



Terms of Reference

Environmental Water Advisory Groups

Department of Planning and Environment



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1. Introduction

Environmental Water Advisory Groups (EWAGs)¹ are a part of our approach to sustainable and integrated management of water resources for the benefit of present and future generations. They are a vehicle for government and community partnership in using environmental water for beneficial environmental outcomes.

1.1 Statutory provisions

In New South Wales, water sharing plans (WSPs) are developed as regulations under the *Water Management Act 2000*. These plans:

- create an environmental water allocation (both planned and adaptive) that requires active management
- refer to committees established² to inform the department's management of environmental water, including advising the Minister.

These Terms of Reference guide the activities of those committees and their role in environmental water governance. The EWAG has no statutory powers or authority.

1.2 Additional provisions

The *NSW Government Boards and Committees Guidelines*³ are a basis for these Terms of Reference and accompanying committee procedures. EWAGs will also comply with relevant Department of Premier and Cabinet Memoranda, Circulars and Public Service Commission Directives.

The committee's Public Service Classification and Remuneration level is C1 (DOC17/91475).

The government of New South Wales and its partners have agreed on principles for working together and with communities in the *Murray–Darling Basin Plan 2012 Implementation Agreement, 2013*. Additionally, the *CEWO and the Department Partnership Agreement* considers EWAGs as the primary mechanism for stakeholder advice and consultation on environmental water management.

1.3 Murray–Darling Basin Plan

The NSW Government has signed the *Intergovernmental Agreement to Implementing Water Reform in the Murray Darling Basin*. Under these obligations, NSW water sharing plans will be incorporated into water resource plans. This integrates the EWAGs within the Basin Plan framework, and aligns the EWAG's objectives to Basin Plan commitments. EWAGs are an important source of local advice for managing water that can contribute to the environmental outcomes sought by the Basin Plan and New South Wales.

¹ These committees have various names, but for the purposes of this document they will be referred to collectively as Environmental Water Advisory Groups (EWAGs).

² The statutory basis for EWAGs is Section 388 of the *Water Management Act 2000*.

³ http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0003/174342/NSW_Government_Boards_and_Committee_Guidelines_-_Updated_September_2015.pdf

2. The role of Environmental Water Advisory Groups

2.1 Environmental Water Advisory Groups objective

The purpose of the EWAG is determined by the role they fulfil in water sharing plans, under the *Water Management Act 2000* and in relation to the Commonwealth's *Basin Plan 2012*.

The objective of the EWAG is to advise the department on managing environmental water to maximise ecological benefit, while identifying risks and mitigating adverse impacts. Each EWAG will assimilate a range of knowledge and experience from communities and government agencies, and strive to reach consensus in formulating advice. Recommendations will be minuted by the department and will note whether consensus was reached. If consensus was not possible, the range of opinions will be tabled and the majority position noted.

In the deliberation of issues, each EWAG will:

- focus on the environmental benefit
- consider diverse points of view
- reflect on the local context
- refer concerns through the proper channels
- seek more information when needed.

EWAGs are not forums to debate broader water policy, influence water recovery, or make claims for water allocation.

2.2 Scope of Environmental Water Advisory Groups advice

The area subject to EWAG advice will be defined by the relevant water sharing plan. However, consideration may also be given to influences outside of the water resource planning boundary.

EWAGs may provide advice for all water used to achieve environmental outcomes. This includes, but is not limited to:

- rules-based or planned environmental water (allocations established under water sharing plans)
- adaptive environmental water (water licences dedicated for environmental use, water savings gained through efficiency measures).

Water sharing plans may also specify a number of sub-categories of environmental water, defined by their ecological objectives, which are also covered by this scope.

Environmental water can be held by the NSW Government, or other entities holding water for an environmental outcome. It is not incumbent on other entities to implement the advice of EWAGs, however, they may consider the discussion and advice from EWAGs in their watering activities.

