NSW Groundwater Water Resource Plans

Stakeholder Advisory Panel

Terms of Reference

August 2017
1. Project overview

1.1. Background

The Murray–Darling Basin Plan (Basin Plan) requires water resource plans (WRPs) to be prepared for each water resource plan area, consistent with its accreditation requirements. The WRPs referred to under the Basin Plan cover a wider scope than NSW’s existing statutory water sharing plans (WSPs).

As a result, WRPs in NSW will comprise of a package of new and existing planning and policy instruments and other documents, the key ones include:

- relevant water sharing plan(s),
- water quality and salinity management plan
- risk assessment
- overview document
- index document
- any other documents needed to fulfil the Basin Plan accreditation requirements

The Department of Primary Industries, Water (DPI Water) is required to develop 22 WRPs in line with NSW and Commonwealth legislation. These must be accredited by July 2019. A list of groundwater WRP areas is summarised in Attachment 1.

In response to requests from water users for earlier and broader engagement for the development of Water Resource Plans, DPI Water has adopted new governance arrangements. This approach includes Stakeholder Advisory Panels (SAP) where appropriate, as a way to engage stakeholders in a fair and transparent manner.

The composition of the SAPs enables input from not only NSW government agencies, but also Murray Darling Basin Authority (MDBA), Aboriginal community representatives, water users and other community stakeholders using water. These changes to governance arrangements will engage stakeholders earlier in the process and facilitate ongoing and targeted input into water planning.

1.2. Project governance

The governance models developed for regulated rivers, unregulated rivers and groundwater systems have been based on a review of current planning approaches within DPI Water, feedback from agencies and community, and reflect the desire of stakeholder groups to have increased input into the development of plans. The arrangements respect the established water user groups, where they exist, while providing capacity to also engage those not represented by any group. It also facilitates DPI Water to meet the tight deadlines of the agreed WRP delivery process.

Groundwater WRPs:

A state-wide Groundwater WRP SAP will be established for all groundwater WRP areas. The SAP is proposed to allow early input to state-wide processes such as, but not limited to, setting objectives, consideration of groundwater dependent ecosystems or cultural objectives, and compliance with Sustainable Diversion Limits.

The composition of the NSW Groundwater WRP SAP will include representatives from NSW government agencies, water users, environmental interests, Aboriginal communities and Local Councils. Targeted consultation with other stakeholders may also be undertaken where appropriate. The SAP meetings will be facilitated discussions to ensure stakeholder contributions are both valued and considered.

Where a SAP is established:

- DPI Water is responsible for the review and replacement of WSPs (under the Water Management Act 2000), the development of WRPs (under Basin Plan 2012), coordination of adaptive water policy and planning and representing NSW in MDBA planning activities. DPI Water will coordinate and administer all aspects of the SAP.
- Each WRP is assigned a Water Planner who is supported by a working group with membership from across DPI Water including policy, licensing and compliance, implementation, modelling, monitoring,
evaluation and legal expertise. The working group is responsible for undertaking risk assessments and preparing the WRP and any supporting documentation.

### 1.3. Engagement strategy

The NSW WRP Groundwater SAP will be complemented by other engagement activities at a water resource plan scale.

An engagement strategy will be developed at a state level along with an engagement plan for each groundwater WRP to coordinate stakeholder engagement. The following strategies may be included to inform, involve and consult with stakeholders throughout the planning process:

- targeted engagement with the SAP on state-wide issues and approaches
- key stakeholder forums for each groundwater water resource plan area on specific issues
- targeted consultation with water user groups and licence holders on specific issues
- targeted consultation with Aboriginal communities including the identification of objectives and outcomes which have regard to values and uses
- public exhibition of the draft WRP package, including WSPs
- provision of feedback and a commitment to additional engagement where required

DPI Water will also liaise directly with other representative groups or individuals such as identified experts, Aboriginal communities, local councils, local water user and other interest groups including Local Land Services (LLS) where additional consultation is required.

