

Damming the Flow

Cultural Barriers to Perceived 'Procedural Justice' in Wonthaggi, Victoria

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—INTRODUCTION

Climate change in Australia over the past twenty years has compelled governments to implement projects which endeavour to buffer citizens against the worst potential effects. Perhaps the most prevalent consequence of climate change has been reduced rainfall. Water restrictions have been imposed nationally, in both rural and urban areas, infrastructural developments and modifications have been initiated, and education campaigns have resulted in a shift in attitudes towards more conservative and innovative approaches to water use by citizens. Melbournians, for example, have reduced their consumption by nearly 30 per cent since the 1990s.¹ While the need to conserve water is now widely accepted, the processes via which access to potable water is ensured by governments have received mixed responses, particularly in rural and regional areas.² Complaints against environmentally driven developments such as water desalination plants, windfarms and waste disposal facilities regularly draw the charge that objectors are guilty of the 'NIMBY syndrome': they support such projects in general but argue selfishly that they should be 'not in my backyard'. However, as Wolsink explains, the 'literature on physical infrastructure facility siting and decision-making processes, increasingly views simple NIMBY explanations of local resistance to facilities as outdated'.³ Rather, he

argues in relation to windfarms in the Netherlands, developers and governments need to step back from the 'decide-announce-defend' approach to development and invest in a more communicative and engaged process with stakeholders, from the planning to the implementation stage.⁴ Indeed, as the literature on 'procedural justice' predicts, concerns about consultation and perceived fairness emerge regularly in opposition to outsider-initiated projects. However, 'procedural justice' literature in Australia has tended to focus on policing and taxation projects,⁵ with the impact of the perceived fairness of environmental developments remaining largely unscrutinised.⁶ In this article I argue that perceived 'procedural justice' is sometimes a key source of opposition by rural stakeholders to environmental projects which may otherwise be supported, at least in principle. While this in itself is not a discovery, I further argue that the political and cultural discourses of a region are the backdrop against which determinations of 'fair treatment' are articulated, and that these often overlooked factors must be considered in order to avoid conflict in regions where development projects are planned. I present a case study from South Gippsland, Victoria, and argue that perceived procedural injustice in relation to the building of a desalination plant in Wonthaggi, 128 kilometres southeast of Melbourne, has come about partly because of a failure to recognise the social impact of, first, the political history of the region and, second, local discourses which emphasise a cultural division between the city and the bush. Despite a general agreement among locals that access to potable water is a pressing ecological issue in need of redress, cultural oversights in the planning and implementation of the plant have exacerbated local perceptions that the process has been unjust.

I begin by describing 'procedural justice' and the factors that affect it. I then provide a sketch of the political landscape of South Gippsland. What follows is a description of the development and consultation process relating to the desalination plant. The description is illustrated with qualitative data gathered from a survey of one thousand Wonthaggi residents that asked about attitudes to water saving and the desalination plant.⁷ While procedural justice issues were not directly targeted in the original survey, issues relating to procedural justice emerged strongly in the qualitative responses. 'Fortunately, a couple of questions in the survey allowed us to measure perceptions of procedural fairness as well as the perceived outcome favourability of the project.'⁸ While further survey data is required to make robust

statistical claims about the role of procedural justice in the Wonthaggi case, the preliminary data is nonetheless clear and instructive. Of the 316 who responded, 66 per cent included additional comments and letters. Themes drawn from these responses, and addressed in this article, are the role of political history and the discourse of the city-bush divide—themes which necessarily overlap. While the literature on procedural justice has long recognised the importance of how stakeholders perceive consultation processes, understanding the cultural and political contexts will enhance our understanding of how such perceptions are formed. The concern of this article is not to identify where matters of procedure have been adequate or otherwise, but to discuss the cultural and historical influences on procedural justice as perceived by stakeholders in the Wonthaggi region.