EWAGs may provide other advice to the department where it relates to their role and objectives. EWAGs will not provide advice on resource (water) allocation, water trading or unrelated policy development. In some cases, the Minister for Lands and Water may seek specific advice from an EWAG in accordance with the relevant water sharing plan.

EWAGs will consider the continuity of environmental water management activities over a number of years and is not restricted to planning for one water year.

2.3 Limits to decision making

The department is responsible for operational decisions in relation to the management and use of environmental water in New South Wales, in consultation with relevant agencies and stakeholders. EWAGs have not been delegated decision making powers by government. Final watering actions may take other information or considerations into account and may not be consistent with the final advice of the EWAG. The department will, where practicable, seek to provide an explanation to an EWAG where this occurs.

The decision, in an EWAG, is the advice given to government, in the form of an annual environmental watering plan (and priority statements).

For example, this might occur due to a change in the amount of available environmental water following trade, or where assumptions about planned environmental water use underpin the EWAG decision. Should these assumptions not eventuate, such as if planned water use is not delivered as expected, then a different approach for the use of held environmental water would be necessary.

2.4 Responsibility for Environmental Water Advisory Groups

The department is responsible for an EWAG Executive Officer to provide administration and executive support to EWAGs as the primary vehicle for localised, informed, community input on its water management.

The department will administer selection and appointment of Chairs and EWAG members, a process which is elaborated in the membership framework.

The department conducts due diligence in the management of environmental water. It is not the responsibility of the EWAG to seek agreement from landholders, assess costs and benefits of watering, manage risk, or any other activity outside the provision of advice.

2.5 Advice

The advice sought from the EWAG is in relation to the effective delivery of environmental water to maximise ecological benefits. Advice may include scientific, technical, political, social and cultural considerations if they affect the ability for the department and others to maximise the outcomes of managing environmental water. The premise for an advisory group is to bring together a number of different sources of knowledge, and have considerations deliberated by members who have committed to achieving an outcome. The basis for seeking a consensus is to improve the quality of decisions made by the department by referencing different perspectives and creating acceptable solutions for different interests, rather than prioritising one outcome to the detriment of another.

EWAG advice will represent the culmination of a discussion that considers both supply and ecological demand of environmental water, overlain with consideration of opportunities, constraints and risks. As such, it is expected that the advice will include identification and consideration of risks for mitigation and management, as well as opportunities for the efficient use of environmental water to maximise ecological benefits within known constraints.

The collective advice of an EWAG is contained within the minutes of EWAG meetings and summarised in the valley's the department's *Annual Environmental Watering Priority Statement* and the operational framing of water delivery events.

2.6 Consensus decision making

EWAG members should strive to reach a consensus in relation to the advice produced by the group. Where consensus cannot be reached, decisions and recommendations will be minuted by the department, including information on the range of opinions and the majority position.

In reaching consensus, the decision makers should be satisfied that the issue has been fully canvassed and that the proposal is, at the least, **acceptable** to all, and consistent with EWAG objectives.

For further guidance refer to the *EWAG Decision Making Framework*.

2.7 Deliverables

EWAGs will provide the following to the Department of Planning and Environment:

- Objectives, priorities and targeted outcomes for environmental water use for the upcoming water year via an annual environmental water plan. The EWAG is required to provide this advice to the department for inclusion into a draft statement⁴ to Murray–Darling Basin Authority (MDBA) by the end of May each year.
- When providing its input to the annual environmental water plan, the relevant EWAG will consider specific advice required under the current water sharing plan or water resource plan.
- Advise of any proposed alteration to the objectives, priorities and targeted outcomes in the annual environmental water plan. This may arise due to a change in circumstances in the valley such as significant change in antecedent conditions.
- Information on the availability, management and outcomes of environmental water for use in adaptive management planning, and inclusion in an annual report and other communications products.
- Contribution to the department in its ongoing review of group processes, performance and function as described in this Terms of Reference.