### 1.4. Key stages in WRP process

The process to develop WRPs will be based on processes previously used by DPI Water that have been modified to account for additional work required to comply with the Basin Plan, including new planning requirements and a new accreditation process. The main stages required to complete a WRP are summarised in Figure 1.

![Figure 1. Phases in development of NSW groundwater water resource plans](image-url)

#### 2. Purpose of Stakeholder Advisory Panel

The purpose the SAP is to provide DPI Water with stakeholder input into the planning process for WRP development.

The main role of the SAP is to help identify issues, examine options and provide DPI Water with feedback and advice throughout the development of WRPs.
As an advisory panel, it is not the role of the SAP to vote on or formalise decisions, but rather to provide DPI Water with feedback on options and recommendations during the development of the plans.

It is expected that the SAP will provide for improved outcomes in relation to community engagement and project planning. In particular:

- improved stakeholder engagement and awareness of water planning issues
- improved stakeholder knowledge of water planning processes
- increased stakeholder input into water sharing rules
- greater transparency of DPI Water decision making
- improved stakeholder understanding of planning decisions

### 2.1. Relationship between SAP and DPI Water

The relationship between DPI Water and the SAP is defined below:

<table>
<thead>
<tr>
<th>SAP role</th>
<th>DPI Water role</th>
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</thead>
<tbody>
<tr>
<td>Identify and contribute to water sharing options</td>
<td>Prepare discussion papers and water planning documentation</td>
</tr>
<tr>
<td>Provide feedback on water sharing options</td>
<td>Make recommendations to the Minister on water sharing rules</td>
</tr>
<tr>
<td>Provide stakeholder perspective on water sharing issues</td>
<td>Listen to stakeholder feedback and take this into account in decision making</td>
</tr>
<tr>
<td>Provide advice on engagement and communication activities</td>
<td>Respond to stakeholder concerns and where possible take action</td>
</tr>
<tr>
<td>Provide input into the planning process</td>
<td>Provide administrative and executive support for the SAP</td>
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### 3. Composition and selection

#### Membership

Groundwater SAP membership to include:

- 1 DPI Water officer (*WMA 2000* requirements)
- 1 OEH officer
- 1 MDBA officer
- 2 Aboriginal community representative (1 nominated by Northern Basin Aboriginal Nations (NBAN) and 1 nominated by Murray Lower Darling Rivers Indigenous Nations (MLDRIN))
- up to 2 NSW local government representatives nominated by Local Government NSW
- up to 6 NSW Irrigators’ Council representatives
- 1 Inland Rivers Network representative
- 1 NSW Minerals Council representative
- 1 Nature Conservation Council representative

#### Observers

Technical staff, identified experts and guests may attend by prior request at DPI Water’s discretion on an ‘as needs’ basis.

#### Support staff

Administrative support will be provided by DPI Water. DPI Water will engage an independent facilitator (responsibilities defined below).

A DPI Water Planner will be assigned as the key point of contact for each plan.
4. Role responsibilities

Independent facilitator:

- Convene the panel in the interests of progressing the development of the WRP.
- Ensure that the SAP is operating within its terms of reference and in accordance with the Code of Conduct as outlined in the Operating Protocols below.
- Lead and encourage relevant discussion on items.
- Ensure balanced representation in discussion so that all SAP members have an opportunity to contribute.
- Invite technical experts that may be present to inform issues, as relevant.
- Conduct meetings in a timely manner and maintain focus on meeting priorities.
- Ensure that issues, discussion and actions are accurately recorded in meeting minutes.
- Manage and appropriately deal with any grievances and complaints by SAP members.
- Advise Group Director Planning and Policy if the SAP becomes ineffective or goes beyond the operating protocols.
- Identify issues for escalation to Group Director Planning and Policy where there is contention within the SAP.

