the late 1990s, urban planning in Yarra had become increasingly controversial as community disquiet grew across Melbourne in general over the impact of the new "performance-based" town planning regime introduced in the mid-1990s. This had prompted the formation of local residents groups opposed to developments facilitated by the new system, including high-profile lobby group Save Our Suburbs (Lewis 1999).

By that stage there had been several critical planning audits at Yarra, including a Service Improvement Report for Yarra's Planning Unit which noted the need for improvement in the quality of planning assessment decisions and that customer satisfaction levels were lowest for town planning and enforcement (Morgan 1997).

In 1999 the Auditor-General conducted a critical analysis of Victoria's new planning system, partly as a result of public concern. Criticism of development application assessments included inadequate documentation and failure to adequately address planning provisions. Most councils (including Yarra) failed to implement indicators to measure customer satisfaction, service quality, planning outcomes or efficiency, focusing instead on quantitative indicators like the number of applications received, processed or appealed (Victorian Auditor-General's Office, 1999, parts 6 & 8).

Several residents' action groups formed in the late 90s in response to similar concerns in Yarra, including the 3068 Group ('3068', covering Clifton Hill and Fitzroy) and Richmond Residents Against Inappropriate Development (Richmond RAID).

Several more confidential reports obtained by this author under FOI in 2004 confirmed public misgivings at the time about mismanagement and incompetence within the Yarra planning unit. An internal review in 2001 had concluded that consultative processes should be restructured to reduce conflict and duplication. Recommendation 21 of the review also stated that the 2001 PCAC should be retained as a reference group of individuals and representatives of established community groups who had a demonstrated interest and contribution to make on a variety of planning policies and processes in Yarra (Coomes 2001).

A subsequent audit of major project application assessments couldn't reach definitive conclusions because management practices were so poor that 73% of the files investigated were incomplete or missing (Keaney 2001).

Planning issues came to a head in the last few months of 2001, when a public campaign by Richmond activists forced the council to deal formally with criticism of its statutory performance, particularly planning enforcement (CoY 2001; RAID 2001).

Several meetings in early 2002 between members of Richmond RAID and senior planning staff addressed a wide spectrum of statutory planning and enforcement issues raised by community groups and individuals concerned by the lack of transparency & accountability in the implementation of these processes (*Appendix 1*).

While the broad agreement reached at these meetings was formalised by Council in mid-March 2002 (just before the council elections), there was no noticeable improvement in planning performance. However, Council's March resolution included considering the role of PCAC to provide "a community forum for ongoing dialogue in the critical areas of planning and planning enforcement" (CoY, 2002a).

A few weeks later, the election of four Greens and two independents wrested control of Yarra Council away from decades of Labor Party domination, with only three sitting ALP councillors returned. Local activists and community groups thus hoped for more effective community consultation with Council, particularly on urban planning.

CONSULTATION AND COMMUNITY ADVISORY COMMITTEES

Ever since Sherry Arnstein's critical paper on community participation in the late 1960s, debate has continued during the economic rationalism of the 1990s and the managerial corporate approach of government administrations this century as to the role and effectiveness of community consultation in so-called democratic societies. Arnstein outlined a "ladder of participation" with eight steps representing the degree of influence of the consulted participants, from manipulative public relations exercises to real citizen power and control over decisions and funding (Arnstein 1969).

The most appropriate mechanism for community consultation depends on the issue being addressed. Recent literature on effective local government consultation abounds with descriptions of innovative participatory and deliberative techniques like citizen juries, planning cells, consensus conferences, deliberative polling and people's panels (Carson 1999, 2001, 2005; Rowe et al 2000; Sarkissian 2003).

The use of random selection separates these consultative mechanisms from more orthodox forms of consultation such as public meetings or advisory committees which can be "hampered by their unrepresentative nature and have a tendency to attract a disproportionate number of 'the incensed and the articulate'" (Carson 1999, p.1).

However, there are times when representative-ness is not necessary and when activists can constructively contribute - for example, when the attitudes or expertise of well-informed groups are sought (Carson, 2001 p11). This can apply to advisory committees and was very much the case with PCAC, where most of those who applied to be on the committee were members of residents planning groups. Some of them were also planning professionals with an expert view of statutory processes as well as detailed knowledge about Council's handling of many local land use development applications.

The Victorian Local Governance Association Code of Good Governance (VLGA, 2000) specifically refers to the duty of local councils under the Local Government Act 1989 and its Best Value provisions to "seek community understanding and involvement in governance through effective communication with their communities…. They have a responsibility to develop a range of communication and participation methods" which can range from 'citizen participation' in local decision-making to independent groups used as advisory committees.

In practice, community advisory committee (CAC) members are normally selected by a sponsor (usually government) and represent a variety of different organizations and the broader public in providing input into a planning process. If the committee is balanced and independently facilitated, deliberations should influence decision making. The process should also produce informed citizens, reduce conflict and boost trust in the institution advised by the committee, although it is not representative and the general public may not embrace all its recommendations (Abelson et al 2001, p.3; IAP2 2003, p.8; Rowe et al 2000, p9).

