



NSW SUSTAINABLE DIVERSION LIMIT ADJUSTMENT MECHANISM
PROGRAM - MURRUMBIDGEE SUBPROGRAM

Yanco Technical Advisory Group

Draft terms of reference

December 2019



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Yanco Technical Advisory Group

Subtitle: Draft terms of reference

First published: August 2019

Department reference number: DOC19/23524

More information

industry.nsw.gov.au/water

Acknowledgements

In conjunction with the Australian Government's Department of Agriculture, the NSW Department of Planning, Industry and Environment are delivering the NSW Sustainable Diversion Limit Adjustment Mechanism projects under the *Basin Plan 2012*.

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SDLAM Program Overview

Background

The Murray–Darling Basin Plan 2012 sets limits on the amount of water available for urban, industrial and agricultural use in the Basin. These limits are known as sustainable diversion limits (SDLs). The Basin Plan includes a Sustainable Diversion Limit Adjustment Mechanism (SDLAM) to enable environmental outcomes to be achieved with less water recovery from consumptive users such as farmers.

In 2017 the Australian, New South Wales, South Australian and Victorian governments notified a package of 36 supply and constraints projects under the SDLAM program. The Basin states are responsible for implementing the supply and constraints measures. States are also responsible for assisting the Commonwealth deliver efficiency measures under the SDLAM ('upwater'), as opposed to supply and constraints projects ('downwater'). Under the Basin Plan, projects must be ready to enter into operation by 30 June 2024.

The Water division of Department of Planning, Industry and Environment is responsible for delivering the SDLAM program within NSW, which involves 22 separate projects.

You can view a summary of all 36 SDLAM projects on the Murray–Darling Basin Authority website at:

www.mdba.gov.au/basin-plan-roll-out/sustainable-diversion-limits/sdl-adjustment-proposals-state-projects.

In February 2017, NSW signed a funding schedule with the Commonwealth to undertake a stage one preconstruction feasibility study into ten SDLAM projects. These projects are grouped into three subprograms for planning, delivery and efficiency purposes:

- Murrumbidgee
- Darling
- Murray.

Three projects within the Murrumbidgee subprogram closely relate to the Yanco Creek System:

- Improved Flow management Works at Murrumbidgee River (Yanco Creek Offtake project).
 - This project proposes infrastructure capable of raising Yanco Weir pool in the Murrumbidgee River up to 2.5 metres above current full supply level, and the construction of a new regulator in the Yanco Creek offtake cutting.
- Modernising Supply Systems for Effluent Creeks Murrumbidgee River (Yanco Creek System).
 - This project proposes new and/or modified re-regulation weirs, greater use of water deliveries into the Yanco Creek System from Murray Irrigation and/or Coleambally Irrigation earthen channel infrastructure, plus additional flow monitoring locations
- Computer Aided River Management (CARM)
 - A computer program that provides improved river operations forecasting and monitoring capabilities.

WaterNSW developed preliminary business cases for each of these projects in 2015. You can view the business cases on the Murray–Darling Basin Authority website at:

www.mdba.gov.au/publications/mdba-reports/sustainable-diversion-limit-adjustment-mechanism-assessment-draft

There are also aspects of the Murrumbidgee Constraints project that are likely to be relevant to the Yanco Creek System:

- The Murrumbidgee Constraints project proposes to invest in new infrastructure and agreements (for example, water inundation easements) with landholders to enable flows of up to 40,000 megalitres per day delivered into the Murrumbidgee River at Wagga Wagga for managed environmental flow events.

The Water division of Department of Planning, Industry and Environment will engage with the local community and stakeholders throughout the planning, approvals and construction process in accordance with the objectives of the SDLAM program, the stakeholder engagement framework and the Yanco Community Engagement Plan, which will be developed in consultation with the local community and stakeholders.

No decision has been made to proceed with any of the SDLAM project options associated with the Yanco Creek System. The do nothing option remains an option but would likely result in further water purchases from consumptive users by the Commonwealth to meet legislative Basin Plan water recovery targets.

Governance Structure

The SDLAM program has a governance structure that links Sub Programs (including their consultative groups) to relevant Boards and Committees that govern the entire SDLAM Program.

The Yanco Technical Advisory Group (YTAG) is one of four key consultative groups in the Yanco SDLAM Subprogram (part of the Murrumbidgee Sub Program). Figure 1 outlines the governance groups in the Yanco subprogram. The other groups are:

- Yanco Community Advisory Group (YCAG)
- Yanco Aboriginal Advisory Group (YAAG)
- NSW Murrumbidgee Project Steering Committee (MPSC).

