

# Broken Reconfiguration Feasibility Study

## Consultative Committee –Terms of Reference

### Introduction

The purpose of this Terms of Reference is to outline the roles, responsibilities, and principles of conduct for the Consultative Committee to be established for the Broken Reconfiguration Feasibility Study. This document provides a high-level introduction of the study and outlines the broader context, within which, the study will be delivered as well as the processes and principles that the Consultative Committee will operate under.

### Broken Reconfiguration Feasibility Study Objectives

The objective of the Broken Reconfiguration Feasibility Study is to identify the preferred option(s) for the regulated Broken River System that is determined to best meet the long-term needs and aspirations for entitlement holders and other key stakeholders.

The process for this should:

- focus on the options that assist the local community in the Broken system to adapt to reduced water availability and ensure a sustainable future for a productive catchment.
- be built on productive engagement with communities and robust processes and data to ensure achievement of whole of system outcomes that support regional development.
- be implemented as soon as possible, noting the clear support from the community and the implications of possible reconfiguration on other recommended investments and programs proposed as part of this review.

The study presents significant opportunities to identify reconfiguration options that will provide enhanced cultural, environmental and recreational outcomes for the Broken system, recognising the significant values it possesses. The proposed governance structure is illustrated below and the background leading to the Broken Reconfiguration Feasibility Study is outlined in Appendix 1.



## Broken Reconfiguration Feasibility Study Consultative Committee Purpose

A Consultative Committee is essential to facilitate a community-centred and place-based approach using co-design principles.

It will be involved at key times to provide considered input and advice on the study's direction and deliverables to ensure that it meets its overall objectives. The study will be very much a forward-looking exercise recognising the extensive current knowledge base derived from previous reviews and extensive local expertise and identifying ways to ensure that the Broken System and the landscape it supports retains its many and diverse values into the future.

Areas where advice will be sought include:

- Study principles, risks and drivers
- New information on system values, attributes, limitations and opportunities
- Community and stakeholder views, characteristics and consultation processes
- Appropriateness and validity of high-level study outputs (e.g. technical findings)

It is important to note that feasible options will need to be:

- Consistent with the requirements of Victorian and Commonwealth water legislation and the Victorian water entitlement framework.
- Accord with Victorian water policy and obligations under the *Murray-Darling Basin Plan*.
- Consider multiple benefits and impacts, including economic, social, cultural and environmental.
- Robust under likely future water availability scenarios.

## Consultative Committee Processes and Functions

DEECA establishes the Consultative Committee as a non-statutory advisory committee from the date of these Terms of Reference with support for its administration from Goulburn-Murray Water (GMW). It is not a decision-making body. Its functions are to consider and discuss local perspectives on opportunities to reconfigure the Broken River System in line with the study's objectives and principles.

DEECA may amend these Terms of Reference in writing at any time and may revoke these Terms of Reference in writing at any time and upon revocation of these Terms of Reference the Consultative Committee ceases to exist. Should there be a revocation or amendment

## Consultative Committee Accountabilities

The Consultative Committee will provide its recommendations or advice through a series of structured discussions and as required by these Terms of Reference.

Each member of the Consultative Committee is required to comply with these Terms of Reference, and each member's ongoing participation in the Consultative Committee is their implied acceptance of these Terms of Reference.

## Timeframe and Indicative Meeting Schedule

The Consultative Committee will operate no later than June 2024 unless an extension is granted by the DEECA. It is expected to meet five times through the life of the study according to the proposed meeting schedule in Table 1.

Meeting #	Approx. Timing	Proposed Meeting Focus
1	Aug/Sept 2023	Terms of Reference Study Introduction (Origins and Scope) Study Delivery Plan Summary Study Principles Communication and Engagement Plan
2	Oct/Nov 2023	Lessons learnt from previous reconfiguration projects Definition of 'feasibility' Review of research report

Meeting #	Approx. Timing	Proposed Meeting Focus
		Consultative Committee identification of high-level reconfiguration options (what should be explored)
3	Dec 2023/Jan 2024	Test identified reconfiguration options Test identification of zones Review next stage engagement plan
4	Feb/Mar 2024	Review engagement feedback Review assessment of options including information from customer engagement, cost benefits assessment, risk assessment Review final stage engagement plan
5	May/June 2024	Study finalisation and close-out

**Table 1. Consultative Committee proposed meeting schedule and focus**

## Roles and Responsibilities

### Consultative Committee members will:

- Draw on their local knowledge and experience and contribute to the development of the study consistent with its objectives.
- Responsible for fairly and accurately reflecting the views of stakeholders with similar interests or, in the case of agency representatives or participants nominated by an organisation, to represent that organisation's/agency's views in such a way
- Review and discuss papers presented to the Consultative Committee.
- Prepare for and attend Consultative Committee meetings either virtually or in person where possible and if they cannot attend, send apologies.
- Seek to support broader community engagement activities

### The Independent Facilitator will:

- Facilitate the Consultative Committee proceedings in an impartial and professional manner
- Lead the Consultative Committee to support discussions for study guidance and foster a culture of respect and inclusion.
- Confirm the dates, locations and frequency of Consultative Committee meetings in close consultation with the Project Team
- Ensure that the study considers the views, opinions and issues raised by the Consultative Committee.
- Communicate closely with the Project Team on any matters raised by the Consultative Committee that warrant further investigation.