CACs typically meet over an extended period of time, allow detailed analysis of project issues and interact with relevant third parties. Participants gain understanding of other perspectives, leading towards compromise, and the sponsor organization must also accept some give & take.

The VLGA/Best Value Consultation Guidelines (n.d., p15-16) suggest that the advisory committee model is the best suited to on-going feedback and oversight on service issues.

So the establishment of a community advisory committee was an appropriate consultative mechanism to address ongoing town planning issues at Yarra, from Council's desire for public approval for new and amended policies, to the residents' aim of achieving more transparency and consistency in the permit application assessment process.

CONSULTATION FRAMEWORKS IN LOCAL GOVERNMENT

The trend towards more participatory democracy in local government is mainly a response to less representative democracy due to the council amalgamations of the 1990s, which increasingly saw the adoption of market practices and corporate management methods.

More involvement of citizens was seen as necessary because of proportionately fewer elected representatives, although there is a tendency in many councils for corporate managers to treat recipients of council services as consumers whose feedback on services is limited to satisfaction surveys and complaints procedures (Brackertz 2005, p.18).

However, to counter this "democratic deficit", in 1999 the new ALP State Government introduced the Best Value Principles into the Victorian Local Government Act (s208B), which requires councils to try to achieve the best outcomes for their local community and ensure that the provision of services best meets local community needs. Best Value requires increased accountability of local government for service provision and performance, and further emphasis on community consultation (Best Value Commission, 2004).

Consultation is one aspect of citizen participation at the local government level. The VLGA describes it as the process of informed communication between the council and the community prior to the council making a decision or determining a direction. It is input into decision-making but *not* joint decision-making or decision-making by referendum (Brackertz 2005, p.10). However, implicit in that definition is the notion that advice received will be seriously considered.

Consequently, most councils have advisory committees in important areas of fiscal and statutory responsibility (financial management, town planning). However, these are usually formal, confidential committees with expert external members as well as councilors, but without community representatives (under s86-88, Local Govt Act 1989). Most councils also have a plethora of *community* advisory committees without formal decision-making powers in non-controversial areas like arts grants, ethnic and older adult services, etc.

Theoretically, consultation was the new panacea, promising to provide a better match between community needs and services, more responsive services and increased democratic involvement of citizens (Brackertz 2005). Coupled with the changing of the guard at Yarra Council in March 2002, this gave renewed hope to community groups (particularly those involved with contentious urban planning issues) that they might be able to influence council to address some of the inadequacies of statutory planning performance at Yarra through better management and more transparency.

METHODOLOGY

This case study focuses on the Yarra Planning CAC (2003-2004) for several reasons.

Firstly, urban planning issues (traffic, parking, planning and enforcement) comprise the largest single area of complaint about council performance, as reflected by the community satisfaction surveys done annually for each municipality by the Department of Victorian Communities (CoY 2004n).   Consequently, its predecessor (PCAC 1999-2002) was the most contentious committee at Yarra and because considerable effort from community representatives and some progressive councillors went into its re-establishment in 2003, it serves as an excellent case study of how a government bureaucracy responds to critical feedback from community consultation, and whether the traditional advisory committee structure is the most effective process to deal with such criticism.

A comparative study was not attempted because information about community consultations undertaken by most Melbourne councils is "not collated, sometimes not recorded, and simply not available… a strategic analysis of consultation practices may rely on case study material rather than comprehensive analysis across all council consultations" (Stone 2005, p.16).

In her report on a collaborative study of community consultation involving eight Melbourne councils and the Victorian Local Governance Association (VLGA), Stone also notes (p19) that council staff have problems "collecting and analysing information about community consultations" and suffer from internal conflict – "consulting versus 'getting the job done'". There is considerable emphasis placed on evaluation of consultation in some council documents and policies but in practice very little evaluation of consultation practices occurs at all (p.27). That situation was confirmed by initial research for this paper.

Furthermore, Yarra is unique in being the only council this author is aware of that established a *community* advisory committee on town planning issues that included the controversial area of permit assessment processes. This study is thus not representative of other community advisory committee consultation processes across different committees or between different councils.

Since there was considerable disharmony on PCAC, it was appropriate to avoid direct attribution from participants (most of the senior staff involved have also since left Yarra). A recent critique of a study into local government innovation noted that relying on the word of staff and councilors of local government can be unconvincing, given that it is such a "notoriously conservative institution" (Mowbray, 2005).

So for all the above reasons, in focusing on the Yarra PCAC as a case study this paper relies on objective evidence from council records, consultants' reports and correspondence between staff and community members of the committee. The operation and effectiveness of the committee can be assessed against criteria defined during its establishment, its final Terms of Reference (ToR), and against Yarra Council's community consultation policy that was in force at the time *(appendix 8)*.

The context, establishment and subsequent performance of the committee is discussed with reference to these criteria and to the literature on community advisory committee consultation.