⁴ The *Statement of Annual Environmental Watering Priorities* is a Basin Plan requirement, with a specific format.

3. Membership

The NSW Minister for Environment and Heritage will appoint the members and Chairperson to the EWAG, nominally for 3 or 5-year terms. Refer to the membership framework for more information on appointment and tenure.

Membership is based on the range of contributions that members can make to fulfil the objective of the EWAG. The basis for EWAG membership is further described in the EWAG Membership Framework.

Drivers for membership consists of including enough members for diverse representation based on contribution, while keeping numbers low enough to ensure meeting efficiency. Membership also needs to find a balance that considers community diversity and includes local voice. Membership of each EWAG is required to be based on the representative categories outlined below. The Minister will also use discretion in final appointment of the committee.

Individual EWAG members may represent or be drawn from the following categories for membership. Categories may require more than one member to satisfy a geographic or other need.

3.1 Membership categories

- Aboriginal communities
- Commonwealth Environmental Water Office
- Non-government organisations: community
- Non-government organisations: riparian and wetland
- Non-government organisations: scientific
- NSW bulk water operator
- NSW Government – fisheries
- NSW Government – land management, primary production and healthy landscapes
- NSW Government – water planning, policy and management
- NSW Government – wetland ecology, environmental water manager
- Private wetland and floodplain land managers
- Public wetland and floodplain land managers
- Waterway operators, including irrigation entities and organisations who make a knowledge contribution to environmental watering

The department convenes the EWAGs as part of their environmental water manager function. The department supports EWAGs to achieve their objective and also contributes as an EWAG member.

When choosing representatives, organisations should refer to the EWAG position descriptions. The appointment of new members will follow the *NSW Government Appointment Standards: Boards and Committees in the NSW Public Sector*.

The process for joining, participating in, and leaving an EWAG is detailed in the EWAG Membership Framework. It also discusses how to balance membership within the EWAG given some categories (e.g. Aboriginal knowledge or private wetland managers) may require more than one member to cover the required breadth of knowledge and/or spatial representation.

4. Member roles and responsibilities

4.1 All members

Refer to the Position Description for Environmental Water Advisory Group Member.

4.1.1 Alternatives

An alternative is a second member for a role. They may represent an EWAG member when that person is unable to attend. On these occasions, the alternative is accorded the same rights and responsibilities as the member, including payment of pre-approved remuneration and expenses where appropriate. The EWAG Executive will prepare the alternative for a meeting by providing any necessary extra information.

An alternative's familiarity for the subject matter needs to be maintained in order to contribute to the discussion when required. It is the responsibility of the member to keep their alternative briefed on the subject matter and status of discussion. The EWAG can support this by providing meeting summaries to alternatives, using mentors, or occasionally accompanying the member as an observer. It is the Chair's responsibility to strike a balance between meeting size and well-informed alternatives.

Alternatives are an important part of the EWAG membership. They may form part of the group's succession plan, and contribute to the communication of current watering activities and breadth of environmental water knowledge in the community.

4.2 Chairperson

Refer to the Position Description for Environmental Water Advisory Group Chairperson.

4.2.2 Deputy Chairperson

In the absence of the Chairperson, the committee may elect a deputy from the members. A Deputy Chairperson may not substitute for the Chair for more than half the meetings in any 12-month period, without the agreement of the committee. The Deputy Chairperson will have the same role and responsibilities as the Chair.