YTAG:

- is independent
- escalates issues through the Chairperson to the NSW Murrumbidgee Project Steering Committee and/or Stakeholder Consultative Committee.
- records and maintains minutes of meetings in the department's document management system.

The membership and processes of YTAG will be reviewed by the department at least annually, including these terms of reference.

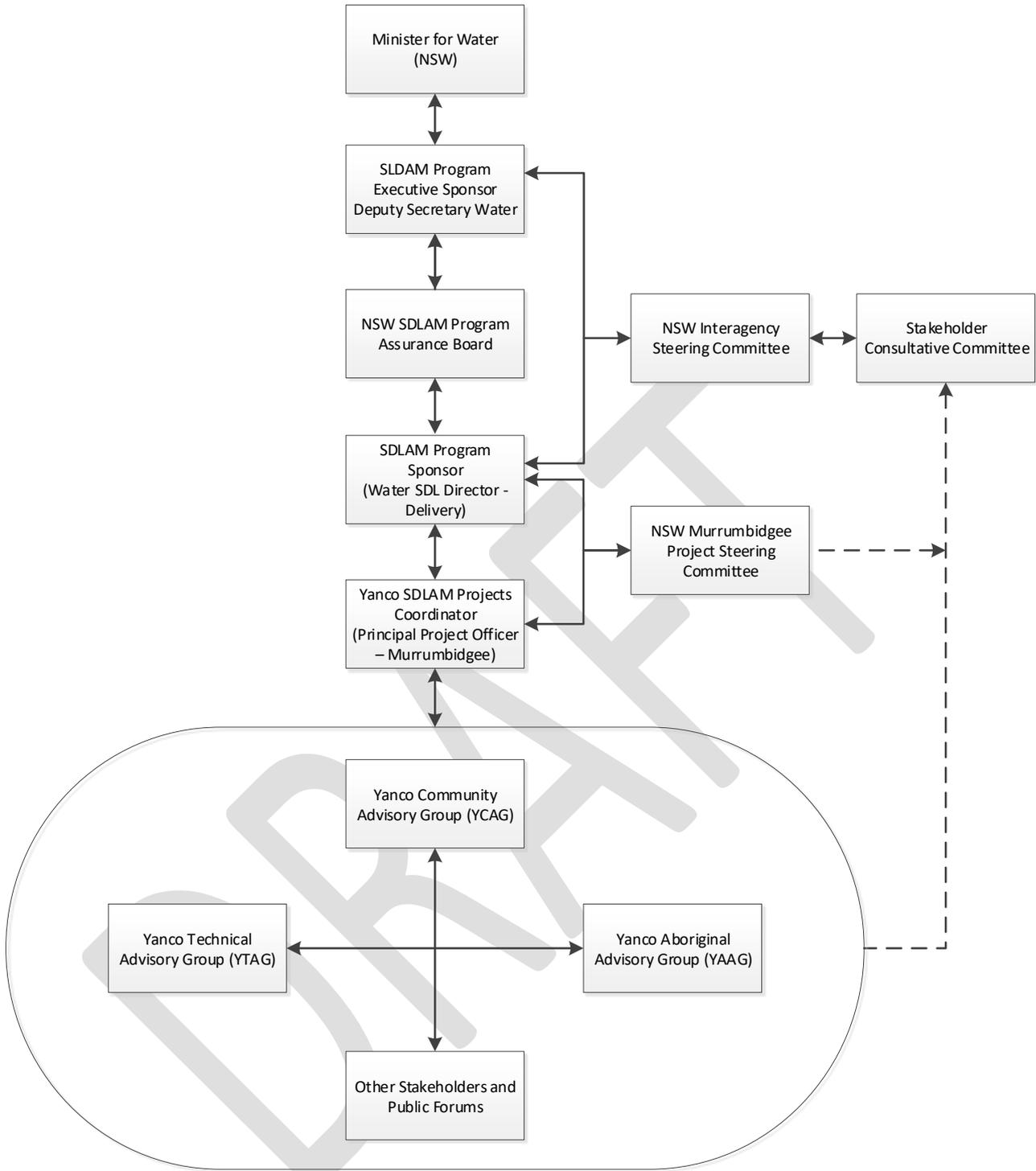


Figure 1. Yanco SDLAM Governance Diagram

Purpose

The purpose of YTAG is to provide a forum for a cooperative, whole-of-NSW Government approach to designing, planning, assessing, monitoring, approving and constructing SDLAM projects associated with the Yanco Creek Offtake and the Yanco Creek System. The projects will assist the NSW Government meet its SDL commitments under the Murray–Darling Basin Plan.