THE RE-ESTABLISHMENT OF PCAC

Most of the new Yarra councilors elected in March 2002, although novices, were aware of community dissatisfaction with council statutory planning and enforcement and with the previous PCAC (which had only met once a quarter). During 2002, Council's "good governance working group" reviewed the operation of the former CACs (which all lapsed prior to the March elections). The review concluded that the CACs could be used more effectively through better integration with existing decision-making processes, broadening their ToR and improving their reporting mechanisms so they would be *"underpinned by a culture of citizen engagement that promotes a more pro-active role for community members in generating future agendas and influencing decision making"* (CoY 2003b. p.3).

Guided by this review, by community pressure and by Council's pre-election resolution to reform PCAC, two community planning forums were organised in mid-2002 to draft guidelines for new ToR for PCAC. Those invited included residents' planning groups, four councilors (two independents, one Green and one ALP) and senior Yarra Council staff.

Since community consultation about new policies and planning scheme amendments is already accommodated via submissions to planning panels and to Council itself, as well as input into policy reviews, residents wanted the new committee to be able to focus on statutory planning service issues, since these were the subject of most community concern.

Consequently, they expected the outcome of the August forum discussions to influence the ToR and selection of the new committee. General agreement was reached that PCAC would focus on statutory process issues as well as policy advice and community education, and that membership would be "resident group based". Staff action required was noted in the minutes as:

- *Need to draft some ideas/concepts about this for report to Council*
- *Feedback to Forum group before it goes to Council*
- *Email members of Forum the draft terms of reference for PCAC*

Senior staff undertook to present a recommendation to Council in September (*Appendix 2*). However, no draft report or ToR were ever provided to Forum members for feedback. No report on the forum was produced either, merely a recommendation to the October 2002 Council meeting to re-establish all the CACs (CoY 2002b). The draft ToR weren't publicly available until the night of that meeting and were virtually unchanged.

Consequently, most of the local community planning groups decided to boycott the process of expressions of interest for membership unless the "new" draft ToR were improved. The most active residents group ('3068') claimed that the draft ToR were too weak, that the committee would have no influence, that criticism of the Planning Unit wouldn't be tolerated and that reporting to Council only once a year was "a joke" ('3068' 2002a).

However, after lobbying by residents groups, a majority of councilors decreed that meetings would be every six weeks, not eight; and feedback on statutory planning processes was reinstated as part of the committee's role.

Members of various residents' planning groups applied for PCAC, along with several local planning professionals. Although skeptical, residents decided to participate on the understanding that councilors would ensure the committee functioned properly ('3068' 2002b). Applicants were selected by councilors so that the composition of the new PCA included mostly community group members *(Appendix 3).*

The October 2002 Council meeting had requested a staff report in December on final ToR and community membership for all the CACs but these weren't presented to Council until February 2003. The final PCAC ToR included consideration of *Council town planning processes, practices and enforcement* (*Appendix 4*).

Attempted Constraints

However, the March 2003 Information Pack for new CAC members omitted this specifically-added clause, seeking to limit the role of PCAC again to merely *"capturing community views ...regarding strategic issues, policy formulation, development and review as well as providing a community education focus"* (CoY 2003a).

The Information Pack also included extra requirements - a confidentiality agreement and a declaration of pecuniary or conflict of interest. However, these provisions only apply to formal or Special Committees of Council and there was no reference to them in the ToR. Staff also attempted to impose the Meeting Procedures Local Law (No.1, 2002), which also does not apply to advisory committees. This resulted in the extraordinary and internally inconsistent statement in the information pack that:
> "*A Confidentiality Deed will be required to be signed by a community member ... Given that the Advisory Committees are public meetings, the Chairperson will ensure that any confidential information presented at a meeting will not be openly discussed at the meeting.*"

The Information Pack warned that although members did not legally have to comply with the Declaration and Deed, they were expected to do so. It added:
> *Whilst section 77 of the Local Government Act 1989 ("the Act") "Improper Use of Information" does not cover the activities of community members on the Advisory Committees, community members will be expected to adhere to the spirit of the Act in relation to 'improper use of information.*

It also noted s77 penalties of $2000 (or 3 months gaol for a second offence) for "attempting to harm the Council" or disclosing confidential Council information (CoY 2003a).

This attempt to intimidate and deter PCAC community members from criticizing council's statutory planning performance was later confirmed by the minutes of one of the other Yarra CACs, the non-controversial Community Development CAC:

> *"The deed of confidentiality and declaration and conflict of interest arose to provide some protection to some of the controversial issues arising from the Planning CAC. However for the sake of consistency the deed and declaration were applied across all CACs. There was some discussion about this as some members were not prepared to sign, based on;*

1. The CAC had advisory status only - not decision making
2. That any information coming to the CAC should not be confidential
*3. There was no capacity under the Local Government Act to compel members
   or to "punish" any breach."* (CoY 2003f)

At the first meeting of each CAC in early 2003, most community representatives refused to sign the deed and declaration, and all three extra requirements were quietly dropped by council staff. PCAC held its first meeting on 3 April 2003 and met fifteen times every six weeks or so over the next 18 months, until its final meeting on 7 October 2004.