Panel members:

- Provide apologies to DPI Water and notify an alternate to attend prior to the meeting.
- Prepare for the meeting by reviewing agenda and any discussion papers provided.
- Observe all confidentialities and respect differing opinions.
- Actively participate in meetings in a cooperative and inclusive manner.
- Effectively communicate their perspective on relevant issues to other panel members, noting that NSW government agency representatives will present their agencies perspectives, rather than their personal views.
- Contribute personal skills, knowledge and expertise to panel discussion.
- Facilitate when appropriate, access to documents, data and resources which are relevant to panel discussions.
- Review issues that arise from consultation and public exhibition and as a group revisit issues of significance if necessary.

Observers (including invited experts)

- Observe all confidentialities and respect input of all participants.
- Present information, answer any questions or provide clarification and participate in discussion only at the invitation of the facilitator or DPI Water.

DPI Water support staff

Provide support to the facilitator and Panel which includes:

- Assist the facilitator in smooth and effective functioning of panel meetings and provide clarification and guidance where required.
- Ensure timely advice is provided to panel members regarding meeting times, dates and venues and timely provision of agenda and papers.
- Organise and maintain all meeting documentation, including the collection and compilation of information to support the panel meetings.
- Ensure the essence of stakeholder views are recorded, including items of agreement, contention or outstanding issues.
- Coordinate the analysis of submissions and compilation of comments on WRPs.
- Maintain confidentiality and respect input of all participants.
5. Stakeholder Advisory Panel operating protocols

5.1. Term of office
The nominated member will hold the position on the SAP until the NSW Minister for Regional Water has approved the commencement of the accredited plan.

DPI Water has the right to alter the composition of, or dissolve a panel where it is deemed to be not effectively functioning or achieving its agreed purpose, or where a panel member has breached the Code of Conduct.

5.2. Alternates
Only the primary nominated representative may attend each meeting, unless specified otherwise in Section 3 of these Terms of Reference. In the event a member cannot attend a meeting, an alternative may be permitted subject to agreement by DPI Water.

5.3. Conflict of interest
Panel members are selected to bring forward knowledge and perspectives on water management. It is expected that members may potentially have a pecuniary or non-pecuniary interest in matters discussed by the panel. Given the panel is advisory, rather than decision making, this does not preclude them from contributing to discussion in which they have an interest provided members act in accordance with Code of Conduct (Conflict of Interest section) as detailed below.

5.4. Meetings
It is envisaged that the SAP will require a number of meeting days throughout the WRP development process.

The location and starting time of the meetings will be set prior by DPI Water and members will be advised within a reasonable timeframe.

5.5. Record of meetings
DPI Water will be responsible for recording the panel’s deliberations in relation to water resource planning and the facilitator will ensure that the meeting record is accurate. These will be published on DPI Water’s website.

5.6. Administrative support
Secretariat and other general administrative support will be provided by DPI Water.

The panel will have access to relevant reports and information held by respective NSW Government agencies represented on the panel. Information requested by the panel from the NSW Government agencies must be provided within a reasonable timeframe.

5.7. Reimbursement and remuneration
Standard sitting fees and travel costs for non-Government members will be paid for and administered by DPI Water.

5.8. Communication/consultation
NSW non-government members are not precluded from participating in consultation activities.
6. Code of Conduct

6.1. Principles
Members of the SAP must:

6.1.1. Ensure that the work of the SAP is not compromised or affected by direct or indirect pecuniary or non-pecuniary interest.
6.1.2. Ensure the confidentiality of all information dealt with by the SAP.
6.1.3. Act in good faith for proper purposes.
6.1.4. Be frank and honest in their official dealings with each other.

6.2. Confidentiality
6.2.1. All material dealt with by the SAP shall be treated as confidential, unless otherwise determined by DPI Water. Any member tabling a document may identify it as not being of a confidential nature.
6.2.2. Information available to the SAP must not be used by any member to obtain any advantage, whether direct or indirect, for themselves or for any other person or body.
6.2.3. Confidential information available to SAP members must be used only in ways that are consistent with the obligations of members to act impartially, with integrity and in the public interest.
6.2.4. Where confidential information is provided to a SAP member, care must be taken to ensure that the information is kept secure, and that numbers of copies are kept to the minimum necessary. If such information is to be disposed of by a SAP member, it must be destroyed.
6.2.5. SAP members should avoid investments or business activities in relation to which they might reasonably be perceived to have access to confidential information which might give them an unfair or improper advantage over other persons.