—PROCEDURAL JUSTICE

The work done on procedural justice is broad and expanding in focus to incorporate issues of environmental development.⁹ The basic argument of the procedural justice literature is that stakeholders are more likely to accept a decision, even if it is not advantageous to them, personally, if they perceive that the decision-making process has been fair.¹⁰ 'Fairness' or 'justice' is determined by a number of socially and culturally grounded perceptions, including 'whether there are opportunities to participate; whether the authorities are neutral; the degree to which people trust the motives of the authorities; and whether people are treated with dignity and respect during the process'.¹¹ Indeed, as Lind and Tyler suggested in 1988, 'although citizens may react to policies in part on the basis of personal gains and losses from those policies, their sense of distributive and procedural justice will act as a cushion of support, leading them to accord some support to policies and leaders if they view them as having acted fairly'.¹²

Environmental developments have drawn the attention of those interested in procedural justice partly because of the complexity of such issues in relation to contested aims, complex and speculative science, the range of actors involved and the vagaries of political processes; where outcomes are less straightforward, issues of procedure take on greater importance. The barriers to perceptions of fairness include past political tensions and 'perceived power imbalances' between those

concerned.¹³ In Wonthaggi, the perception that political bias manifests in vote-driven favouritism towards Melbournians, as well as a discourse that emphasises the distinction between those from regional Wonthaggi, on the one hand, and those from the city of Melbourne, on the other, are relevant to the perceived procedural justice surrounding the issue. At this point I will turn to a discussion of these two themes, beginning with the briefest of outlines of Wonthaggi's fraught role on the broader political stage.

—POLITICAL BACKGROUND

The federal government has been controlled by the Australian Labor Party (ALP) since 2007. Between 1996 and 2007 the nation was governed by the Coalition of Liberal and National Parties. However, in the relevant period of the 2000s, from 1999, the State of Victoria has been under ALP control, with elections held in 2002 and 2006. The state seat of Bass, in which Wonthaggi is located, changed from Coalition control in the late 1990s to Independent (but pro-ALP) representation, then back to the Coalition in 2002 and is currently a marginal seat.

As recent political history in Australia has shown, marginal seats such as Bass may change hands because of politically volatile events; the *Tampa* 'children overboard' scandal on the eve of the 2001 Federal election is illustrative, as it provided the federal Coalition with the political material to turn the polls around and win a difficult election with a 2 per cent gain.¹⁴ The following year, along with growing dissatisfaction with the newly re-elected federal Coalition government (shown in strong swings away from the Coalition in by-elections), the Coalition looked to be facing serious losses in the lead up to the 2002 state election. However, both major parties' election tactics drew on the lessons of 2001 and maximised the political potential of contentious issues, including the introduction of marine protected areas (MPAs) into the Victorian coastline¹⁵ and of windfarms into parts of South Gippsland, including Wonthaggi. The Coalition suffered a crushing defeat in the 2002 election (though not in Bass), but the potential for environmental issues to play a key role in political events was strongly evident. Wonthaggi residents are all too aware of this potential as their comments in response to the desalination plant implementation will attest.

On 19 June 2007, the Victorian Government announced the plan to build a reverse osmosis desalination plant in Wonthaggi to produce drinking water from seawater, as part of a broader Victorian desalination project (VDP).¹⁶ Some residents were shocked to hear of the plan: 'There was no community consultation before it was announced ... I found out when it was announced to the media'; 'To be informed via a television commercial ... I, for one, felt cheated and undervalued by the Victorian Government'; 'The government simply announced that the desalination plant was going to be built'. The negative perception of the announcement of the project reflects feelings of inadequate consultation in later stages.

The beneficiaries of the plant were named as Melbourne, Geelong, Westernport and South Gippsland.¹⁷ There has been considerable anger expressed regarding the beneficiaries of the plant. In particular, many Wonthaggi residents have been incensed that though the pipeline 'will traverse three different water corporations: Westernport Water, South Gippsland Water, and South-East Water',¹⁸ these regions will not automatically benefit from the plant: 'The Government has consulted with these water corporations to establish *possible* off-take points from the desalination plant pipeline'.¹⁹ Though water-storage levels in Wonthaggi are very high, there is a sense that bypassing the region reflects a bias by the state government towards city-dwellers. 'Decisions on water usage seem to be made with a preference to city-dwellers at the cost to country people. You can't keep using and taking from country areas!'; 'I find it grossly offensive that the Victorian Government has brought about a division of its people as in restrictions for some, while others maintain an ignorance and wasteful attitude towards our God-given water'.