ANALYSING THE ESTABLISHMENT OF PCAC

The initial draft ToR for the committee failed to include the improvements the community thought were necessary for its effective operation, which had been agreed to at the August 2002 Forum. Staff also made no improvements in the committee decision-making process or its reporting mechanism, despite the recommendations from the two community forums and the working group review.

In the Forum notes of August 2002, staff had also included selection by advertising for Expressions of Interest (*Appendix 2*). However, residents groups had argued strongly that the community members of the new PCAC should consist of nominated residents' group members with knowledge of and commitment to planning issues, who represented their community and would attend regularly and be effective community educators. Directly appointing group representatives to PCAC would have saved months of administering an advertised selection process.

But both the final ToR and the appointment of community members were inexplicably delayed until February 2003, six months after the forum. Staff never produced a report on the community forum recommendations for Council and it was only the intervention of progressive councilors that strengthened the new ToR with the change to meetings every six-weeks and reinstatement of the committee's ability to address "Council town planning processes, practices and enforcement".

ANALYSING THE PERFORMANCE OF PCAC

Although the three councilors appointed to PCAC theoretically represented a balance (one Green, one ALP and one independent), in reality the independent (whose election campaign had been actively assisted by the local ALP branch) was aligned with the ALP and staff position of not favouring any examination of the performance of statutory planning processes. The "independent" councilor was the only nominee prepared to be chair.

The Yarra CACs were not formal Council committees so decision-making was by consensus or just discussion, so either of the non-Green councilors had the power of veto. At the very first meeting, in contradiction to the ToR, the minutes reported that issues for discussion were only to relate to policy, not to development sites or permit applications (CoY 2003c).

But anomalies in the permit application process were the key focus of community members, who persisted in raising over 50 issues at the first few PCAC meetings, which staff tabled for prioritization (CoY 2003h). But there was no attempt to investigate negative community feedback on these issues to help develop strategies and processes to avoid repetition and few were ever resolved (*Appendix 5*).

It was this failure of staff and most PCAC councilors to respond to community feedback on statutory planning performance that led to the tensions on PCAC. This was exacerbated by the failure of the PCAC minutes to provide an accurate record of community member views and recommendations (although tape recording of key parts of meetings by community members caused staff to improve the accuracy of the minutes and records of discussion).

For example, on the vexed topic of meeting frequency, the minutes reported community members allegedly stating that since they were knowledgeable in planning they could assist in policy formulation through more frequent meetings (CoY 2003e). In fact, members notes reveal they wanted more frequent meetings to deal with the large number of cases they were aware of which involved repeated generic problems with the permit assessment process.

At the same meeting, the minutes record the two non-Greens councilors again stressing that the role of PCAC was to respond to policies, not permit process issues. The residents' insistence that statutory planning processes needed urgent attention was not even reported.

PCAC also decided that meetings would, on average, be evenly divided between policy feedback, committee briefings and the process issues that residents were so concerned about (Wood 2003). However, the minutes reported a committee decision to allocate 30 minutes for 'short term' issues, 30 minutes for 'longer term' issues, 10-15 minutes for briefings and only 10-15 minutes for planning procedures (CoY 2003d).

In response to the statutory planning issues residents raised at the first meeting (CoY 2003c), staff presented a punishing schedule of policy issues covering the rest of the year (CoY 2003e; *Appendix 6*). PCAC minutes reveal that most of the time at meetings was taken up by these staff-initiated issues. However, staff agreed to schedule meetings to run for two hours instead of ninety minutes after the first two sessions because of the high workload.

Community members willingly participated in policy review but also sought to provide detailed evidence of problem cases in arguing for statutory planning process reform. As well as the tabled issues already mentioned, over 20 permit application case summaries were presented to Council's Planning Audit early in 2004 (*Appendix 7*). However, only 5 files were considered and their flawed decisions were ignored because, despite requests from PCAC community members for a wider analysis to address planning complaints, the audit was confined to administrative process rather than the integrity of decisions and actions (CoY 2003g).
However, the Audit noted that at least two reviews of the department had been conducted since 1997 and that little action had been taken in response to their recommendations. The Audit also recommended that "Initiatives need to be implemented to improve the understanding and trust between Planning Staff, Councillors and PCAC members."

Management responded by suggesting:
* monthly Councillor ward meetings
* a meeting of the CEO, Director, Manager & staff to discuss audit recommendations and
  management response
* a workshop between Councillors and staff to clarify issues and expectations; and
* "improved understanding and trust with PCAC will be gained through a workshop to be
  held in July 2004 with PCAC members, Councillors and officers to discuss the audit
  recommendations and to clarify PCAC Term of Reference." (WHK Day Neilson 2004)

However, this July "planning day" to resolve tensions on the committee was "superseded" by
the regular June PCAC meeting when the Audit was officially presented as a briefing and "Q
& A" session presented by the CEO herself (CoY 2004i). The principal consultant discussed
the Audit and answered questions but resolution of the tensions and functional problems of the
committee was never discussed.

