The Leith Boully AM Oration

“Does Fairness really matter?”

Delivered by
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Watertrust Australia Ltd

“Does fairness really matter?” is a fitting Oration to honour the work and influence of Leith Boully.

Those of us who had the privilege of working with Leith know that her hallmark was the ability to land a well-placed question. What you may not know is that she set the title for this oration. With her question, “Does fairness really matter?” Leith has taken us to the heart of fairness. She is challenging us to understand what fairness is and whether it really matters to water policy outcomes.

There’s more to this question though. In fact, Leith has left us a question within a question - and it hinges on the word “really.” It’s a question Leith was known for.

If you’ve understood the problem and it really matters, then - “what are you going to do about it?”

So - let’s start at the beginning.

What is fairness?

We all implicitly believe in fairness. In Australia, a fair go is ingrained in the culture. And when it comes to water, everyone in this room would agree that allocation decisions should be fair. The arguments aren’t about whether things should be fair. They’re about what fairness means.

And that’s where things get hard. We can all be passionately committed to fairness – and mean completely different things by it. Not because one of us is wrong, and not because we’re arguing in bad faith. But because fairness isn’t a single concept. It’s shaped by identity, by history, by our worldview, by what we’ve lost and what we’re trying to protect.

When people talk past each other in water debates – when conversations that should be productive turn angry and entrenched – it’s often because each side is convinced the other simply doesn’t care about fairness. When in fact, they care deeply. They just don’t have a shared view of what is fair.

That frustration, that talking past each other, is one of the most expensive problems in Australian water governance. It delays decisions, erodes trust, and makes good policy harder to implement even when the technical work is sound.

Over the past 2 years Watertrust has invested in a body of work that we believe is the most comprehensive examination ever undertaken of how fairness is understood in the Australian water policy context. This has included six major research projects to address the problem of what is fairness directly – a comprehensive literature review, a legal review of water legislation across Australian jurisdictions, a conceptual mapping of fairness frameworks, analysis of over 1800 public submissions to water inquiries, in-depth stakeholder interviews, and a large-scale representative population survey.

Here’s some of what we’ve found.

Firstly, fairness is innate. We are wired to respond to unfair situations. Fairness is first a feeling. We feel it in our gut (and sometimes) respond before we think about it. This is called “thinking fast.”

Thinking fast is the automatic response to a situation – a bit like the fight or flight reflex when the brain prioritises action over thinking in a threatening situation.

While fairness starts with “thinking fast,” the research also says that we can move to “thinking slow” – where the rational brain can unpack why we think something is fair (or not)

and make space to explore what others believe. When this happens, perceptions of fairness can change. This is not suggesting that our underlying values change. In fact, values are enduring and often shared across competing interests. Fairness is how priorities are set between those values. At the heart of fairness is who gets what and who decides. In the Murray-Darling Basin, our research highlights three key areas where fairness plays out - Water allocations, First Nations water rights and the pace of change.

Secondly, perceptions of fairness are part of our identity. They are built up over time and are influenced by our social, cultural and political environment. Fairness identities are stable over time and distinct from each other. Again, our research in the Basin identified four broad and distinct fairness framings: environment, First Nations, agriculture and regional perspectives. These perspectives had internally consistent, common world views about what was fair and what wasn't. Importantly one is not more right – or wrong – than the others. They are all equally legitimate versions of the truth.

Respondents with a regional orientation prioritised local decision making and lived experience and were sceptical of science-led solutions; policy and technical experts in the sample tended to focus more narrowly on environmental outcomes while the general public tended to favour balancing community and environmental outcomes.

This highlights two key things, firstly while we all may value the same things, healthy communities and a healthy environment, what we prioritise is not the same. Secondly, unless competing priorities are transparent and acknowledged our responses and actions will be biased by our own world view. This is particularly important for decision makers and especially if their world views are different to other stakeholders.

