

Connections Project

Independent Reviewer

Terms of Reference

The Independent Reviewer's role is to undertake reviews of:

1. Landowner submissions to the draft final reconfiguration plan: and/or
2. The undertaking of works (including the installation, upgrading, replacement or decommissioning of assets)

The Independent Reviewer is appointed by the Department of Environment, Land, Water and Planning (DELWP).

The Independent Reviewer will be known as the "IR".

PART 1 – Landowner Submissions to the Draft Final Reconfiguration Plan

1. Purpose

The purpose of this Part of the Terms of Reference is to set out the functions and operations of the IR regarding the submission process, which is a part of the Statutory Reconfiguration Engagement process, as developed by the Project.

The Independent Reviewer is to provide recommendations to the Connections Reconfiguration Committee (CRC) as to whether GMW's reconfiguration plan and/or proposed landowner agreement for on-farm works are consistent with the engineering and technical requirements of the Project's Operational Rules and Policies.

2. Responsibilities

The key responsibilities of the IR include:

- Review landowner and relevant interested party submissions which are received by the Project and relate to the Project's application of the Project's Operation Rules or policies in the:
 - draft final reconfiguration plan; or
 - the proposed landowner agreement for on farm works; or
 - both;
- Provide a recommendation to the CRC in light of the matters contained in the submission as to whether or not the Project has applied the Operational Rules or policies in a consistent manner; and
- Ensure submissions are considered and recommendations are made in a timely and efficient manner to support Project Delivery (see Appendix 1).

The key responsibilities of the Project in relation to the IR are:

- Undertake an initial assessment of all submissions and provide a recommendation and report on the submission.
 - Where the Project upholds a submission, no input will be required from the IR, but a copy of the report will be provided to the IR for information only;
 - Where the Project rejects a submission, and it is engineering or technical in nature, it will be referred to the IR for review;
 - Where a partial rejection of the submission occurs, the full report showing the

elements accepted and elements rejected will be provided to the IR, but the IR will make recommendations only on the rejected elements.

- Provide evidence, documentation and access to relevant staff to the IR to complete tasks in accordance with this Terms of Reference.

3. Reporting

The IR must provide the Landowner, the CRC and DELWP with recommendations on each landowner or relevant interested party submission they consider.

This may be by email or hard copy.

Reporting must be in line with Appendix 1 unless otherwise agreed with the CRC.

PART 2 – Review of Works

4. Purpose

The purpose of this Part of the Terms of Reference is to set out the functions and operations of the IR regarding review of works undertaken as part of the project.

Where requested by a Landowner, the Connections Project Director and agreed by DELWP, the IR will review works undertaken compared to the legal agreement, designs and relevant standards.

The IR will make recommendations based on the following criteria (as applicable):

- the rules of procedural fairness*;
- potential implications of its decisions on successful project delivery;
- any information provided or not provided by the Landowner;
- any relevant GMW policies and procedures;
- any reports or information provided by GMW;
- independent irrigation design expert advice; and
- any other relevant documents or information brought to its attention.

* Refer to Appendix 2 for further details.

To avoid doubt, the IR in making any recommendation, may (acting reasonably) decide to exercise its judgement in preferring or weighing one of the criterion (listed above) over another criterion, provided the IR justifies the basis for the relevant decision, except that the IR must act in accordance with requirements on procedural fairness (see Appendix 2).

5. Key responsibilities of the Project

- Provide evidence, documentation and access to relevant staff to the IR to complete tasks in accordance with this Terms of Reference.

6. Reporting

The IR must provide the Landowner, the Connections Project Director and DELWP with recommendations on each landowner or relevant interested party submission they consider.

This may be by email or hard copy.

Reporting must be within 2 weeks of receipt of all relevant information unless otherwise agreed with the Connections Project Director and DELWP.

PART 3– General

7. Structure

The IR will operate with primary responsibility to DELWP.

The IR is appointed, remunerated and managed by DELWP.

8. Conflict of Interest

The IR is expected to adhere to and manage any conflicts of interest in accordance with relevant Victorian Government policies.

If IR has a conflict of interest either real or perceived in a matter to be considered the IR must disclose that interest.

If that interest is:

(a) A pecuniary interest: the IR must

- Refer the matter to DELWP for an interim IR to be appointed by DELWP for this matter.

(b) Any other form of conflict of interest: the IR must

- refer the matter to DELWP for an interim IR to be appointed by DELWP for this matter.