PCAC resolutions to Council

Only a few PCAC recommendations were actually referred to Council meetings. A VCAT
Protocol proposed by staff in February 2004 reached no agreement at PCAC - residents had
suggested an alternative which, with other suggested reforms, could have made the extra
protocol redundant but Council minutes simply reported that "no objections were raised" by
PCAC (CoY 2004a). After subsequent objections from the floor by PCAC members, Council
deferred the issue for further consultation but the protocol was eventually passed (CoY
2004e).

A revised Consultative Meeting Policy (part of the permit application assessment process) was
presented to council as a PCAC resolution, but the residents' key issue of incorporating
objectors' feedback at the start of the process was not included in the draft (CoY 2004f).
Again, the issue was referred back to PCAC, but this time, after more lobbying, councilors
included the following extra condition (although poorly worded):
> "(c) that planning consultation meetings be held as soon as possible after advertising, so
> the application can be dealt with in a more timely manner. The outcome of these meetings
> is provided to officers for consideration when undertaking internal referrals for the
> planning application and must be considered in the officer's report." (CoY 2004g).

In late March 2004, staff unilaterally and abruptly curtailed public access to planning files,
without prior consultation even with councilors. While file security and unexplained "privacy
issues" were cited as the main reason for denying access to closed planning files and
preventing access to internal reports in current files, the real reason was that because staff
were not following internal recommendations (eg from heritage officers), these internal reports
were being cited by other parties at VCAT in attempts to have Council permit decisions
overturned (CoY 2004b, c & d).
The alleged increased work load due to "large numbers" of applications to inspect closed files
that could breach the Privacy Act was also used at PCAC as an excuse to justify denying
access but an FOI request by the author revealed that almost all such current applications were
internal requests by staff and thus not affected by the Privacy Act at all (CoY 2004l).

Residents were incensed at the unilateral staff action and cited the FOI and Privacy Acts to demand that full access be restored. Council sought advice from their senior lawyer who confirmed at the subsequent council meeting that Council was obliged to make accessible all material relevant to the merits of a planning permit in cases on appeal to VCAT:

> "*In my view, the obligation extends to material on Council's file that runs contrary to, or which weakens, the arguments Council wishes to advance at the Tribunal – including where the material is internal referral materials.*" (Rantino, 2004).

Councillors narrowly voted to overturn the staff's restrictions and, in one of PCAC's few wins, Yarra residents now have arguably the most open access to both current and closed statutory planning files of any Council in the state (CoY 2004h).

COMMUNITY CONSULTATION AT YARRA SINCE PCAC

After the November 2004 council elections, Yarra councilors were divided about continuing the CACs in light of the tensions on some of them (particularly PCAC and to a lesser extent the Traffic and Parking CAC). Consequently, with strong staff support, Yarra devised a new Yarra Community Consultation policy during 2005 for "more representative" consultation.

Verbal feedback from council sources at the time suggested that Yarra had sought the input of several experts in representative consultative methods, including social policy author and former Lismore councilor Dr Lyn Carson (although neither she nor her works are mentioned in the references at the end of the draft policy).

Carson and others have identified basic principles for effective consultation and how a representative consultation framework should be set up. Randomly-selected community members create goals and criteria so a small reference group of experts and specialists (including community activists) can devise options and assess their viability. These options are compared to the initial goals and criteria by other randomly selected citizens and acceptable action plans are presented to the community for the process to be evaluated publicly against the community criteria. A consultative strategy must address the aims of the community as well as of Council, which should identify projects, goals and appropriate methods in conjunction with its community (VLGA; Carson 2001 p10).

However, Yarra staff devised their new draft policy after internal consultation with Directors, Managers and key staff only. There were no community criteria for independent assessment, and the action plan was not produced with the help of a community-based reference group. The stated purpose of the new Draft Policy and Action Plan was merely "to support good consultation *across the organization*" and "take account of *legislative requirements and best practice* in consultation and community engagement". It did not specify seeking input from the community or their involvement in designing consultation frameworks (CoY 2005b). Consultation design and implementation was to be the responsibility of "communications" staff, with no community input specified (CoY 2005f, attachment 2, p.4). Consultation Briefs were to be approved by senior management, capping off a tightly controlled, one-way approach to community engagement (CoY 2005b).

Staff also proposed that Council adopt the policy and begin implementation immediately. Although the progressive councilors were in a minority by this time (with only three Greens and with two of the three independents usually voting with the three ALP councilors), Council at least recognised the need for community feedback, so the draft was released for public comment and not formally adopted until two months later.

But no changes were made despite some strong criticism of the policy, particularly the lack of community consultation on its initial drafting and the deletion of advisory committees for on-going feedback on service performance, which were avoided by disingenuously grouping their functions in with steering committees that instead focus on a single project with a fixed time frame (CoY 2005e, f).

A working group to respond to strategic and statutory planning matters had been mooted (CoY 2005b) but was superseded by a "planning supplement" to the Policy which limited Council consultation on planning matters to *'Future Forums'; neighbourhood meetings; provision of information by Council; steering committees for specific projects; and planning application consultations* (an existing process involving limited discussion with objectors and applicants directly involved in individual permit applications) (CoY 2005d).