This next one will be no surprise; fairness is easily politicised. Fairness is used in narratives (stories) to promote particular agendas. It selectively presents facts and is woven into story lines to justify or promote specific policy outcomes and influence broader public opinion.

We reviewed over 1800 public submissions on water policy and the Basin Plan over last 10 years. Fairness came up a lot. In fact, it was one of the strongest narratives for what was wrong with the Basin Plan, but it wasn't used in the same way.

In our representative survey on perceptions of fairness in the Murray-Darling Basin, 40% of respondents felt that allocating water for the environment ahead of other uses was the fairest outcome and, 43% felt it was fairer to allocate water to agriculture first and then to the environment. Looking around this room. I'd hazard a guess we may well have that same split sitting right here.

A recap. What is fairness?

Fairness is innate – we feel it and sometimes respond before we think it. It's part of our personal identity, based on our world view, meaning it is relatively stable and built-up overtime. It is used politically by all sides to promote particular outcomes or to influence decisions. And our perceptions of what is fair can change with "slow" or rational brain thinking.

But does it really matter?

From our submissions analysis alone, it would seem clear that fairness matters to the various interests and stakeholders in the Basin. And if you look at the second reading speeches in Federal parliament that relate to water from 2007 on (and we did), fairness is used routinely in political forums to justify or advocate for different policy positions.

So, fairness matters to the people of the Basin (they told us so) and to the politicians that represent the people of the Basin (Hansard tells us so). Fairness also matters to decision makers. In fact, they are legally required to consider fairness in setting and implementing policy.

We analysed over 70 pieces of current water legislation across 10 water related areas (including water planning and management). The review included legislation from all Basin states and the Commonwealth.

All jurisdictions expressly adopted fairness (or like terms - equity or justice) in their water legislation. However, rarely is fairness explicitly described – the exception is where it relates to economic aspects of equity (like water pricing) in which case it's very clearly described. For most legislation, the link between fairness and what a decision maker must do is weakly expressed (terms like "have regard to," "consider") allowing for significant

administrative discretion. In the very small number of cases where decisions have ended in court, the courts have not ruled - instead, deciding that what is fair is a matter for political decision making.

Discretion is a double-edged sword for decision makers. It provides freedom to act, but without transparency it undermines trust. Also, without a shared understanding of what is fair, it's risky to do much more than focus on procedural fairness – for example making a process as inclusive as possible and widely promoting all the technical information. The "Have your say" submissions process is an example of procedural fairness. Procedural fairness is an important, and defensible, part of a much more complex, and challenging, process.

And that brings us back to Leith's question within a question:

If we know what fairness is and we agree that it really matters - what are we going to do about it?

We know from the research that aiming for a single clear definition of what is fair and what isn't and then setting about to inspire adoption in others is unlikely to be successful (even if it is brilliant and technically correct). What those in marketing might call the "tell-sell-yell" approach. Even the academics who devote their careers to understanding fairness don't agree on a single way forward. Where the thinking in the literature does align however, is that fairness is a process not an outcome.

If people feel that a way of getting to a decision is fair, they are more likely to support the outcome – even if it was not their preferred outcome.

We've already touched on the importance of procedural fairness as a foundation for an inclusive and informed process. It's a foundation, but alone it's not enough. Fair processes must also address the scope of decisions (the decision frame) and how decisions will be made between competing objectives and priorities (the trade-offs). Fair processes also must explicitly address the distribution of burden – who gets what and how impacts will be mitigated or managed.

We know that there are a range of deliberative process (like structured decision making, deliberative polling or citizens juries) that capture the key elements of a fair process. We also know from experience in working within these processes that when they are used - they are very effective at bringing together diverse interests and building common ground, they provide a structured way of understanding trade-offs and potential impacts, and they can uncover novel workable solutions to complex value laden problems.

What we've also found is that while elements of fairness appear within most engagement approaches, they can be implicit (we just do them) and inconsistently included or applied (it depends on who is running the process, who's at the table and how well things are run). Making fairness explicit and mapping it to every stage of the policy cycle is essential if we want consistently trusted and fair water policy outcomes.

