

Reconnecting River Country Program

Communique from meeting #2 with private landholder reference groups

Acknowledgement of Country

We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Introduction

The Reconnecting River Country Program landholder reference groups met for the second time, in early August 2023, to hear the latest updates on preliminary program components and methodologies and to provide feedback to shape program development.

Two private landholder reference groups have been established for the Murray project area and one for the Murrumbidgee project area. Each group consists of four to six members with each member representing a minimum of five declared stakeholders.

During the second meeting, reference group members had the opportunity to hear from program staff, to ask questions and provide their initial thoughts on:

- scoping an approach to flow easements
- scoping an approach to compensation
- draft negotiation assistance
- draft agreement components.

The content presented was consistent across each group. Discussions with reference group members were focused on program-wide positions or policies.

In addition to our reference group consultations, we are speaking directly with landholders to gather their individual property information and share information about the Impact Management Toolbox.

Insights into feedback received from meeting #1

Formal feedback from reference group members, and their declared stakeholders, was received via a print and online survey. In meeting #2, reference group members were provided with a summary of the feedback received from this survey. Members heard the program is considering all feedback and will produce a summary report outlining how it will inform program development.

Program update

The program is in the development phase and is currently funded until October 2023. The NSW and Australian Governments are discussing next steps for the program.

The program is continuing to engage with stakeholders to better understand the needs of individual landholders and is seeking informed feedback to refine program development.

Reference group members heard that the content presented in meeting #2 is draft and for testing purposes only. No decisions on draft methodologies have been made. The program is seeking feedback on these potential approaches before releasing them to the wider community. Testing through the reference groups provides an opportunity to shape the methodologies during the program's development phase.

Subject to funding beyond October 2023, the program team is working toward delivering a final business case(s) incorporating descriptions of environmental, social, economic and cultural impacts and benefits, mitigation options, compensation framework for works and measures and delivery costs and flow option recommendations. The final business case(s) will be submitted to the Australian Government for assessment and an investment decision for program delivery.

The landholder reference group process is one of several engagement approaches to reach more stakeholders and incorporate a greater diversity of perspectives into program development.

The reference groups also heard about the program's high-level governance arrangements, critical decision making and quality assurance checks.

Scoping an approach to environmental flow easements

In meeting #1, reference groups were introduced to the concept of environmental flow corridors. A corridor is the area of land to be used to deliver water for environment flows up to the selected flow option, including flow buffers (if applicable). Flow corridors would provide river operators with the right to release environmental water up to the flow limit, within the flow corridor. Flow corridors would also provide landholders with certainty on the maximum flow extent (including buffers) to be expected from environmental water releases.

In meeting #2, landholder reference groups discussed the necessary criteria for a successful instrument to secure environmental flow corridors.

The criteria would ensure the instrument establishes:

- enduring agreements on title
- protections for river operator liability
- a process for negotiating compensation payments to landholders affected by program flows.

Landholders would continue to access and use their lands within the current land use regulatory framework.

The program has explored a range of options to secure environmental flow corridors including (but not limited to) covenants, event-based agreements, land use planning zones, floodplain management plan zones and conservation agreements.

After exploring a range of options, flow easements have been identified as the preferred mechanism to secure flow corridors, if the program proceeds to delivery.

Private landholder reference group members heard:

- flow easement boundaries would encompass the preferred flow option and buffer (if applicable) on landholdings in the flow corridor
- land valuation would be informed by a registered surveyor’s plan of flow easement boundaries
- flow easement terms need to be simple and limited to permitting delivery of environmental flows in the flow corridor
- there may be scope to constrain easement terms on a seasonal basis – subject to further testing.

Scoping an approach to compensation

Reference group members were taken through the draft compensation approach including the method for valuing a flow easement, determination of possible flow easement boundaries, assessment of compensation and negotiation of mitigation works if required.

Image 1. Draft flow easement compensation approach



Draft negotiation assistance

Reference group members discussed the draft negotiation assistance package which would be made available to affected landholders in line with the [Land Acquisition \(Just Terms Compensation\) Act 1991, \(Just Terms Act\)](#), if the program proceeds to delivery.

Reference group members were introduced to examples of assistance including:

- legal costs reasonably incurred
- valuation fees of a registered valuer reasonably incurred
- other reasonably incurred financial costs related to the actual use of the property resulting from an easement.

The program is also exploring provision of an additional fixed amount in recognition of the landholder time required to undertake negotiations. This is yet to be determined but would be consistent across the program.

Draft agreement components

Reference group members heard if a decision is made to fund and implement the program, a contractual agreement with the landholder would potentially include:

- agreement to register the flow easement in gross on the land title
- agreement by the landholder to release the river operator from future liability inundating the land in question from program environmental flows up to the flow limit plus buffer (buffer may be part of the flow easement)
- agreement to enable the agreed mitigation works or funding of works (if applicable)
- a schedule for the compensation payment (including the flow easement payment)
- agreement for some landholders to allow monitoring, evaluation and research in the inundation area (in a small number of cases)
- landholders will be responsible for ongoing operations and maintenance of program funded mitigation works.

Potential tax implications are also being explored by the program. If the program is funded to delivery, landholders should seek professional advice to address their individual circumstances.

Seeking landholder feedback

Landholder reference group members were appointed via an Expression of Interest process earlier this year (2023). This process was open to all landholders across the project areas. Each applicant was required to identify at least five declared stakeholders they would consult with to provide feedback to the program.

Following the meeting, supporting materials were provided to members to share with their declared stakeholders. Feedback was gathered via a survey asking questions on each of the topics presented. This survey was designed to allow members and declared stakeholders to provide individual submissions directly to the program. Diverse opinions were welcomed.

Next steps

The feedback provided by the reference group members and their declared stakeholders will be used to inform the ongoing development of the program.

Continuation of the reference groups will be subject to funding, resource availability and review. As outlined in the Terms of Reference, unless otherwise advised, the term of the reference groups conclude on 29 October 2023.

Ongoing engagement opportunities

Reference groups are just one-way landholders can provide feedback to the program. Over the last two years, the program has also consulted with affected stakeholders in several ways including:

- through property-scale case studies
- on-Country assessments
- through local advocacy groups
- via online case studies.

If you are a landholder with property impacted by the flow options being considered by the program and would like to be involved in property specific engagement, register at dpie.nsw.gov.au/reconnecting-river-country-program.

Find out more

- visit dpie.nsw.gov.au/reconnecting-river-country-program
- email admin.rrcp@dpie.nsw.gov.au
- subscribe for updates at water.nsw.gov.au/RRCPUpdates

To view the program's inundation mapping visit: water.nsw.gov.au/rrcp-inundation-mapping