Feedback on statutory planning performance and enforcement was specifically excluded and the administration made it clear that it would consult on statutory, compliance and legislative matters only if required; service reviews would only include one-way consultation (eg, user surveys); and consultation would be "unlikely" for day-to-day or internal operational matters, or when legal, commercial or legislative considerations were involved (CoY 2005f, p5).

EVALUATING THE PCAC EXPERIENCE

Once staff became involved in implementing the new committee, they made efforts to abrogate any extra influence PCAC might have had, from watering down the ToR and trying to impose intimidatory constraints, to sidelining residents' concerns at committee meetings.

The few PCAC recommendations actually referred to full Council were usually "sanitized" and required further lobbying of councilors by community activists for improvement and a majority vote. Council was not provided with details of the alternatives or arguments raised at PCAC, usually just a statement that an issue had been discussed at PCAC or referred to the committee for comment.

With the hotly debated issue of access to planning files, PCAC members formed a working group to help draft a revision. But the resulting democratic policy that Yarra Council adopted was mostly driven by legal reality combined with strong lobbying of councilors by individual activists outside the committee arena to gain the necessary majority at Council.

The tensions on PCAC were largely due to differing expectations. Most community members had wanted the committee to address primarily the implementation of policy and statutory planning process in practice (including errors and anomalies in individual permit assessments) in order to improve future processes. The new, more progressive councilors had included this role in the PCAC ToR, persuaded by local community pressure and Best Value legislation

designed to foster consultation on service performance "based on objectives and targets set by councils after consultation with their communities." (Best Value Commission 2004, p.1).

Although they didn't want to be seen to directly oppose this approach, staff and some councilors consistently resisted more comprehensive consultation, merely wanting PCAC to fine-tune and approve policies (presented to PCAC as final drafts rather than issues for scoping with community input). There was a determination to avoid discussion of (let alone accountability for) statutory planning and enforcement issues, despite the requirements of the Local Government Act - an indication that the community's concerns about inconsistent, incompetent or corrupt process were fairly well-founded.

In stark contrast, the Best Value Commission has noted (2006, p.9) that some councils are now taking similar approaches to that which PCAC community members had earlier sought unsuccessfully at Yarra, where clearly the political will of the administration was lacking.

These initiatives include:
* Issuing personal invitations to members of relevant community groups to attend workshops and assist in addressing specific areas of concern
* Creating challenge teams with membership of internal and external experts
* Seeking input into Best Value reviews from relevant community groups to access community expertise
* Asking the community to attend forums or workshops with an open agenda to allow the attendees to determine the priorities
* Developing a social justice charter to identify community needs and then developing a Bill of Rights which sets out the council's commitments to the community.

In contrast, the Yarra Community Consultation policy adopted at the end of 2005 was very staff-centred and dispensed with all CAC structures (except the non-controversial Disability and Arts CACs).

Accountability under the Best Value legislation requires transparency, clear guidelines and consultation, yet Council also refused to allow PCAC any role in the 2004 Best Value internal audit of the Yarra Planning Unit on the grounds that "it is not the practice for service reviews of this nature to be brought before an advisory committee" (CoY 2004j).

In hindsight, the validity of the community's original suggestions on how best to re-establish PCAC was confirmed. The minutes show that of the original thirteen community members of PCAC, the nine who regularly participated in PCAC meetings were all representatives of community planning groups. Another resident not on the original committee was also a regular active participant (the then president of Save Our Suburbs).

Dozens of Yarra permit assessment and enforcement cases researched by PCAC community members confirmed chronic and frequent inappropriate exercise of discretion, ineptitude, lack of transparency, cover-ups and inadequate or inappropriate direction from senior staff and team leaders. Under Best Value principles, if Council had accepted the need for community consultation in such an under-performing service area, it could have directly appointed representatives of residents' groups with local planning knowledge and expertise rather than go through the time-consuming bureaucratic process of advertising for expressions of interest.

As already noted, it is common practice for advisory committees to include such specialists and representative stakeholders.

Most of the examples in the literature describe advisory committees with a very different dynamic to PCAC. One of the common criticisms of such committees is that activists risk being co-opted when they are invited onto powerful committees, or that only 'the chosen few' are selected and the general public is ignored (Carson 2001, p.1).

The PCAC dynamic was just the opposite - applicants for the committee were mainly committed community-based activists and none were prepared to be muzzled by legalistic constraints or staff obfuscation. They achieved very few of their goals of functional reform in statutory planning at Yarra but being on the committee gave them an extra mechanism and extra authority to press for change.

PCAC AND YARRA COMMUNITY CONSULTATION POLICY 2003-2005

Yarra's online Community Consultation Policy at the time contained a number of commitments that Council also failed to meet in its dealings with PCAC (*Appendix 8*):

A central aim will be to work towards outcomes that have broad community support.
- Improvement in the quality of statutory planning assessment had active community support yet feedback from PCAC community members was downplayed or ignored

Information relevant to the particular consultation will be available in good time, to enable people to be well informed.
- Documents were not always circulated in advance. This strengthened the perception that the committee was a rubber stamp to approve pre-determined policies.