9. Privacy and Confidentiality

The IR is required to meet the Victorian Government and GMW's Privacy and Confidentiality requirements.

10. Membership

The IR will be an individual person appointed in their personal capacity based on their water industry and technical experience, including major project delivery.

The IR will be appointed by DELWP. In the event the IR is absent, DELWP may appoint an interim IR for a prescribed period on the same terms as this document.

External subject matter experts may be called on as necessary to provide specialised knowledge in the event the IR's experience is limited in a particular field (see 11. Subject Matter Experts).

In the event the IR requires expertise from the Project, the IR can seek the advice of the Project through direct communication with the Manager Engineering.

11. Terms and Performance Assessment

The IR is appointed for an initial contracted period. At the conclusion of this initial contract period the IR may be eligible for reappointment after review of performance by DELWP.

The IR's appointment will be reviewed annually with consideration given to the nature of submissions received in the previous year and the balance of skills and experience required to attend to such submissions; this is to ensure the IR has the most relevant qualifications for the role.

12. Role of the IR

The role of the IR is to provide recommendations in light of the application of the Project's Operational Rules and policies, as raised by a landowner and/or relevant interested party during the submission process.

In order to fulfil this role, it will be necessary for the IR to:

- Maintain a thorough understanding of the Project and the Terms of Reference;
- Understand the Project's Operational Rules and policies developed for the efficient and effective delivery of the Project;
- Ensure appropriate records are detailed and maintained; and
- Ensure appropriate privacy and probity issues are raised.

13. Financial Delegations

The IR will not have a financial delegation.

14. Meetings

The IR will meet or provide services to the Project on an as needed basis and deliver to service levels as agreed between DELWP, the Project and the IR.

15. Secretariat or Administrative Assistance

The IR may require a Secretary or Administrative Assistant.

If a Secretary or Administrative Assistant is appointed the remuneration will be managed by DELWP.

The Secretary or Administrative Assistant will be responsible for circulating the recommendations of the IR and supporting documentation to the CRC and DELWP within a reasonable time of the review of the submission.

16. Subject Matter Experts

The IR may retain special legal, accounting, or other consultants or experts deemed necessary in the performance of its duties.

External subject matter experts may be called on by the IR as necessary to provide specialised knowledge in the event the IR's experience is limited in a particular field. Prior to accessing the services of an external subject matter expert the IR must seek the approval of DELWP.

17. Use of Technology

Email and hard copy will be used to provide the IR with the details of the landowner and relevant interested party submissions received.

Appendix 1. Service Level Agreement (DFRP Submissions only)

	SERVICE	TIME PERIOD
1	IR review of landowner and relevant interested party submission regarding the application of Project Operational Rules	5 business days or as agreed between the IR and GMW Connections Project Manager Engineering*
2	Project to provide information to IR upon request for additional details	3 business days or as agreed between IR and GMW Connections Project Manager Engineering
3	IR to provide report to the Landowner, the CRC and DELWP containing recommendations from the review	1 business day from completion of review or as agreed between IR and GMW Connections Project Manager Engineering*

*Note – an extension to the IR review period in Item 1 & Item 3 may only occur with the written consent of the Project and DELWP.

Appendix 2 – Procedural Fairness

Procedural fairness deals with how the IR makes recommendations as opposed to what recommendations are made.

Broadly speaking the rules of procedural fairness require:

- ensuring an appropriate investigation into the matter:
 - the IR must conduct its investigations without unnecessary delay; and
 - the IR must allow a landowner / interested party the right to review a recommendation only where there is an obvious and clear error of fact, policy or procedure.
- acting fairly and lack of bias:
 - the IR must be free from bias or any conflict of interest (e.g. personal, financial, family relations);
 - the IR must act reasonably and use sensible and pragmatic judgement to ensure that it only takes into account relevant facts (for example the baseline / scope of works in relevant legal agreement); and
 - the IR must not ignore facts / issues that are central to making any recommendations.
- ensuring the existence of written evidence to support all decisions / recommendations:
 - the IR must act reasonably by making recommendations that are based on verifiable written evidence, instead of unverifiable verbal evidence (unless there is compelling reason to do so).
- inquiring into the matters in dispute:
 - the IR must make reasonable inquiries or investigations before making any recommendation;
 - the IR must genuinely consider any written submission either party may make;
 - the IR must keep a full record of all investigations that are made; and
 - the IR must clearly state the grounds for its recommendations, and where possible, by referencing evidence supporting recommendations.