On 31 December 2007 the Victorian Department of Sustainability and Environment referred the project to the federal Minister for the Environment, Heritage and the Arts, and sought approval to make the environmental changes associated with the plant. On 4 February 2008 the minister's office decreed that the project could go ahead subject to a number of environmental clauses and the completion of an environmental effects statement (EES). The minister invited public comment by posting a notice on the federal government web site; sixty-seven submissions were received.

By the time the twelve-month progress report was released on 18 June 2008 the desalination plant was being called the 'Keystone of Victoria's Water Plan':²⁰ land had been acquired upon which to build the plant, works had begun on a pipeline from Wonthaggi to Melbourne, the EES was being developed, expressions of interest had been sought from private operators who might run the plant and water testing had been undertaken. The time line indicated that by early 2009 a private partner would be appointed and construction would begin in mid 2009.

Between 20 August and 30 September 2008, the EES was made publicly available and Wonthaggi residents and the local council were invited to comment; 409 written submissions were lodged in response to the EES.²¹ On 3 September 2008, the Minister for Planning, Justin Madden, announced an inquiry panel to consider the EES.²² On 8 October 2008 a hearing was held for stakeholders to ask questions about the inquiry process (as opposed to the project itself). According to one local resident:

There have been no real attempts at community engagement. The only time any form of consultation was attempted ... was a session on how the plant was to be built, which ... served to underline that this was a foregone conclusion as part of a flawed process ... DSE's [the Department of Sustainability and Environment's] credibility is on the line'.

Following this meeting a series of public hearings were held. Stakeholders were invited to contribute submissions to the hearings via the Victorian Government's web site. The hearings themselves were held between 14 October and 7 November 2008 and 183 submission items from stakeholders ranging from the local council to private citizens have been published on the site. On 4 December the EES was handed down and several days later, on 10 December, the inquiry held a public briefing session in Melbourne at which the details of the EES were outlined to the inquiry and the public. No more consultation meetings have been held.

While one could argue that opportunities for consultation have been provided, the overwhelming feeling of those who responded to the survey was that consultation had been inadequate. 'The Brumby government mistakes dictatorship for leadership. The process has been flawed from the start and from a Labor government that should embrace community consultation and community development principles.' Indeed, many respondents attributed the perceived lack of

consultation to an absence of genuine opportunity to alter the course of the project. 'Government says there has been adequate community consultation in the process of decision making regarding the desalination plant. However, this community does not agree, and believed it has always been a done deal'; 'This community believes that the whole process ... is a farce'; 'There has been almost no consultation with people here ... and we have been told it will go ahead regardless!'; 'Mr Brumby, after some pressure, declared that the consultation process was to start but that the result was set in concrete (literally). The definition of consultation need not be provided here, suffice to say that there can be no consultation when one party has no voice!'

In January 2009 Justin Madden released his assessment under the *Environment Effects Act 1978*.²³ Madden explained that 'the EES process considered a range of potential environmental effects of the project—including on flora, fauna, water quality, landscape values and social impacts'. He announced that the project was 'broadly environmentally acceptable' despite some 'unavoidable environmental impacts' and the 'inevitable social effects of hosting a large scale construction workforce within the region'.²⁴

While environmental concerns have been central to the opposition to the plant, given the political history of the region much dissent has concerned the perceived motivations behind the situation of the plant, and the manner in which the community has been dealt with by the government and its agents. Wonthaggi residents are very aware of their own place in the political landscape, as these comments attest:

The lack of concern for the citizens of this area by the ... governments would appear to be due to the recent voting history of this area. They would be well advised to remember that this was a mining town with deep union and Labor Party ties; if they continue to alienate themselves with the general populace in this region they may never regain this seat. 'We don't count—but we do vote'; 'Voted Labor all my life, never again, nor will my family and friends. Brumby is an "unelected" disgrace'; 'The State Government has used the desalination plant as a political tool to try and win votes from city people'; 'Hopefully ... the appalling lack of consultation ... will lose many votes at the next election. Even better, the desalination plant will collapse into a heap!!!'