This is where our research is taking us now. From the six pieces of foundational research that we have undertaken we have distilled a set of fairness principles to inform and support policy outcomes.

Principles don't prescribe outcomes – they shape the process. They give decision-makers and communities a foundation for thinking about what needs to be done differently in any given situation – not a rulebook as such, but a framework for asking the right questions and designing processes that people will trust given each unique situation.

They are things like: Acknowledge fairness is at the core of policy deadlocks and address it at the start; Recognise that a theoretically optimal policy that ignores fairness will fail at implementation; Remember that technical knowledge is essential but it informs not directs decisions – only people can decide what ought to happen; All policy choices involve trade-offs and are value-laden, different perspectives are equally legitimate and need to be respected, not just managed through a process.

Principles like these are not rocket science, and I'm sure they resonate with anyone that has led or been part of an engagement process. They are not in themselves new. They have been said before and even used in practice - sometimes. What we are doing is taking that knowledge one step further and doing something with it. Watertrust is building a practice guide that takes the principles of a fair process and makes them explicit in a clear practical and tangible sense at every step of the policy cycle.

Let me give you an example of what making fairness explicit might look like for something as important as identifying trade-offs.

Structured Decision Making is a deliberative process developed and used extensively by one of our international partners in British Columbia - Compass Resource Management. We've worked with Compass over the last few years to demonstrate the power of Structured Decision Making - in Integrated Water Management planning (work we've done in South Australia) and water allocation planning decisions - like in the lead up to the Snowy Water review.

This approach uses a consequence table – a visual tool developed with the stakeholders as part of the process. It includes the usual economic and ecological criteria for decisions. Because of this work, we are now adding in a fairness dimension to the tool. Imagine a row in that table that shows explicitly how each policy alternative affects water users. Another that shows access for First Nations communities. Another for downstream environmental effects. In this way fairness isn't a separate conversation – it's woven into the analysis that decision-makers are already doing. It's an upgrade to an existing process because it's explicitly considering the full suite of things people really care about.

To be clear, none of this changes who decides. Quite the opposite. The decision maker is always the decision maker and has the authority and responsibility to decide. In making that decision, water legislation across Australia requires decision-makers to consider equity and fairness – but almost never tells them what that means or how to do it. Decision makers have enormous discretion, but no framework to think about it or exercise it well. What Watertrust is offering is not a constraint on decision-makers' authority nor a prescriptive set of "thou-shalt" commands for exercising the discretion they already have. It is the missing toolkit.

Tools to help de-risk a process often fraught with conflict and distrust, by bringing to the table, not only the top-down system level big picture view, but also the bottom-up values, knowledge and lived experience from those on the ground. Giving everyone more confidence that the decision they make will be fair – or at least fair enough.

So, what does this add up to?

We now have a body of research we believe to be the most comprehensive ever undertaken on fairness in Australian water policy. We have a set of principles grounded in behavioural science, political science, law, and lived experience. We are building a practical framework that connects all of this to every stage of the policy cycle. And we have projects underway – on the ground, in real settings, with real trade-offs – where we are testing what works, learning from what doesn't, and sharing that learning with policymakers and communities.

We're not just describing fairness.
We're operationalising it.

Leith asked us, "Does fairness really matter?"

Yes. It matters to people; it matters to process; it matters to outcomes. Fairness really matters.

So, what are we doing about it?

We're putting people back into the process – in all our human glory – to get better, fairer, water outcomes.

Widely respected across Australia's water sector, Leith Boully's influence on water reform, governance and leadership development spanned decades. Leith brought clarity, courage and a strong public-interest lens to some of the country's most complex water and environmental challenges.

Leith was a Founding Director of Watertrust Australia. In January 2026, she was posthumously appointed a Member of the Order of Australia (AM) for significant service to conservation and the environment.

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