

# Town Water Risk Reduction Program Draft Quality assurance framework for the department's regulation and assurance of local water utilities

August 2022



**CENTRAL NSW  
JOINT ORGANISATION**

- Bathurst
- Blayney
- Cabonne
- Cowra
- Forbes
- Lachlan
- Oberon
- Orange
- Parkes
- Weddin



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Chair Cr Kevin Beatty, Mayor, Cabonne Council

1 August 2022

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**Re: Town Water Risk Reduction Program Draft Quality assurance framework for the department's regulation and assurance of local water utilities**

Local Government Regional Joint Organisations (JOs) were proclaimed in May 2018 under the NSW Local Government Act 1993. The Central NSW Joint Organisation (CNSWJO) represents over 200,000 people covering an area of more than 50,000sq kms comprising the Local Government Areas of Bathurst, Blayney, Cabonne, Cowra, Forbes, Lachlan, Oberon, Orange, Parkes, Weddin, and Central Tablelands Water.

Tasked with intergovernmental cooperation, leadership and prioritisation, JOs have consulted with their stakeholders to identify key strategic regional priorities. The CNSWJO Strategic Plan can be found here: [https://docs.wixstatic.com/ugd/51b46b\\_31886650ecf546bc916f15e99a733b3e.pdf](https://docs.wixstatic.com/ugd/51b46b_31886650ecf546bc916f15e99a733b3e.pdf)

Thank you for the opportunity to respond to the Town Water Risk Reduction Program's draft Quality assurance framework for the department's regulation and assurance of local water utilities (LWUs).

We make the following general comments.

In particular we welcome acknowledgement that the department will take a *transparent approach to quality assurance using internally and externally focussed metrics that will encourage accountability, procedural fairness, accessibility and responsiveness.*

The CNSWJO has provided feedback to the TWRRP in previous submissions that critical to the successful implementation of the new regulatory and assurance framework will be cultural change within the DPE Water Utilities section and a commitment and time to effecting a change from a partially applied regulatory approach to a well-resourced 'support' approach.

We recognise that this quality assurance framework (the framework) is a means of addressing this cultural change through the identification of the initial focus areas that target DPE Water staff training and understanding of the objectives of the new regulatory approach including their role in its implementation and administration.

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It is agreed that this is an important place to start and metrics that measure the number of staff trained and their understanding and application of the new regulatory approach together with other internal indicators and measurements around context, leadership and support are necessary from an internal change management perspective.

For the LWU sector (external stakeholders) the greatest performance measures of these internally focussed areas will not be in how many staff are trained, although we agree this is critical, but in how this translates in the support provided on-the-ground to LWUs to deliver quality secure water and wastewater services to their communities as well as the ease of working collaboratively with DPE Water to manage their responsibilities as the regulated.

As such, a timeframe for outcomes focussed KPIs is both essential and would be welcomed. Further, this region is putting up its hand to work closely with DPE on capacity building as we have done in the past with International Association of Public Participation (IAP2) training. It will be important to have our regulators sitting by our side at the same level learning the same language around process improvement and collaboration.

It is anticipated that internal understanding of what the revised approach is aiming to achieve and how it seeks to do so including clarity around roles must happen *early*.

This region is very concerned that the change required is long term, the effort required is substantial and there is no timeframe for what the longer-term approach will be other than that it *is an iterative process that should happen frequently (page 17)*.

While we welcome commitment by the department to working with the sector on future monitoring arrangements, for there to be true accountability and transparency key risks should be identified, analysed and evaluated in accordance with a contemporary risk management framework and process, ISO 31000:2018 to measure this outcome upfront. This must include KPIs and timeframes for achieving these.

Finally, it is suggested that the critical area of change needed from the department, as identified by the Auditor General and the sector, is to welcome and grow its role in **support of LWUs**. There is little in this framework that measures its support role and as is well known – if it is not measured, it is not valued. In this sense, the framework enables the ongoing overreach of the past. The sector would welcome metrics that measure the *support* role of the department. This would need to include how the department would manage the tension between its regulatory and support roles.

Regarding the 3 questions asked:

1. ***Does the framework support ensuring the department is managing the key risks flagged in the regulatory and assurance framework for local water utilities? How could this quality assurance framework be improved to better support utilities with transparency and robust decisions?***

The CNSWJO supports advice from the NSW Water Directorate that *key risks should be identified, analysed and evaluated in accordance with a contemporary risk management framework and process, ISO 31000:2018 to measure this outcome.*

*Risk registers and risk controls should be continually reviewed and updated for best practice in consultation with Local Water Utilities as the 'risk owners'. The risk management framework and process should be customised and proportionate to the Department's internal and external context related to its objectives.*

Further a timeframe for outcomes focussed KPIs is both essential and would be welcomed.

