



## Elizabeth Eppel on water governance

Transcript of The Policy Fix podcast interview with Elizabeth Eppel, 11 March 2019, recorded at Rutherford House, Victoria University of Wellington.

KM: Nau mai whakarongo mai and welcome to The Policy Fix, a podcast by The Policy Observatory AUT. Ko Keri Mills tēnei and today I am talking with Dr Elizabeth Eppel, Senior Associate at the Institute for Governance and Policy Studies, Victoria University of Wellington, on her work on water governance in Aotearoa New Zealand.

Tēnā koe Elizabeth.

EE: Tēnā koe.

KM: Could you start by explaining what water governance means?

EE: Well, it's the processes through which government and people arrive at a way of us managing water resources. And of course sitting behind that are all the contentious things that people are talking about now like 'does anybody own water?' Let's just say we've *got* water, and the processes of using freshwater as a resource need some sort of process wrapped around it to make that work.

KM: So is it the decision making process that leads into the management process?

EE: It is the decision-making and it's got some sort of rules-based process around it. So as we've set it up in New Zealand the Resource Management Act is the major piece of legislation that determines how we manage freshwater. Unfortunately, when the Resource Management Act was set up in 1991, it made provision for government to make policy statements, but for the next 20 years there weren't any policy statements. So actually all our regional councils just went away and did their own thing, and continued to allocate permission to use fresh water on the basis of 'first come first served', mostly. Each of them setting their own rules around what use was appropriate or not.

KM: You've mentioned the Resource Management Act, and the regional councils. What are the other key players in water governance in New Zealand?

EE: There's several national levels of government that are interested. The Ministry of Health plays a role in setting standards for freshwater that's going to be used for drinking purposes. The Ministry for the Environment is the major government agency that has a role as, I suppose, the sponsor of the Resource Management Act. But we've also got big industries in New Zealand that are users of freshwater, such as our primary industries - and in recent years our Ministry of Primary Industries has been quite an active player in the rule setting around freshwater use.

Our regional councils are charged with giving effect to the Resource Management Act for their regions. Interestingly, district councils, and remember in a couple of areas we've only got one council that does both these roles, like in Auckland. Our district councils are big users of water. They are also the ones that look after the stormwater, and the waste water, and the drinking water. Therefore they are, in a way, clients of the Resource Management Act, as well - and subject to the regional councils and some of the things they do.

KM: You mentioned before that the RMA sets these policy statements but they're not actually made, or not for a very long time

EE: Well the first one came out 20 years after the Act. In that policy statement, the national level of government began to set some bottom lines about what the regional councils needed to do in the area of freshwater. By then there was a lot of contestation that freshwater just wasn't for using on the basis of 'first in first served'. There began to be debates about whether or not we should be charging for freshwater.

I think that's a good point at which to introduce the Land and Water Forum. Because by the time we got to 2011/12, this hiatus, in terms of guidance to the regional councils, really had come to a head. We'd gone into a period of economic intensification of dairying, a lot of water around the country was beginning to decline in quality, and people were worried that the processes that the regional councils were following were not keeping up with what needed to be done. And you had a number of areas where people were wanting to dam, or put in big irrigation schemes, and people were feeling that maybe some of these weren't the right things to be doing, and they were only going to lead to more water degradation.

The Land and Water Forum was a process that came about both by design and by accident. I believe Guy Salmon was somewhere at the back of it. He, at a big environmental meeting, managed to convince a few important players that a more collaborative process - so instead of ending up with people in corners, coming from fixed positions, the view that Guy had was that you were only going to solve this by some sort of collaborative process. And the Land and Water Forum is what eventuated from that. Effectively the ministers of the day were convinced that if they were to let this process run its course, they would be given advice that would be the best that they could get for balancing all the interests in freshwater use. That is, both the people who want it kept pristine as it is, because they just want to enjoy the vibe with the freshwater - the people who want to swim and fish in it, and go

canoeing in fast water and things like that. Plus the people who want to earn their livelihood through dairying or agriculture, or some other land based activity.

The idea was that perhaps there had to be some way in which those different interests and those different valuing of water had to be able to be debated. And so the forum undertook to give the ministers advice on what the way forward on the governance of freshwater might be. And that group met from about 2010 through to about, really until the government changed and the Labour Government came in. I believe it's started meeting again, but I haven't caught up with just exactly what their agenda is currently. But in the time they operated they gave the government four reports. And part of the deal had to be that various lobbyists, coming from different perspectives, couldn't go around the back door and get in the Minister's ear and get the Minister to do what they wanted. They had to actually debate it in this forum and get the balance between the different perspectives. And in that respect the forum was a very interesting experiment, if you like, in what's called collaborative governance.

KM: And do you think it was a successful experiment?

EE: Well, I think it *was*, and it was very successfully chaired and managed for about four years. And the main reason it began to fall apart, is because the fundamental rules of collaborative governance began to be breached. Because if government wants to draw on the views of effectively a citizen group that is trying to balance all those different demands on freshwater, they need to be willing to go along with what that group's deliberation has led them to. And it became increasingly clear by the time the Land and Water Forum got to their fourth report, that the government was only going to cherry pick the various recommendations. And I suppose the Land and Water Forum had also got to some of the harder issues, where the differences between some of the big lobby players - effectively Fish and Game and Forest and Bird and so on versus Fonterra and Federated Farmers. The differences there are quite strong, and pleasing both those groups is never going to be easy. And it became increasingly hard, because I think some of the early things they did was pick off some of the low hanging fruit, like put out some bottom lines in these policy statements. So the government did put out policy statements and it put out some bottom lines, but their initial ones were way way way too permissive - in terms of what they demanded in terms of clarity and oxygen and various other things in the water.