The following comments hint at a very high level of distrust toward the development procedure: 'I am extremely affronted by the questions used in this survey and greatly suspect your real intent with the results you get'; 'This questionnaire was obviously put together by the State Government as there is an obvious prejudice towards opponents of the desalination plant. More public money spent on still more Government propaganda to try and convince the public that desalination is the only choice we have'. While some might dismiss these comments as paranoid, such expectations of government deceit by local stakeholders hint at a *perceived pattern* of injustice which must be carefully managed by those hoping to implement new projects in regions with complex political histories.

Comments suggestive of an intense lack of trust and disillusionment towards the state government and the influence of past political tensions also inform the second theme which emerged in the qualitative data, that of the perceived division between city and country. This perceived division has been well documented and typically manifests in expressions of derision, mockery and resentment by country people against city-dwellers.²⁵ Typical charges against urban-dwellers includes that they do not understand where their food comes from; are protected from harsh environmental realities by vote-conscious politicians; are squeamish about dirt, animal blood and other natural substances; are extravagant with money; are overly concerned with clothes and appearance; are pretentious and arrogant, and that they unfairly deride and patronise rural people who rightfully hold a higher moral standing due to their wholesomeness, thrift and common-sense. As Botterill explains:

The country-city dichotomy ... has the city coming off worse on each count as can be seen in Flinn and Johnson's description ... of the city as 'artificial and evil'. As they note, 'a strong belief in the virtues of rural life demand that the sins of city life be exposed by farm people' ... Davison refers to this 'symbolic counterpoint' between city and bush as providing 'a vital clue to the sources of the "Australian Legend"'.²⁶

In relation to the Wonthaggi desalination plant project, qualitative data suggests that the 'symbolic counterpoint' plays an important part in expressing feelings by residents that they have been treated unfairly. 'Why can't Melbourne and suburban homes catch rainwater using tanks, just like country people (and farmers) do?'; 'City

folks “just expect” water to always be there’. Simply, by characterising Wonthaggi residents as rural-dwellers counterposed against those from the city, opponents of the plant mine a powerful existing discourse in the Australian imaginary, according to which the bush trumps the city in moral virtue, particularly in relation to matters of environmental commonsense. Wonthaggi ‘holiday areas are filled with water wasting city people’; ‘When we were young we used much less water *because* our ancestors came from the country’ (emphasis added); ‘Many people in city areas have installed tanks to save water but do not know how to use them’; ‘We were ... amazed when we moved for a short time into the city to see the water wastage there. Not the fault of the people, just ignorance.’ While arguments may be mounted against the validity of such judgements it is important to remember that the procedural justice literature tells us that it is the *perception* of fairness that influences the support or otherwise of government initiatives.²⁷

What is particular to environmental development cases is that the moral high ground usually reserved for rural communities is often wrested from them, as those who oppose developments brought about by changing environmental circumstances are publicly decried as environmental vandals or attributed with NIMBY syndrome. In relation to those opposing the implementation of the Wonthaggi and other wind farms, many noted that they were not averse to renewable energy but to the planning of particular turbines. In relation to the desalination plant, the point of contestation is not over the need for action but over the precise course of action and the way it is undertaken. By depicting rural communities as selfish and ignorant of the realities of the environment, the moral balance of the city–bush divide is inverted, leaving rural-dwellers teetering on the edge of misrecognition and grasping for a familiar point of reference. Indeed, in the qualitative survey data are repeated and forceful claims to superior environmental credentials and a sharp contrast to the city-dwelling ‘other’, perhaps in an effort to correct the disruption to the familiar discourse, as this last example shows: ‘Country people have watched their water usage for many years and the city-dwellers not given a damn, their usage of water this year has been higher than ever. City-dwellers have no idea how to save water.’

The city–country divide discourse depicts city-dwellers as morally questionable and is coupled with the perception by many in the Wonthaggi region

that any benefits of the desalination plant will bypass the more deserving residents of the bush. These overlapping sentiments, in addition to the feeling that the state government is politically motivated to unfairly privilege urban Labor voters over the rural Liberal voters of Bass, adds to the overall sense from the respondents that procedural justice has not been achieved.