4.3 Executive Officer and Executive Support

Executive (secretariat and administrative) support will be provided to the EWAG by the department. The EWAG Executive Officer will ensure effective function through appropriate processes. Specifically, they will:

- manage meeting arrangements (venue, catering, travel and accommodation)
- undertake meeting administration (agenda preparation, distribution of business papers, minute taking, recording and follow-up on actions)
- coordinate and facilitate communication between members, using the methods most appropriate to each member
- be the central point of contact for all stakeholders in order to keep accurate records
- ensure annual water planning, undertaken through the EWAG, meets the department planning timeframes
- assist in implementing the EWAG communications and engagement plan
- ensure members are inducted and their capacity building needs are met
- enable members to claim eligible reimbursements and entitlements

- manage EWAG membership and liaise with the department (EWG) for nominations and appointments (see EWAG membership framework)
- manage EWAG related records (see 6.4 Records)
- manage disputes and grievances according to the department grievance procedure
- coordinate a biennial evaluation of the EWAG.

The Executive Officer role is distinct from the environmental water manager role of the department, which is not described here.

4.4 Mentors

A mentor can be any EWAG member who can assist other members with induction and succession planning. A mentor may help new members integrate with the group, reduce feelings of alienation, and improve overall participation. The Chairperson is strongly encouraged to pair new members, or alternatives, with more experienced participants.

Further guidance on mentoring can be found in the EWAG Membership Framework.

4.5 Observers (invited guests)

The Chairperson, via the Executive Officer, may invite guests to meetings. The Chairperson must ensure that any guest's involvement does not impede the operation or effectiveness of the group, and ensure that their role and purpose at the meeting is clearly understood. Observers may be expected to present information to the group, respond to questions, and participate in discussion relating to the topic. Observers should tailor their presentation to the audience, and reflect on how any presented information can help EWAG members fulfil their advisory function.

Observers are required to

- follow meeting protocols
- follow the Code of Conduct, which includes conflict of interest, and grievance procedures
- abstain from any decision making.

Induction material may be used for the information of the observer.

Inviting observers to meetings can be a useful tool to allow **community representatives** to view the EWAG process, have an opportunity to provide alternative perspectives and insights, and broaden the audience of environmental water.

EWAG Chairs and Executive Officers may include a plan for including observers as part of their communications and engagement plan. The objective of providing transparency needs to be balanced with the potential to constrain meeting efficiency and decision making capacity and to introduce high transaction costs.

5. Governance and operational guidance

5.1 Code of Conduct

The EWAG Code of Conduct deals with conflict of interest, confidentiality, public comment and other areas. The code should be endorsed by the EWAG and included with induction materials.

5.2 Privacy

Personal or organisational contact details of members are maintained by the department and shared with the EWAG membership to facilitate good communication, and with the department officers who need to contact members in the course of their work. Members can access and request amendment of their contact details.

Volunteered personal information (for example, opinion recorded in approved minutes) may be used by the department. Such personal information recorded at EWAG meetings may be available for the department internal use by those who need the information for their work. EWAG members can access and correct their private information by request. The department's *Privacy Management Plan*⁵ applies to EWAGs and the department staff who may have access to private information as part of their role.

EWAG members are also expected to treat personal information, including opinion expressed in meetings, as private.

The department's Privacy Management Plan can be provided.

5.3 Grievance procedures

Grievances may include

- reports of third party impacts of environmental watering
- grievances within the EWAG, such as complaints about other members, and about the operation of the EWAG
- complaints about the department or the Chairperson.

These are addressed separately in EWAG Grievance Procedures.

For allegations of corrupt conduct or maladministration, refer to the EWAG Code of Conduct.

5.4 Review of the group

The Chairperson, assisted by Executive Officer, is responsible for facilitating members' participation and completion of a biennial self-evaluation of the EWAG. The evaluation will review the effectiveness and performance of the EWAG and identify challenges and enablers for:

- the EWAG as a whole
- members' participation within it.

This process is incorporated into the EWAG Biennial Business Plan (to be established).

⁵<http://www.environment.nsw.gov.au/resources/whoweare/150239privacy-plan.pdf>

5.5 Review of the Terms of Reference

This Terms of Reference should be reviewed 5 years from the date of approval. This Terms of Reference will be available to EWAG members and others on request.