Council will be efficient, responsible and accountable
- Case examples discussed at PCAC meetings and others referred to the DN Audit (and later directly to the Director Planning) illustrated a number of errors and anomalies in planning permit assessments and enforcement which were never addressed to mitigate repetition.

Once Council's decision making is completed on a particular issue, the consultation and decision-making process will be evaluated. The results of these evaluations will be used to inform and improve future consultations.
- This was never done with PCAC. In particular, the DN Audit recommendation for a workshop to examine and resolve tensions on the committee was not followed up. This stands in striking contrast with the operation of the Community Development CAC, which had a rotating chair (usually a community member) and which held a full-day planning and evaluation workshop in August 2004, conducted by an independent facilitator from the Department of Justice (CoY 2004k, p.2).

Clearly, Council had no intention of allowing PCAC to delve into statutory planning issues (including enforcement), which can potentially involve staff incompetence or corruption. That would have required a feedback and accountability process within a protective structure that could have allowed both confidential community feedback and oversight on an ongoing basis.

Consequently, community members lobbied several times for PCAC to be re-constituted as a Special Committee of Council under section 86-89 of the Local Government Act, comprising senior management, councilors, community planning group representatives and perhaps local planning professionals. Such a committee would have reported directly to Council in camera.

However, this was strenuously resisted by senior staff and a majority of Councillors. But because permit assessment anomalies can involve sensitive legal and financial issues, a formal s86 confidential committee could have countered these risks if Council had been serious about addressing these issues while protecting the parties involved.

As a final rebuff to democratic process, the records of all the 2003-2004 CACs were removed from the Yarra website in 2005, as well as all Council meeting records prior to 2003. This was in breach of at least the spirit of section 82A(2)(c) of the Act, which requires councils to keep records of all meetings. Like Hansard, and for similar reasons, council records of decisions and meetings should arguably be readily available and accessible permanently.

The justification given for archiving Council minutes *"more than two years old in order to free up space on Council's Computer system"* (CoY 2005a) was spurious given the miniscule cost of extra disk storage and the recent nature of the information. It also suggests that these records were expunged from Council's whole computer system, not just from the publicly-accessible website. However, archived paper storage is far less efficient than digital storage, implying that these records critical of Council may have been deleted altogether.

LIMITATIONS OF THE ADVISORY COMMITTEE STRUCTURE

There is considerable disagreement in the literature about the actual value of community or citizen advisory committees. They are touted as democratic, giving ordinary citizens some control over governmental and bureaucratic organizations, but they can also allow the organisations they advise to claim a nonexistent responsiveness to community opinion.

Worse, they may merely help sell official proposals to the public, actually reversing the flow of influence. Hahn (undated, p.6) specifically warns of the dangers for the community in the use of CACs by government bureaucracies, including "the begrudging fulfilment of legal requirements, help in anticipating potential opposition, or active stimulation of public support for unpopular programs or projects".

This is often because advisory committees are established in response to statutory requirements for public consultation rather than any desire to actively seek community feedback. In these cases, the appearance of involvement is sufficient, and there is little genuine interest in implementing recommendations that might arise (Rowe 2000, p.10).

This largely explains the operation of PCAC. The committee was largely forced upon Council by a combination of factors - recent legislative Best Value requirements for community consultation, the pre-existence of an earlier ineffective planning CAC, a new majority of progressive councilors, and planning activists who lobbied the new councilors for a more effective committee to promote overdue reform of the Statutory Planning Unit.

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Advisory committees can perform well if they are structured with the will to incorporate public input to actually help develop policies or influence administration responses (Rowe 2000, p19-23). While this was the intention of the progressive councilors who prevailed in re-establishing PCAC with more comprehensive ToR, they did not have the support of council staff for its extended mandate over and above vetting new policies and passing on council information to community groups.

Ongoing advisory groups often have a tendency to self-destruct because they are very reliant on skilled facilitation and sound group processes (Carson 1999, p21). PCAC had neither, although the commitment of community members ensured that it continued to function, albeit at a fairly high level of tension and mistrust. The result was adversarial rather than ineffectual.

While input into decision-making is not joint decision-making or decision-making by referendum (Brackertz 2005, p.10), implicit in that definition is the notion that advice received will be seriously considered and responded to. However, on major issues where PCAC community members knew their arguments were factually and legally correct (eg, access to files), their concerns were often not appropriately responded to and external lobbying was necessary to get Council approval for decisions in the community interest.

In the shorter term, it is also obvious that the result of consultation should be a genuine and visible impact on policy. Otherwise, "this results in public skepticism and distrust concerning the motives of sponsors." (Rowe 2000, p.14). This reflects the rationale behind the Day-Neilson Audit recommendation for a workshop to clarify and resolve the tensions that had become inherent in the operation of the committee, which were only exacerbated by the unilateral cancellation of the workshop by senior staff.

In terms of Sherry Arnstein's classic "ladder of participation", from community manipulation through to the devolution of control to the community, the Yarra PCAC functioned mostly between the one-way provision of information and some actual consultation (Arnstein 1969, p.217). But for the statutory planning processes most community members were primarily concerned about, there was only manipulation to try and deflect complaints through brief and unsubstantiated bureaucratic assurances that measures were being taken (*Appendix 5*).