### The Rural Water Policy Team of DEECA will:

- Assist with the appointment of the Consultative Committee.
- Manage the overall project (budget, deliverables etc.)
- Provide support to the Project Team.

### Goulburn Murray Water (GMW) will:

- Assist with the appointment of the Consultative Committee.
- Provide support to the Project Team including technical information as well as payment of remuneration and expenses for the Consultative Committee.

### The Project Team will:

- Coordinate and administer services for development and maintenance of the Consultative Committee including report writing, attending meetings in an observer/presenter/facilitator capacity and secretariat services such as preparation of agendas, meeting papers and minutes.
- Develop study deliverables such as reports, maps etc.

- Provide technical information and other items to inform meaningful discussion by the Consultative Committee

## Principles of Conduct

The Consultative Committee is expected to operate in alignment with the following guiding principles:

- Honesty and respect in all aspects of communication.
- Professional courtesy and fairness in working with others.
- Provide opportunity for all Consultative Committee members to participate in the discussion.

The Consultative Committee will support a collaborative approach through:

- Respect for all individuals, despite differing opinions
- Open and honest discussion
- Encouraging innovative thinking and being open to different ideas
- Acknowledging that difficult discussions may take place
- Contributing to a safe and collaborative environment for concepts, issues, and knowledge to be shared
- Treating sensitive issues discussed within the study with respect and confidentiality
- Providing input and commentary in alignment with study timelines.

## Term of Appointment

Members are appointed for the term of office specified in their letter of appointment unless there is an extension to the operation of the Consultative Committee.

## Remuneration and Expenses

Subject to the Government's [Appointment and Remuneration Guidelines](#) (Guidelines) and these Terms of Reference, an eligible member is entitled to receive remuneration for their service on the Consultative Committee as set out in their letter of appointment.

In accordance with the Guidelines, the Consultative Committee is classified within Group C Band 3.

A member who is a public sector employee is only eligible to be paid remuneration as determined in accordance with the Guidelines. This typically will only be the case if they are on the committee in a community member capacity.

A Member is entitled to the reimbursement of reasonable travelling and personal expenses directly related to their service on the Consultative Committee at the rates, and on the terms, that apply to public sector employees.

To claim for remuneration and expenses, members must:

- complete GMW's Commencement Form and other required forms, on appointment
- submit Claim Forms to the Project Team as required, together with supporting evidence.

## Changes in Consultative Membership

Whilst there is a desire to have continuity in Consultative Committee membership, DEECA, without cause or notice, may remove a member from the Consultative Committee at any time and for any reason or for no reason at all.

The Consultative Committee membership becomes vacant if-

- a member resigns in writing addressed to DEECA;
- a member is removed from the Consultative Committee;
- a member dies or in the opinion of the Project Steering Committee, becomes incapable of performing their duties;
- a nominating body advises DEECA, in writing, that it wishes to nominate a new person for appointment as a member to represent them;

(e) a person who is a representative of a particular organisation ceases to be employed by that organisation, or otherwise ceases to represent that organisation.

Upon a vacancy occurring in the Consultative Committee, the vacancy may be filled by DEECA in accordance with these Terms of Reference and in consultation with GMW.

## Meeting Procedure

The Consultative Committee is expected to meet every two to three months, with members to review and confirm the proposed meeting calendar.

Meeting locations and any site visits will be subject to the latest public health advice, with virtual meetings as an alternative.

Meetings are expected to take no longer than four hours in person (including lunch/refreshments) and will be significantly lesser if they are conducted completely online.

Members are expected to attend as many meetings as possible and in person attendance is preferable.

The quorum of a meeting consists of a majority of the members presently appointed to the Consultative Committee.

The Independent Facilitator, must ensure, as far as practicable, that every member has adequate opportunity to participate in discussions.

Given the *in-camera* nature of meeting discussions, they will not be formally minuted, however notes will be taken to inform the project's implementation with written communiques and an action register subsequently provided to Consultative Committee members and the Project Team.

## Consultative Committee Membership and Observers

The composition of the Consultative Committee will include up to seven full members, key agency representatives and members of the project team.