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The focus should be on the operational performance of the department and whether it provides the necessary *support* to LWUs to manage their risks not on the management of those risks. We can't lose sight of the NSW Auditor General's report which ultimately was about the support provided by the department to LWUs.

The regulatory and assurance framework should be about how internal and external stakeholders can determine whether the department is delivering on its support role and what metrics there should be to provide that assurance to stakeholders.

As you know from sector engagement, there are concerns that the culture of the department will impact on the implementation of the new regulatory and assurance framework. The sector will be looking for assurance that department staff are embracing the new collaborative, support approach and the metrics need to reflect this to gain the trust of the regulated.

In the first instance this framework is saying it is taking small initial steps. It needs to identify the pathway to the larger outcomes and the extent to which these first steps are contextualised into the bigger picture. This includes how the findings will be shared transparently with industry.

Arguably, this framework ought to identify short term, medium- and long-term outcomes and the pathway to these, where long term outcomes include public reporting on progress. At present, taking a "baby steps" approach is only short term and does not provide any framework for how the longer term will be tackled except for commentary around learning from these initial efforts.

**2. Does the framework support helping leaders within the department to understand how we are performing as a regulator and ensuring resources are being allocated efficiently and effectively?**

Yes - though it is suggested that the strong collaborative approach that has been adopted by the TWRRP through the development of the revised regulatory and assurance framework should continue with the workshopping and agreement of what success looks like and the development of specific metrics.

With respect to internal quality assurance – any measures of performance of the department's internal regulatory and assurance functions should be audited by an independent party to ensure it is a robust, realistic and transparent process. It is all too easy for internal performance assessments to be skewed by assumptions about performance. These need to be informed with robust data around the delivery of the department's support and regulatory role on the ground.

This region makes this commentary based on experience in using internal review and independent review. The independent review is typically more robust, tougher and useful in terms of driving change.

See commentary under question 3 on specific internal quality assurance focus areas and measurements.

**3. Have we selected the right quality assurance focus areas and performance measures?**

This remains to be seen. As detailed above, we agree that (page 7) *it is critical that the transition to a new quality assurance approach is managed in a way that allows staff to adapt to and understand what the department are seeking to monitor and why.*

While we support the concept that long-term success is founded on a staged approach to implementing a quality assurance framework, as detailed in response to question 2, the framework needs to identify the pathway to the larger outcomes and the extent to which these first steps are contextualised into the bigger picture. Irrespective of the number of metrics, the challenge will be in ensuring that what is being measured is meaningful.

It is suggested that the strong collaborative approach that has been adopted by the TWRRP through the development of the revised regulatory and assurance framework should continue with the workshopping and agreement of what success looks like and the development of specific metrics. As always, any assessment of the effectiveness of existing measures and potential expansion of scope should be done in partnership with the sector.

### Internal quality assurance measures

Broadly we support the three internal quality assurance focus areas of: context, leadership and support and welcome commitment by the department to work with internal and external stakeholders to guide decisions on how monitoring of additional focus areas should be sequenced and implemented.

Specific comments on focus areas are provided below.

Reference - Table 2. Internal quality assurance focus areas outlined in AS ISO 9001:2016

Potential focus areas	Definition	Comments
<b>Planning</b>	The department has in place a clear plan on how to address risk and opportunities related to its regulatory functions.	It needs to be clear that we're talking about the department's risks in the delivery of its regulatory functions. Further, planning ought to be undertaken in collaboration with the sector identifying the longer-term outcomes, how small initial steps work towards these and what success looks like. This region has concerns that despite the Auditor General's Report and the good work of the TWRRP, little if anything has changed to date in terms of the controlling overreach of some departmental staff.
<b>Operations</b>	The department has in place processes and documentation to support the regulatory and assurance framework and guide performance of its regulatory objectives.	It needs to be clear that the processes and documentation referenced are to support <i>the department</i> in the delivery of the regulatory and assurance framework.
<b>Performance evaluation</b>	The department has in place a process, systems and the capability to assess its performance against the objectives defined in the regulatory and assurance framework	There should be some external third-party check of the department's assessment of its own internal processes.

It's reasonable that the focus should initially be on the training of DPE Water staff especially where the focus is changing to a support approach for LWUs. Understanding how many staff have been trained and how much they understand the new approach is reasonable although it is how this is applied and the external impact that will be the most telling.

Where the new regulatory framework seeks to be more collaborative in approach, there are some internal quality assurance focus area measurements that will require input from the LWU sector to be meaningful. Specific examples of this and other comments relating to indicators and measurements are provided below.

