



Department of
Primary Industries
Water

Stakeholder Advisory Panel

Terms of Reference

May 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 including:

- 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 WRP areas (and Stakeholder Advisory Panel, SAPs) is summarised in Attachment 1. In order to achieve this, DPI Water has divided the plans into batches, based on common aspirations of stakeholders and capacity of the Department to meet resourcing needs. The first batch of plans due to be completed by November 2018 will pilot this new planning process. Learnings throughout this stage will be used to better inform the development of the second batch of plans (due to be completed by February 2019) and then refined to complete the final batch by July 2019 deadline.

In response to requests from water users for a governance model that allows 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 an appropriate, 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 representative water users and other community stakeholders using water. These changes to governance arrangements will engage stakeholders earlier in the process, and 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.

Surface Water WRPs:

A SAP will be established for each surface water WRP area¹. The surface water WRPs includes both regulated and unregulated water sources. A SAP will also be established where the replacement of a regulated river WSP may extend into the development of WRP for that area.

The composition of the SAP for regulated rivers 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.

For unregulated water sources it is anticipated that only relevant government agency representatives will participate on the SAPs. Other stakeholders will be engaged through targeted consultation.

¹ SW WRPs cover both regulated and unregulated water sources. As such it is proposed the SAP will be established for the relevant SW WRP area but will operate in different ways for the regulated and unregulated rule development.

Where a SAP is established:

- DPI Water is responsible for the review and replacement of WSPs (under Water Management Act 2000), the development of WRPs (under Basin Plan 2012), coordination of adaptive environmental 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, water and climate modelling, monitoring, evaluation, and legal. The working group is responsible for undertaking risk assessments and preparing the WRP and any supporting documentation. This group, mainly through the Water Planner, will be closely interacting with and supporting each SAP.
- SAPs may also be used to get stakeholder input into the development or revision of other instruments required to implement the Basin Plan, such as Long Term Environmental Watering Plans and the Salinity and Water Quality Management Plans.

Groundwater WRPs

A SAP will not be established for the development of WRPs in ground water sources. In these systems DPI Water will engage directly with water users through targeted stakeholder consultation, including with established user groups where necessary.

1.3. Engagement strategy

An engagement strategy will be developed for each WRP to coordinate stakeholder engagement. It will include three main strategies to inform, involve and consult with stakeholders throughout the planning process:

- targeted engagement with the SAP, or directly with water user groups, Aboriginal communities and local environmental interests to provide input into the WRP,
- public exhibition of the draft WRP package, including WSPs, and
- provision of feedback and a commitment to additional engagement where required

The SAP will be one of the main mechanisms to involve primary stakeholders in the planning process for the regulated rivers.

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 is summarised in Figure 1.

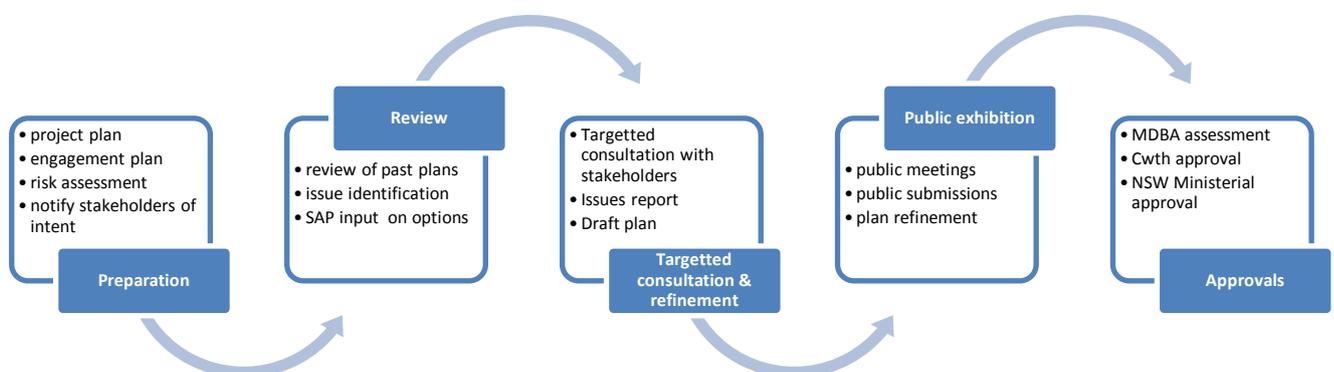


Figure 1. Stages in development of NSW water resource plans

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 each SAP is defined below:

SAP role	DPI Water role
<ul style="list-style-type: none"> • Identify and contribute to water sharing options 	<ul style="list-style-type: none"> • Prepare decision papers and water planning documentation
<ul style="list-style-type: none"> • Provide feedback on water sharing options 	<ul style="list-style-type: none"> • Make recommendations to the Minister on water sharing rules
<ul style="list-style-type: none"> • Provide stakeholder perspective on water sharing issues 	<ul style="list-style-type: none"> • Listen to stakeholder feedback and take this into account in decision making
<ul style="list-style-type: none"> • Provide advice on engagement and communication activities 	<ul style="list-style-type: none"> • Respond to stakeholder concerns and where possible take action
<ul style="list-style-type: none"> • Provide input into the planning process 	<ul style="list-style-type: none"> • Respond to stakeholder concerns and where possible take action
	<ul style="list-style-type: none"> • Provide administrative and executive support for the SAP

Composition and selection

Membership

Regulated river SAP membership:

- 3-4 water users (preference for 3), nominated by the respective Customer Service Committees (CSC)
- 1 Commonwealth environmental water holder (where applicable)
- up to 2 nominations by the respective Environmental Water Advisory Group (EWAG), noting that the 2 key agencies (OEH and DPI Fisheries) are already represented. Where possible, this representation should be aligned.
- 1 DPI Water officer (*WMA 2000* requirements)*
- 1 OEH lead officer (concurrence; environmental water)*
- 1 OEH local representative
- 1 WaterNSW officer (operations)
- 1 DPI (Fisheries) officer (environmental water)*
- 1 MDBA officer
- 1 Aboriginal community representative nominated by Northern Basin Aboriginal Nations (NBAN) or Murray Lower Darling Rivers Indigenous Nations (MLDRIN)
- 1 NSW representative from the relevant Regional Organisation of Councils (ROC)

* Denotes those agencies relevant to unregulated river water sources. The membership composition for unregulated rivers must apply when discussing unregulated rule development.

NOTE: Due to there being no established CSC in the Barwon-Darling and Intersecting Streams areas, nominations for water users will be sought directly from the relevant water users association or appropriate industry groups. As there are also no EWAGs in these valleys, DPI Water will seek the assistance of other organisations such as LLS to nominate community members to represent for non-extractive interests.

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.

3. 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 confidentiality 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 confidentiality 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.

4. Stakeholder Advisory Panel operating protocols

4.1. Term of office

The nominated member will hold the position on the SAP until the NSW Minister for 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.

4.2. 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.

4.3. Conflict of interest

Panel members are selected to bring forward knowledge and perspectives on water management in the valley. 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.

4.4. 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.

4.5. Record of meetings

DPI Water will be responsible for the 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.

4.6. 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.

4.7. Reimbursement and remuneration

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

4.8. Communication/consultation

NSW non-government members are not precluded from participating in consultation activities.

5. Code of Conduct

5.1. Principles

Members of the SAP must:

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

5.2. Confidentiality

- 5.2.1. 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.
- 5.2.2. 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.
- 5.2.3. 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.
- 5.2.4. 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.
- 5.2.5. 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.

5.3. Improper or undue influence

- 5.3.1. 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.

5.4. Conflict of Interest

5.4.1. 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”.

5.4.2. 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”.

5.4.3. 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

5.4.4.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

5.4.5.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.

5.4.6.Any such disclosure will be recorded.

5.4.7.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.

5.5. Public Resources

5.5.1.Financial, material and human resources are provided through the various Government agencies so the SAP is able to perform its functions.

5.5.2.All these resources should be used for the work of the SAP only, and be used effectively.

5.6. Gifts, gratuities, hospitality

5.6.1.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.

5.7. Notification of suspected corrupt conduct

5.7.1.Section 11 of the *Independent Commission Against Corruption (ICAC) Act* requires that the principal officer of each public authority report to the Commission any matter that is suspected, on reasonable grounds, to concern corrupt conduct.

5.7.2.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.

Surface water resource plan areas

Water resource plan area name	Water source present
Lachlan	Regulated & Unregulated
Murrumbidgee	Regulated & Unregulated
NSW Murray Lower Darling	Regulated & Unregulated
Macquarie Castlereagh	Regulated & Unregulated
Gwydir	Regulated & Unregulated
Namoi	Regulated & Unregulated
NSW Border Rivers	Regulated & Unregulated
Barwon Darling	Unregulated
Intersecting Streams	Unregulated