Key agency representatives will be invited from:

- Taungurung Land and Waters Council Aboriginal Corporation
- Yorta Yorta Nation Aboriginal Corporation
- Goulburn Broken Catchment Management Authority

Other nominated agencies with an interest in project outcomes will be invited to participate in Consultative Committee meetings as observers. Observer agencies invited to Consultative Committee events are anticipated to include:

- North East Water
- Victorian Environmental Water Holder
- Regional Development Victoria
- Local government (e.g. Benalla Rural City Council)

## Confidentiality

Members should note the requirements of sections 79(2) & (3) and 81(1)(c) of the Public Administration Act 2004 in regard to confidentiality as if they were a director of a 'public entity'.

On the termination or expiry of a member's appointment, the member must return all documents relating to the Consultative Committee to the Project Team, or if material was provided in electronic format then all material must be deleted.

## Conflicts of Interest

In these Terms of Reference:

- (a) a '**conflict of interest**' is a conflict between a member's public duty to act in the best interests of the Group and their private interests. It includes a **conflict of duty**, which is a conflict between a member's public duty to act in the best interests of the Group and their duty to another organisation (e.g. due to their role as a board member or employee of that organisation).
- (b) A private interest:

- may be **direct** or **indirect**; and
- can be **pecuniary** (financial) or **non-pecuniary** (non-financial), or a mixture of both. A non-pecuniary interest may arise from personal or family relationships or from involvement in sporting, social, or cultural activities, etc.

(c) A conflict of interest exists whether it is:

- **real** (i.e. it currently exists);
- **potential** (i.e. it may arise, given the circumstances); or
- **perceived** (i.e. members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the member's performance of his/her duty to the Group, now or in the future).

Any conflict of interest arising will be managed within the functions of the Consultative Committee, which require that members must declare the nature of the interest:

- (a) in full at the first meeting of the Consultative Committee; and
- (b) if they become aware of an additional conflict of interest during discussions, as soon as possible after becoming aware of the interest.

The Independent Facilitator at a meeting at which a conflict of interest is declared must note in consultation with the Consultative Committee how the conflict of interest will be managed.

The Independent Facilitator is responsible for monitoring the management of real, perceived and potential conflicts of interest in accordance with these Terms of Reference and must notify DEECA in writing as soon as practicable after becoming aware of any breach, including whether the breach is material.

## Privacy

The Consultative Committee and Project Team must comply with the requirements imposed by or under the *Privacy and Data Protection Act 2014*.

## Freedom of Information

Members of the Consultative Committee should be aware that all documents of the Consultative Committee (such as meeting agendas, papers, communiques) will be held by the Department and will be subject to the *Freedom of Information Act 1982*.

# Appendix 1

## Broken Review Context

In December 2019, the Victorian Minister for Water (Minister) announced a review of the regulated Broken River system, in response to concerns raised by Broken system entitlement holders (both irrigation and domestic and stock users), along with the Victorian Farmers' Federation, about the performance and sustainability of the Broken River Irrigation System.

The *Broken system review 2020-22* recognised that average annual inflows have declined, impacting all water users, and responded to the clear need to consider how to manage the system in the future in a drying climate.

Started in early 2020, the review was undertaken by the Department of Energy, Environment and Climate Action (Department), led by a Project Steering Group (PSG) comprising seven local entitlement holders, together with agency representatives. The review aimed to investigate the impact of ongoing dry conditions and low inflows in the recent past, as well as under future climate projections, and to identify any feasible system management changes to respond to the changing climate. Work included technical investigations, a survey of entitlement holders and consultation with key stakeholders and the community.

## Broken Review Outcomes

The PASG submitted the '*Broken System Review 2020-22 – Final Report*' (final report) to the Minister, supported by the Department and GMW, on 10 August 2022. The final report set out seven recommendations for the future management of the Broken system.

The Minister confirmed her acceptance of all recommendations made by the PSG on 8 September 2022, with the PSG's final report and associated 'closing the loop' report then published on <https://engage.vic.gov.au/broken-review>, along with previously released information from the PSG.

The final report grouped the seven recommendations on the future water management of the Broken River system under five broad categories. The first four categories included actions that could support entitlement holders to make the most of available water in the system. The fifth category looked at investigating the potential for a future reconfiguration of the Broken system. Recommendation 7, under Category 5, is considered by the PSG to be the principal priority for future work and is the purpose of this project.

### Recommendation 7 - Reconfiguration feasibility study

*A feasibility study of how the Broken system could be reconfigured should be done – including the potential for a reduced irrigation footprint – so that the local community can understand long-term options for the future of the valley with reduced water availability.*

The PSG considered reconfiguration to encompass shared water delivery and regulation infrastructure, from the storage to the property outlet. It also indicated that the volume of entitlements in the system compared to its storage and river loss characteristics means that the timing and volume of allocations will continue to create water use planning challenges in drier years. Recognising the increased likelihood of these conditions, the PSG indicated that a feasibility study for preferred reconfiguration options will help entitlement holders and other key stakeholders better plan for the future.