Scope

YTAG will provide technical advice:

- to the department on planning, assessment, monitoring, approval and construction of the SDLAM projects associated with the Yanco Creek Offtake and Yanco Creek System, consistent with delivering outcomes that balance social, economic, environmental and cultural interests. This includes but is not limited to specific advice in relation to:
 - draft project plans with a key focus on:
 - project logic diagrams
 - live risk registers
 - engagement and communication plans
 - program schedules
 - draft project options identification and design
 - draft project options evaluation
 - draft Infrastructure NSW Gateway 1 equivalent review documentation
 - draft Infrastructure NSW Gateway 2 equivalent review documentation
 - procurement
 - planning for lodgement of statutory approval applications
- to other project stakeholders on issues such as:
 - identification of options
 - evaluation of options.

YTAG will not:

- perform any of the functions required by statutory approval agencies such as Department of Primary Industries—Fisheries or the Environment, Energy and Science division (formerly the Office of Environment and Heritage) within Department of Planning, Industry and Environment.

Responsibility

YTAG can make recommendations to the department regarding Yanco SDLAM project planning and implementation. However, it has no decision-making responsibility

Table 1 provides a brief overview of the responsibilities of each key agency or group represented within YTAG.

Table 1. Responsibility of key agencies within YTAG

Agency	Responsibility
Department of Planning, Industry and Environment - Water	Lead NSW agency for the SDLAM program Lead NSW agency on water management
Department of Primary Industries - Fisheries	Lead NSW agency for fish management
Department of Planning, Industry and Environment – Environment, Energy and Science	Lead NSW agency managing environmental and cultural heritage, including NSW environmental water
WaterNSW	NSW state-owned corporation responsible for river operations, water infrastructure management and licensing under the <i>Water Management Act 2000</i> (NSW)
National Parks and Wildlife Service	Lead NSW agency managing National and Regional Parks
Yanco Creek and Tributaries Advisory Council	Representative group of over 150 landholders within the Yanco Creek System
Murray–Darling Basin Authority	Lead federal agency managing the Murray–Darling Basin Plan
Commonwealth Environmental Water Holder	Lead federal agency managing Commonwealth environmental water
Department of Agriculture	Lead federal agency managing federal funding for the SDLAM Program

Membership

Table 2. YTAG Membership

Name	Position	Organisation
Rachel Blakers	Senior Modeller	Department of Planning, Industry and Environment—Water (Modelling Team)
Vacant	-	WaterNSW
James Maguire	Senior Environmental Water Management Officer	Biodiversity and Conservation group within Department of Planning, Industry and Environment
Luke Pearce	Fisheries Manager Murray Lower Darling	Department of Primary Industries—Fisheries
Tanya Thompson	Executive Officer	Yanco Creek and Tributaries Advisory Council
Dale McNeil	Environmental Manager	Yanco Creek and Tributaries Advisory Council
Tim O’Kelly	Senior Project Officer	National Parks and Wildlife Service
Leah Ross	Acting Director SDLAM	Murray Darling Basin Authority (Cth)
Erin Lenon	Local Engagement Officer	Commonwealth Environmental Water Office (Cth)
Steve Oosthuysen	General Manager Operations	Coleambally Irrigation Co-operative Limited
Scott Barlow	Chief Operating Officer	Murray Irrigation Limited

Table 3. YTAG Observers

Name	Position	Organisation
Caitlin Headon	Ranger	National Parks and Wildlife Service
Mark Rowe	Senior Project Officer	Department of Planning, Industry and Environment - Water (Constraints Team)
Frank Cita	Assistant Director Southern Basin Projects	Department of Agriculture (Cth)
Jesse Rowlings	Project Officer	Department of Agriculture (Cth)

Observers have no voting rights and are only able to participate in the discussion when invited to by the Chairperson.

A single proxy representative can attend a meeting in lieu of a member where circumstances prevent the member's attendance. The Chairperson and coordinator should be notified in advance of the meeting of proxy representatives.