6. Administrative arrangements

6.1 Meetings

Meetings will be closed to the general public. The Chairperson and Executive Officer will determine meeting locations and times in consultation with members. The full committee must meet not less than twice a year and may meet up to 4 times per year, unless specific circumstances warrant variation. To meet the May deadline for draft annual watering plans, the relevant planning meeting should occur by the first week of May.

6.2 Attendance and quorum

A quorum will comprise of half the total number of members plus one. At least 2 community representatives and 2 representatives of government agencies must be present. A meeting will not be convened without a quorum.

6.3 Sub-groups

Sub-groups may need to be convened on occasion and on a temporary basis, to allow exploration in greater detail on particular matters. These will be convened with the agreement of the EWAG, to report to EWAG, and all significant outcomes that impact on the ability of the EWAG to achieve its objectives should be tabled for agreement at the next ordinary EWAG meeting.

6.4 Records

An accurate record of the proceedings of every meeting, its business papers, correspondence, and tabled reports or presentations, shall be kept by the Executive Officer and entered into the department's record management system. Minutes must record decision points and EWAG advice, and properly record consensus and other views.

All meetings materials should be provided to each committee member as soon as practicable after each meeting. Abridged or redacted meeting records may be used for communication by the department or members to a broader audience.

A TRIM Guideline for EWAG Executive Officers is available.

6.5 Environmental Water Advisory Group communications

Increasing demands are placed on EWAGs to disseminate a range of information about any and all water management activities including water reform processes, planning and management and river operations. Though EWAG's can provide information about its role and deliberations, EWAG's are principally a decision making forum for environmental water.

The department will provide communications and engagement resources for EWAGs to conduct their business. These resources will align with the department's *Community Engagement and Communications Strategy*. These resources may include provision of communication products to share the results of environmental water planning and delivery decisions and information about an EWAG's role, its members and decision making processes.

The department will work with EWAG's to determine broader community needs for information and communication materials. General enquiries about water management that fall outside of and EWAG's responsibility should be directed to the relevant agency.

6.6 Representation at other meetings

Where the Chairperson or an EWAG representative is invited or delegated to attend other meetings as a representative of the EWAG, they will do so at their own expense unless prior approval for expenses has been granted by the department.

The EWAG should agree on the appropriate delegate to attend other meetings, to represent the EWAG and distribute information back to the group. When representing the EWAG, the delegate is expected to represent the views of the EWAG and supply current and accurate information which contributes to the discussion, and be mindful of the privacy of other EWAG members (see Privacy section above). If the member is not comfortable expressing the views of the EWAG, the member should ask the EWAG Chairperson to find a replacement.

EWAG delegates should not be expected to represent environmental interests (which is an appropriate role for the department staff), 'the general community', or their organisation, in other forums. An EWAG representative should focus on how the issue under discussion impacts on the delivery of water for environmental benefit.

6.7 Induction and capacity building

The department is responsible for providing induction materials to new members to allow them to participate in EWAG meetings. The department may also deliver capacity building activities to improve member participation. Members can request information or learning activities for this purpose.

EWAG Chairs will also meet annually to remain current, share processes, learn from each other and access the department's Environmental Water Governance team.

Planning for capacity building will be incorporated into the EWAG Biennial Business Plan (to be established).

6.8 Sitting fees

Sitting fees will be paid to EWAG community members for their participation in meetings and as recognition of their value and expertise, and to support member retention and group functionality.

Sitting fees are determined by the Public Service Commissioner, following classification of the EWAG as a statutory committee (see *NSW Government Boards and Committees Guideline*). Following appointment described in the EWAG Membership Framework, sitting fees can be paid at the recommended rate (see Public Service Commission for current rate at Level C1). A full day will be paid for meetings of 4 hours or more duration. Half-day sitting fees will be paid for meetings of less than 4 hours.