—CONCLUSION

Efforts to implement environmental development projects in rural regions are sometimes met by staunch resistance by local stakeholders. Often this resistance is attributed to the NIMBY syndrome. However, literature on procedural justice which pertains specifically to environmental development projects notes the importance of acknowledging a range of historical, political and cultural factors which may sway stakeholders to support or reject a particular project, regardless of the personal benefits they anticipate for themselves. This article provides a case study from Wonthaggi where a desalination plant is to begin construction in the middle of 2009, after a planning and consultation process which has disappointed many locals. While most residents surveyed were concerned about changing climate patterns and access to water, many also expressed anger over the perceived procedural injustice of the desalination plant development process. I argue that the process could have been more ethical and involved less conflict had developers taken into account the political history of the region, and hence the established expectations of the residents, as well as overlapping cultural factors, namely the discourse of the city-bush divide. Rather than ascribing a NIMBY doctrine to cases where development projects are rejected by rural stakeholders, further investigation into the role of political and cultural factors in analyses of procedural justice is necessary to provide a more comprehensive understanding of why rural and regional people support some projects and reject others.

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—NOTES

- ¹ Victorian Government, 'Our Water Our Future—Fact Sheet—Desalination: Keystone of Victoria's Water Plan', Melbourne, 2008
<http://www.ourwater.vic.gov.au/_data/assets/pdf_file/0004/39775/Water-plan-Initiatives-fact-sheet.pdf> p. 14.
- ² Catherine Gross, 'Community Perspectives of Wind Energy in Australia: The Application of a Justice and Community Fairness Framework to Increase Social Acceptance', *Energy Policy*, vol. 35, no. 5, 2007, p. 2729.
- ³ Wolsink, p. 52.
- ⁴ Wolsink, pp. 62–3.
- ⁵ See, for example, Kristina Murphy, 'Procedural Justice and Tax Compliance', *Australian Journal of Social Issues*, vol. 38, no. 3, 2003, pp. 379–408; Kristina Murphy, 'Public Satisfaction with Police: The Importance of Procedural Justice and Police Performance in Police-citizen Encounters', *Australian and New Zealand Journal of Criminology*, vol. 42, no. 2, 2009, pp. 159–78.
- ⁶ cf. Gross.
- ⁷ Tanya J. King, 'Domestic Water-saving Techniques and the Wonthaggi Desalination Plant: A Survey of Local Residents' Attitudes'. Postal survey, Deakin University, October 2008.
- ⁸ Tanya J. King and Kristina Murphy, 'Procedural Justice and Community Acceptance of Australian Environmental Sustainability Projects: Addressing Conflict in the Case of the Wonthaggi Water Desalination Plant', *Public Policy*, vol. 4, no. 2, 2009, forthcoming. This paper draws on quantitative measures to show that one of the major predictors of residents' resistance toward accepting the building of the desalination plant was explained by perceptions of procedural injustice.
- ⁹ Gross, p. 2729.
- ¹⁰ See Gross, pp. 2727–36; Edgar Allan Lind and Tom R. Tyler, *The Social Psychology of Procedural Justice*, Plenum Press, New York, 1988; Geoffrey J. Syme and Blair E. Nancarrow, 'Social Justice and Environmental Management: An Introduction', *Social Justice Research*, vol. 14, no. 4, 2001a, pp. 343–7; Geoffrey J. Syme and Blair E. Nancarrow, 'Justice, Sustainability, and Integrated Management: Concluding Thoughts', *Social Justice Research*, vol. 14, no. 4, 2001b, pp. 453–7; John W. Thibaut and Laurens Walker, *Procedural Justice*, Lawrence Erlbaum Associates Inc., Hillsdale, NJ, 1975; and Tom R. Tyler, 'Social Justice: Outcome and Procedure', *International Journal of Psychology*, vol. 35, no. 2, 2000, p. 119.
- ¹¹ Tyler, p. 117.
- ¹² Lind and Tyler, p. 163.
- ¹³ Syme and Nancarrow, 2001a, pp. 344–5.
- ¹⁴ Matthew Sharpe and Geoff Boucher, *The Times Will Suit Them: Postmodern Conservatism in Australia*, Allen & Unwin, Sydney, 2008, p. 65.
- ¹⁵ King, p. 355.
- ¹⁶ Victorian Government, 'Victorian Desalination Project', Department of Sustainability and Environment, Department of Planning and Community Development, Melbourne, 2009,
<<http://www.dse.vic.gov.au/DSE/nrenpl.nsf/LinkView/5249619A2A213442CA2573BE007EEAA992FBC7C133A6F520CA2572DA007FAB8B>>.
- ¹⁷ Victorian Government, 'Our Water Our Future—The Next Stage of the Government's Water Plan', Department of Sustainability and Environment, Melbourne, 2007, p. 4.
<http://www.ourwater.vic.gov.au/_data/assets/pdf_file/0015/366/The-Next-Stage-of-the-Governments-Water-Plan-2007.pdf>.