KM: So this kind of collaborative forum seems like a really great way to get different interests to work out where they might surprisingly agree

EE: So it stops the, in policy talk we talk about the tight triangle. In areas where there are two powerful interests and a decisionmaker, then you get a tight triangle where one interest or the other is always lobbying the decisionmaker to do what they want, and I think that is how this water area had been for a long time. Whereas what the Land and Water Forum did do was get into the discussion a lot more consideration of some of the more diverse values about freshwater.

KM: So presumably these are selected representatives

EE: Well they are, they're self selected. And so it's hardly democracy in the sense of deliberative democracy where you say everybody is welcome but it was the big players initially, the Fish and Game and Forest and Bird and those groups, plus Fonterra, plus Federated Farmers. But then all the others joined. So they ended up with about 57 bodies that had some interest in freshwater who participated in the process. And so I guess each of those bodies would be channelling what their own membership thought. But that's one of the difficult things about that sort of process because you can't continue to only work for what your own organisation wants. You've got to recognise that the other organisations are on a slightly different page and you compromise on some things. Some people think that that's the downside of it is that you do have to compromise. Somewhere along the line.

KM: There's an interesting democratic question in there where if the rule is that this will only work properly if the government basically implements exactly what they come up with but then you lose the democratic part of it. So how do you get around that quandary?

EE: The idea behind all of this is based on research that was done by the Nobel prize winning economist Elinor Ostrom. It's her work on managing common pool resources that people are drawing on. Ostrom's idea is that you're managing something quite complex where there are all these different decision-makers and various people will try and get the best they can out of it. So they're trying to avoid what Garrett Hardin called the 'tragedy of the commons', where everybody simply takes what they want and doesn't care what happens because everyone else is doing it too. So, can you come to a set of rules that people will abide by? Of course the other thing that Ostrom says is that it will only work if people are playing by the rules. If you can avoid the rules in some way, by going outside of what has been arrived at, then it's not going to work very well. So it's not a form of participation that says everyone will get exactly what they want - it's a process that will get to something that everybody says they can live with.

And I think that still probably has some issues of short-termism. As long as you've got the lobbyists there who are thinking about the fact that we are going to want to be able to do white water rafting, we are going to want to go into a pristine mountain river in 100 years time and have it still there, as long as those people are participating. One of the concerns is that a lot of those groups are not particularly well resourced and it's the big groups that have got particularly deep pockets, who can afford to continue to litigate about a rule in the Environment Court.

KM: And another part of the puzzle here of course is Māori role in governance.

EE: Well that's a problem that they got to and did not get very far on - The Land and Water Forum. Which was that, really there had to be some way of dealing with ownership, if you want to do something about people taking freshwater and selling it

for commercial gain, then whose freshwater are they taking, and who gets the proceeds? We are still seeing that play out around bottled water. And the issue of ownership of freshwater is still incredibly fraught, in that Māori have established that under the Treaty they believe they have some rights in the nature of ownership – we'll call them that - and so there's got to be a way found through that if you want to do any charging, if you want to do some of the things that might send the right signals for how we manage freshwater.

Because at the moment you can take a whole pile of really pristine water in an aquifer, that's been filtered down for the soil and is perfectly pure and you can just spray it all over a paddock. And what's happening after you've sprayed it all over the paddock, it's contaminated with all the things that come off the paddock like leftover fertiliser and the excrement from the animals, then it begins to filter back down. So the next lot of water that's replacing it in the aquifer, is not going to be nearly so clean. So we're not leaving behind a pristine aquifer, we are going to eventually have a very contaminated aquifer. So we've got to find some signals that make people make choices for the long term and pricing may be one of the things.

KM: You've described a very complex problem here, do you have any direction on how we can attempt to begin to fix it?

EE: The scientists have probably been too little listened to about what we know about the ability of natural systems to refresh themselves. People believe 'oh it'll just keep on going'. Well no, maybe it won't, and we won't be able to reverse it. Secondly, people do have to live. People rely on the fact that the water is available for use for us to earn livelihoods. So it needs everyone to understand how that whole process is working and where we've got quick wins we can do, and where actually there's going to have to be some long-term adjustments.

KM: And in terms of governance, do you see any quick fixes in how we could govern our water better?

EE: I don't really. I mean I do think the positive thing is these processes at the local level that have brought together different interests, and Māori interests, particularly - are quite strongly involved in all of these examples that are going on all around the country. I was talking to someone only the other day about Lake Taupō and how difficult it is to keep that from becoming a sewer. And I think it's only when you've got all the players in the room that you can begin to get to 'so what are we going to do about this?' And the 'one size fits all' doesn't seem to work. You know - if you just sit in Wellington and design it on a piece of paper, and go and lay it over - for some reason, there's usually reasons why it won't work on the ground. So the benefit of the locally driven collaborative processes is there's much more awareness of what *is*, and therefore much more awareness of what *could be*. And so you get more innovation, and internationally there's a lot of work that says it's in those processes that we get innovative breakthroughs so I think we've got to keep trying at that.

KM: We have unfortunately run out of time. Tēnā koe Elizabeth.

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Nō reira, e te whānau kua whakarongo mai nei – tēnā koutou, tēnā koutou, tēnā koutou katoa.