A list of membership names and/or these terms of reference will be published on the Department of Planning, Industry and Environment website.

The term of YTAG is to the completion of Stage 1 of the Program (approximately 30 June 2022). Consideration will be given by the department to extending the term to Stage 2 (implementation and construction) subject to funding and governance arrangements.

Yanco SDLAM Project Team members from DPIE Water will attend YTAG meetings to provide advice and answer questions about the projects on an as needs basis.

Secretariat support

The Department of Planning, Industry and Environment will provide secretariat support through a Senior Project Officer or Project Officer.

The secretariat supports YTAG by:

- coordinating meetings
- preparing the agenda
- preparing and/or distributing agenda papers
- preparing and distributing minutes
- maintaining a rolling actions register.

Conflicts of interest

A conflict of interests occurs where a member's private interests make it difficult for them to perform their duties impartially in the public interest. A conflict may be:

- an **actual conflict**, where there is a direct conflict between a member's current duties and responsibilities and their private interests
- a **perceived conflict**, where a person could reasonably perceive that a member's private interests are likely to improperly influence the performance of their official duties, whether or not this is the case
- a **potential conflict**, where a member has a private interest that could conflict with their official duties in the future.

Interests can be pecuniary (involving a likely financial gain) or non-pecuniary.

Group members should declare their conflicts of interest by:

- advising the Secretariat in writing, noting this will be kept on file
- declaring their relevant interests at the beginning of each meeting.

If a member of the group has an interest in a matter being considered or about to be considered at a meeting, and the interest appears to raise a conflict with the proper performance of the member's duties, the following actions should be taken:

- The member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the Chairperson and other group members at the meeting
- Record the disclosures

- Where a member discloses an interest relating to a matter under consideration by the group, that member may, with the agreement of the group, contribute to the group's discussion of the matter
- Where a member discloses a pecuniary interest relating to a matter under consideration by the group, that member must not participate in the final decision-making
- Where a member discloses a non-pecuniary interest relating to a matter under consideration by the group, that member may, with the agreement of the group, participate in the final decision-making. In this case, the member must remain objective so that their interest does not bias or be seen to bias their decision-making.

Meetings

Frequency of meetings

Meetings will meet at least monthly, or as determined by the Chairperson.

Format

Meetings will be chaired by DPIE Water's Principal Project Officer—Murrumbidgee. Meetings consider matters related to the Yanco SDLAM program.

- If the Principal Project Officer – Murrumbidgee is unavailable the chairperson will nominate another senior DPIE Water officer to chair the meeting.

Meetings will be run in accordance with a formal agenda. The style of meetings may change depending on the primary issues of discussion at the time (for example, round table workshop format), but will typically include:

- progress updates including a review of actions
- development of ideas (e.g. alternative options)
- evaluation of options
- program planning
- problem-solving
- conflict resolution
- advice to the department for decision-making.

The format of meetings may be face-to-face, videoconference or teleconference as determined by the Chairperson.

The location of meetings may be rotated to consider equity in travel distances for members.

The Chairperson may seek advice from members on issues out of session.

Operation (including Code of Conduct)

- The group operates in line with the NSW Department of Planning, Industry and Environment's Code of Ethics and Conduct.
- All members must be frank and honest in their official dealings with each other and participate in the best interests of the NSW Government.
- All members must declare any direct or indirect pecuniary or non-pecuniary interests (i.e. actual, perceived or potential conflicts of interest) at the commencement of any meeting and during any meeting if such interests become evident.
- All members must respect the confidentiality of sensitive information as directed by the Chairperson.
- Members may attend meetings in person or via teleconference/videoconference.

- If unable to attend, members must send delegates who are informed, able and authorised to attend in their place.
- From time to time the group may require information or advice from an individual or organisation that has specific and relevant local knowledge. Such input should be arranged through the Chairperson.
- The agenda and supporting papers will be distributed at least one week in advance of scheduled meetings.
 - All agenda items must be forwarded to the Chairperson by close of business two weeks prior to the next scheduled meeting.
 - The Chairperson has the right to refuse to list an item on the formal agenda, but members can raise an item under ‘General Business’ if necessary as time permits.
 - The Chairperson has the right to consider the distribution of late agenda items and/or supporting papers when it is reasonable to do so.
 - The minutes and other proceedings, will be distributed within one week of meetings by the Secretariat (as per requirements of the *State Records Act 1998*)
- The group will prepare and adopt a work plan to guide the forward planning of agendas
- No member is authorised to speak to the media in relation to the SDLAM Program from an YTAG perspective.
 - Members may speak to the media about SDLAM projects on behalf of the organisation they represent if they are authorised to do so, but not in their capacity as a member of the group.