Council's overriding goal in dealing with community feedback about poor planning performance appeared to be to protect itself from scrutiny. This was demonstrated most clearly by the alacrity with which senior planning staff acted on internal legal advice in 2004 to restrict access to planning files to protect Council from risk at VCAT due to poor and inconsistent or contradictory documentation. Instead, transparent strategies should have been adopted to improve the quality and consistency of internal reports, and to direct staff to be guided by the advice of these reports in assessing planning applications.

Adversarial public participation programs have been identified in the US where officials undermined attempts to redistribute power & responsibility, causing residents to remain uninvolved rather than be co-opted, partly because collaboration might divert energy from long-term efforts for reform. Officials need to be convinced that participation can improve effectiveness without undue delay, and citizens need to know their participation will produce results and not undermine long-term political objectives (Susskind et al, in Sarkissian 2003).

Again, this situation was reflected at Yarra, where management was unconvinced of the benefits of greater genuine consultation (or saw it as a threat). Consequently, most of the community members of PCAC gradually ceased directly interacting with Council after the CACs were discontinued and the new community consultation policy was adopted in 2005.

Ideally, consultation that engages and empowers a local community helps to meet longer-term council objectives as well as statutory requirements and gauging community reactions to specific decisions. A council should then have a better understanding of the community's needs and preferences but will have also invested in greater social and economic participation to draw on as it continues to make decisions in consultation with more informed community members (Brackertz 2005, p.23).

This was the legacy of PCAC - a lost opportunity to re-establish the trust of the community and improve statutory planning performance at the same time. Further research would be needed to ascertain whether this was due to bureaucratic inertia, incompetence, lack of training, to protect council from legal risk or to protect staff in general against revelations of poor performance or even corruption - or perhaps a combination of all the above.

CONCLUSIONS

Consultation at Yarra has focused mainly on non-controversial service areas in order to meet requirements like Best Value legislation without opening the organization up to scrutiny in poorly performing or controversial areas. The 2005 community consultation policy abolished PCAC and most other on-going mechanisms and left consultation on a more ad hoc, "as needed" basis, to be initiated and directed by staff.

Yarra Council has a long history of ignoring negative community feedback on urban planning issues. Little has changed since 2003/2004, except that with more novice planners, continuing high staff turnover and the loss of much of the planning department's corporate memory, the situation is worse.

Yet under the Local Government Act & Best Value legislation, Council has a duty to improve deficiencies in service provision and to consult effectively with its community. But the legislation requires updating, greater specificity and more mandatory provisions - there are no requirements in the Best Value legislation for service reviews after December 2005. Consequently, the Best Value Commission (2004) has pointed to the continuing need for legislation to reduce inconsistencies in the implementation of Best Value and to focus on outcomes as well as standards if there is to be improvement in council service delivery, planning and community consultation.

While this was not a comparative study, it is common knowledge that planning deficiencies at Yarra are endemic to some degree at most Victorian councils (VAGO 1999 & 2008a). However, because it did not impose a prescriptive audit regime on councils, the State Government must bear some of the responsibility for the fact that specific outcomes, targets and indicators for assessing council consultation with the community over services and policies were never defined or mandated (VAGO 2008b).

Statutory planning performance objectives and targets in Yarra have certainly not been set with any input from community consultation.

The DHS Advisory Committee Model

This discretionary approach is in direct contrast to that of the Department of Human Services (DHS 2006), which is required by law to ensure that each public health service board establishes a community advisory committee with specific and effective ToR that reflect the genuine intention of gaining and acting on community feedback. These committees must:
• advise the board by reflecting community views in service delivery and policy development
• facilitate two-way communication between community groups and the service itself
• participate in the monitoring of key performance indicators for service quality
• committee members should have specialist knowledge and expertise and be active in the community with connection to established community networks.

These mandatory DHS CAC criteria that focus on ensuring real outcomes highlight the shortcomings that bedeviled PCAC - ineffective ToR, the lack of reporting mechanisms and specified outcomes, and the lack of any real intent on the part of the committee's sponsoring authority (the council) to improve the performance of Yarra's statutory planning service.

Council duty to effectively consult its community

Community Planning Group members, activists and resident objectors are the most immediate and effective source of feedback about statutory planning performance. Council therefore has a duty to acquire this feedback and, in consultation with the community, determine the most effective way to do so. Most models suggest the CAC as the most appropriate way to consult since the situation involves feedback about ongoing service provision deficiencies where only a small minority of residents have detailed knowledge and understanding of the issues.

But the political will of Management and a clear majority of councilors will be needed - indeed, a change of culture - if Yarra is to fulfill the spirit of the Best Value principles by seeking specific feedback and being prepared to act on it to improve the integrity of its statutory town planning processes.

Until councilors are prepared to hold the CEO and other staff more accountable through sufficiently stringent employment KPIs and requirements for greater transparency, there is unlikely to be any weakening of staff resistance to change, and areas of poor performance will continue to be glossed over to the extent necessary to massage Annual Reports and meet minimal legislative reporting requirements.