6.3. Improper or undue influence
6.3.1. SAP members must take care not to use their position on the panel to influence any other member on the panel for the purpose of obtaining any advantage for themselves, or any other person or body, whether that advantage is direct or indirect.

6.4. Conflict of Interest
6.4.1. Pecuniary Interests
For the purposes of this code, a pecuniary interest is defined as “an interest that a person has in a matter because of **reasonable likelihood or expectation of appreciable financial or other gain or loss to the person**, or another person or body with whom the person is associated”.

6.4.2. Non-pecuniary interest
For the purposes of this code, a non-pecuniary interest is defined as “an interest that a person has in a matter that is **unlikely to result in a financial or other gain or loss** to the person, or another person or body within whom the person is associated”.

6.4.3. SAP members should declare their pecuniary and non-pecuniary interests by:
- declaring their interests in a statutory declaration which would be kept by the Water Planner
- declaring any additional interests (or interests that no longer apply) at the beginning of each meeting

6.4.4. If:
- a SAP member has an interest in a matter being considered or about to be considered at a meeting of the SAP
- the interest appears to raise a conflict with the proper performance of the member’s duties in relation to the consideration of the matter
6.4.5. Then the member shall, as soon as possible after the relevant facts have come to
the member's knowledge, disclose the nature of the interest to the Water Planner/facilitator at
the meeting.
6.4.6. Any such disclosure will be recorded.
6.4.7. Where a member discloses an interest relating to a matter under consideration by the panel
that member may, with the agreement of the facilitator, contribute to the panel's discussion
of the matter or may be excused for the related agenda item.

6.5. Public resources
6.5.1. Financial, material and human resources are provided through the various Government
agencies so the SAP is able to perform its functions.
6.5.2. All these resources should be used for the work of the SAP only and be used effectively.

6.6. Gifts, gratuities, hospitality
6.6.1. Members must avoid giving any indication that gifts, gratuities or hospitality relating to their
membership of the SAP will be accepted, either for themselves or for any other person or
body, or that these may influence their input.

6.7. Notification of suspected corrupt conduct
that the principal officer of each public authority report to the Commission any matter that is
suspected, on reasonable grounds, to concern corrupt conduct.
6.7.2. In the case of members of the SAP, any matter that is suspected, on reasonable grounds, to
concern corrupt conduct should be reported to DPI Water executive by anyone observing
this conduct.
### Attachment 1.

Groundwater water resource plan areas

<table>
<thead>
<tr>
<th>Water resource plan area name</th>
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<tbody>
<tr>
<td>GW 6 Western Porous Rock</td>
</tr>
<tr>
<td>GW 7 Darling Alluvium</td>
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<tr>
<td>GW 8 Murray alluvium</td>
</tr>
<tr>
<td>GW 9 Murrumbidgee alluvium</td>
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<tr>
<td>GW 10 Lachlan alluvium</td>
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<tr>
<td>GW11 Lachlan and South Western Fractured Rock</td>
</tr>
<tr>
<td>GW 12 Macquarie Castlereagh alluvium</td>
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<tr>
<td>GW 13 New South Wales Great Artesian Basin Shallow</td>
</tr>
<tr>
<td>GW 14 Namoi alluvium</td>
</tr>
<tr>
<td>GW 15 Gwydir alluvium</td>
</tr>
<tr>
<td>GW 16 Eastern Porous Rock</td>
</tr>
<tr>
<td>GW 17 New England Fractured Rock and Northern Basalts</td>
</tr>
<tr>
<td>GW 18 New South Wales Border Rivers Alluvium</td>
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NSW Department of Primary Industries, August 2017