Process

The role of the Chairperson is to:

- provide leadership to the group in its deliberations
- ensure that the group follows the code of conduct outlined in this document and the department’s Code of Ethics and Conduct.
- maintain confidentiality
- use appropriate negotiation, facilitation and conflict resolution tools when appropriate
- assist the group towards decision-making
- ensure that all group members receive copies of documents/papers in a timely manner
- create and manage a cooperative working relationship to assist the group in undertaking its functions and associated actions and measures
- use discretion with regard to the attendance at meetings by non-members and observers
- ensure that, where required, technical experts are invited to provide information to inform the group’s discussions and decision-making
- ensure group decisions are recorded.

The obligations of the group members are to:

- maintain confidentiality where required
- share information with their respective branch and collaborate with other agencies consistent with a whole-of-government approach.
- work as a group cooperatively and inclusively
- participate and negotiate constructively to reach decisions
- contribute personal skills, knowledge and expertise to the decision-making process
- consider the existing budgetary and statutory limitations when developing advice and recommendations
- have the authority to speak on behalf of those they represent.

Decision-making

YTAG will agree on advice and recommendations by consensus where possible. Consensus where the group is satisfied that an issue has been fully canvassed and that the action proposed is, at the least, acceptable to the group and consistent with its objectives and targets.

Where consensus is not possible, a Department of Planning, Industry and Environment—Water representative will record all views and give these views further consideration before making a decision on an appropriate course of action.

Quorum

A quorum is five or more members.

Escalation of issues

If YTAG cannot satisfactorily resolve a matter, the Chairperson may refer the matter to the NSW Murrumbidgee Project Steering Committee and/or the Stakeholder Consultative Committee (SCC) for further advice. Figure 1 outlines the governance groups in the subprogram.

Reporting mechanism

Outcomes of meetings will be minuted and include a rolling actions table with responsibilities and delivery dates.

Minutes will be distributed to all group members.

Issues discussed and/or outcomes may be reported in accordance with the group's communications plan.

Records management

Records of all meetings and deliberations of YTAG will be kept in the Department of Planning, Industry and Environment records management system.

A public communique outlining the key points from each meeting will be published.

Remuneration

Unless otherwise detailed in a formal contract or partnership agreement, there is no remuneration to group members for their participation in group meetings. This means agencies are responsible for staff salaries and travel and accommodation costs related to attending meetings and providing advice to YTAG.

Contact

If you have any questions or feedback about these terms of reference, contact:

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Version History

Table 3. Version history of these terms of reference

Version	Author(s)	Comments	Date
1.0	David Clarke	Preliminary draft	28/06/2019
1.1	David Clarke	Incorporated feedback from Tracey MacDonald (Water SDL Director Enabling)	28/06/2019
1.2	David Clarke	Incorporated discussion points with Tracey MacDonald (Water SDL Director Enabling) from meeting held on 11 July 2019	12/07/2019
1.3	David Clarke	Incorporated feedback from Program Assurance Board. Updated agency names.	30/07/2019
1.4	Rob Irwin	Updated document to latest departmental template and edited content to be compliant with the department's editorial style guide.	14/08/2019
1.5	Rod Hardwick	Reviewed and accepted edited content from Rob Irwin (Editor).	20/08/2019
1.6	David Clarke	Updated membership including provision for Observers. Minor editing and formatting. Provision included for public communicate to be published for each meeting. Incorporation of feedback on feedback on draft plan.	15/10/2019
1.7	David Clarke	Incorporated feedback from the Governance Team	16/10/2019
1.8	David Clarke	Incorporates recommendations from Meeting 1 of the Yanco Technical Advisory Group held on 30 October 2019. Includes a provision for when the Principal Project Officer – Murrumbidgee is unavailable to be the chairperson. Includes membership updates and minor editorial changes.	18/11/2019
1.9	David Clarke	Incorporates feedback from Meeting 2 of the Yanco Technical Advisory Group regarding the deletion of the words <i>"including at least one from Department of Planning, Industry and Environment – Water"</i> from the Quorum. Dates references updated to December 2019.	17/12/2019