- ¹⁸ Simon Tolstrup, Desalination Project Team, email, 5 February 2009, <Simon.Tolstrup@dse.vic.gov.au>.
- ¹⁹ Tolstrup. Emphasis added.
- ²⁰ Victorian Government, 'Keystone of Victoria's Water Plan'.
- ²¹ Desalination Plant, <<http://www.basscoast.vic.gov.au/content/content.asp?cnid=3089&ctid=2>>.
- ²² Victorian Government, 'Victorian Desalination Project: Information about the Inquiry', Department of Sustainability and Environment, Department of Planning and Community Development, 2009, Melbourne.
<[http://www.dse.vic.gov.au/CA256F310024B628/0/A40BC2CC9659E4B4CA2574BA0020FD3B/\\$File/Information+re+Inquiry.pdf](http://www.dse.vic.gov.au/CA256F310024B628/0/A40BC2CC9659E4B4CA2574BA0020FD3B/$File/Information+re+Inquiry.pdf)>.
- ²³ The Honourable Justin Madden MLC (Minister for Planning), 'Inquiry finds Desalination Project Site Acceptable', media release, Melbourne, 9 January 2009.
<[http://www.dpi.vic.gov.au/CA256F310024B628/0/346F0A7A631E0FFCCA257538007984BB/\\$File/Media+Release.pdf](http://www.dpi.vic.gov.au/CA256F310024B628/0/346F0A7A631E0FFCCA257538007984BB/$File/Media+Release.pdf)>.
- ²⁴ Madden, p. 1.
- ²⁵ See John Anderson, 'One Nation or Two? Securing a Future for Rural and Regional Australia', Address to the National Press Club, Canberra, 1999; Peter Austin, 'City-Country Divide Still Challenging', *Stock Journal*, 4 November 1999. <http://sj.farmonline.com.au/news/state/agribusiness-and-general/general/citycountry-divide-still-challenging/2636.aspx>; Geoffrey Blainey, 'The Great Divide', *Boyer Lectures*, Australian Broadcasting Corporation, 2001; and The Honourable Warren Truss MP (Federal Minister for Agriculture, Fisheries and Forestry), 'Address to the Victorian Rural Press Club', Melbourne, 2 March 2005. <<http://www.ruralpressclub.com/Luncheons>>.
- ²⁶ Linda C. Botterill, 'Soap Operas, Cenotaphs and Sacred Cows: Countrymindedness and Rural Policy Debate in Australia', *Public Policy*, vol. 1, no. 1, 2006, p. 26. See William L. Flinn and Donald E. Johnson, 'Agrarianism Among Wisconsin Farmers', *Rural Sociology*, vol. 39, no. 2, 1974, pp. 190-1 and Graeme Davison, 'Sydney and the Bush: An Urban Context for the Australian Legend', in John Carroll (ed.), *Intruders in the Bush*, Oxford University Press, Melbourne, 1992, p. 109, for the quotes within this quote.
- ²⁷ Paul Collits, 'Policies for the Future of Regional Australia', *European Planning Studies*, vol. 12, no. 1, 2004, pp. 85-97.