All remuneration will be subject to PAYG tax and will be reported as a salary cost. Sitting fee payments can only be made in the name of the member, but can be remitted directly to a nominated bank account of a partnership, company or trust, however, PAYG tax will still be withheld from the amount due.

If a sitting fee is paid to an organisation, a tax invoice will be required before payment can be made.

Public sector employees appointed to NSW Government boards and committees do not receive fees.

7. Expenses

The actual costs of travel, accommodation and meals for EWAG meetings and any other committee related business approved by the department can be reimbursed to members.

- Members who are government employees will arrange for costs to be met by their respective agency.
- Members who are employees of the organisation they are representing may be reimbursed directly or choose to have the reimbursements paid to the organisation, or forego reimbursement.
- Other members will be reimbursed for the actual out-of-pocket cost of travel, accommodation and meals associated with their role on the committee.

Where possible, bookings and payment for travel and accommodation should be arranged by the EWAG Executive Officer directly.

7.1 Claims

To claim reimbursement, members should provide original receipts or a tax invoice (for expenses of more than \$50). A tax invoice is a receipt that shows GST and ABN.

Members are personally responsible for tax implications and meeting the Australian Tax Office requirements. Members are advised to keep all receipts necessary for their tax records and to be aware of the allowance limits regularly updated by the Australian Tax Office.

Reimbursements will be limited to the maximum daily amounts updated annually by the Office of Finance and Services. Rates can be found via the Boards and Committees section of Department of Premier and Cabinet.

7.2 Accommodation and meals

Reasonable, pre-approved accommodation and meal expenses necessary for meeting attendance will be reimbursed or covered by the department.

7.3 Air, rail, taxi and bus fares

Where members have booked and paid for their own flights, used air tickets (boarding passes) and original tax invoices will be required with the reimbursement claim. Reimbursement must be pre-agreed and will be for the value of economy class travel.

Rail, taxi and bus fares up to \$50 in value may be claimed by submitting tickets or taxi receipts. Tax invoices are required for any expenses over \$50.

Standard travel claim forms will be provided by the Executive Officer.

7.4 Use of private motor vehicles

A member may claim reimbursement for use of a private motor vehicle for approved EWAG related travel. The Executive Officer is responsible for providing information and forms.

Motor vehicle owners are covered by their comprehensive insurance for use of their vehicle when attending EWAG meetings. However, Treasury policy dictates that the owner must have:

- a certificate of registration with 'green slip' insurance

- a valid driver's licence
- comprehensive motor vehicle insurance, which indemnifies the department against any loss or damage occurring while the vehicle is on official business.

The department requires copies of this documentation before it can authorise members for use of personal motor vehicles. EWAG members are responsible for advising the department of any changes to this information and providing an annual update. Payment of the motor vehicle allowance is dependent on the indemnity of the department in the vehicle's comprehensive insurance policy. Insurance companies are usually willing to add this indemnity to a policy as a matter of course.

Reimbursement of private motor vehicle usage is made on an annually adjusted rate per kilometre, as listed on the department travel expenses claim form. Payments made up to 5,000 kilometres have a tax-free threshold, while payments over 5,000 kilometres are fully subject to tax.

7.5 Use of personal light aircraft

Committee members who choose to use personal light aircraft to travel to meetings may be reimbursed for travel costs to the meeting, subject to prior agreement with the department and based on an equivalent cost of motor vehicle travel.

7.6 Extra expenses

Extra expenses (alcohol, mini bar, entertainment, etc.) will not be reimbursed.

8. Related documentation

- EWAG Membership Framework
- Position Description for Environmental Water Advisory Group Member
- Position Description for Environmental Water Advisory Group Chairperson
- EWAG Code of Conduct
- Privacy Management Plan
- EWAG Grievance Procedures
- EWAG Decision Making Framework
- EWAG Biennial Business Plan Template
- TRIM Guideline for EWAG Executives
- EWAG Communications and Engagement Strategy