Reference - Table 3. Internal quality assurance focus area-context

Indicator of regulatory performance	Measurement	Comments
<p><b>Internal understanding</b> Staff and leadership clearly understand the department's regulatory role and approach, and understand their role in implementation and administration</p>	<ul style="list-style-type: none"> <li>Regular staff pulse survey to measure the depth of understanding and application of the regulatory and assurance framework by staff. This should then influence the agenda of team and executive meetings</li> </ul>	<ul style="list-style-type: none"> <li>It is doubtful that the success of application of the regulatory framework by staff can be measured from an in-house survey in isolation from those who it is being applied to i.e. LWUs.</li> </ul>
<p><b>Alignment with vision</b> The department's regulatory activities are aligned with sector vision and objectives, as outlined in the new regulatory and assurance framework</p>	<ul style="list-style-type: none"> <li>Qualitative assessment undertaken by department – reconciliation of activities proposed/undertaken with vision and objectives, including contribution to meeting vision/objectives</li> <li>Assessment of the alignment between intent and implementation, with a discussion of this across teams and peer to peer</li> </ul>	<ul style="list-style-type: none"> <li>It is doubtful that a qualitative assessment can be done without engagement with the LWUs to determine whether objectives have been met. A qualitative assessment should be undertaken by an independent assessor or at least the assessment undertaken by the department should be checked by an independent party.</li> <li>Alignment between intent and implementation is also something that needs to be done with the sector. e.g. it's easy to say that a collaborative support approach has been taken but the success of this lies in whether those who are being collaborated with and supported feel that this is the case. It's easier to 'engage' and to measure 'engagement' than it is to measure collaboration.</li> </ul>

Reference- Table 4 Internal quality assurance focus area-leadership

Indicator of regulatory performance	Measurement	Comments
<p><b>Clarity of roles</b> Roles and responsibilities are clearly identified and allocated, and required activities are understood by staff responsible for execution</p>	<ul style="list-style-type: none"> <li>• Each aspect of the regulatory process is defined, with a clear description of what success looks like for each job and role</li> <li>• Management and leaders have clear decision-making responsibilities and exercise these in a timely manner</li> </ul>	<ul style="list-style-type: none"> <li>• It is suggested that ‘what success looks like’ is something that needs to be agreed with the LWU sector.</li> <li>• Is this internally focused decision -making or externally focused decision making e.g. 60 day turn around on S60 approvals? see comments elsewhere about challenges to decisions.</li> <li>• There needs to be a focus on support in all of this where this is the critical change in culture required.</li> </ul>
<p><b>A common understanding of success</b> There is a clear articulation of what success looks like, and leadership are aligned in communicating this to staff and stakeholders</p>	<ul style="list-style-type: none"> <li>• There is guidance and communication from leadership on what ‘good’ looks like in terms of decision making and the allocation of effort</li> <li>• There is a risk framework available that is updated regularly</li> <li>• There is documentation on assigned roles and responsibilities</li> </ul>	<ul style="list-style-type: none"> <li>• Again, it is suggested that what success looks like is developed in collaboration with the LWU sector.</li> <li>• A risk framework needs to be informed through understanding how the application of the regulatory framework is going on-the ground with the LWUs.</li> <li>• Communication of assigned roles and responsibilities would be very useful to LWUs where in the past it has been very hard for LG to obtain even an organisational chart to understand who the go-to officer is for specific issues as they arise.</li> <li>• There needs to be a focus on support in all of this where this is the critical change in culture required.</li> </ul>

Reference- Table 5 Internal quality assurance – support

Indicator of regulatory performance	Measurement	Comments
<p><b>Consistency of understanding</b> There is a clear understanding of how work should be conducted that is consistent across leaders, managers and teams</p>	<ul style="list-style-type: none"> <li>• Availability of guidance materials</li> <li>• Contemporaneity of guidance materials – i.e. have they been updated within specified timeframes</li> <li>• Regular staff pulse survey to measure the depth of understanding and application of the regulatory and assurance framework by staff. this should then influence the agenda of team and executive meetings.</li> </ul>	<ul style="list-style-type: none"> <li>• This indicator is particularly important where in regional NSW, LWUs work closely with regional staff who in the past have sometimes provided conflicting advice to staff in head office. Clarity across all staff will be good.</li> <li>• Currently we are receiving feedback that over-reach continues. <b>It will be important for both DPE Water staff and industry to see that industry will be providing feedback at some point.</b></li> </ul>

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<p><b>Risk identification and management</b></p> <p>Leaders scan for potential challenges and work to manage them. Staff feed insights and intelligence to leaders to support early identification of risks and challenges.</p>	<ul style="list-style-type: none"> <li>• A monitoring approach for risks and challenges to delivery (including demand, skills, capability, etc.) established and implemented</li> <li>• Issues identified based on monitoring, and response plans are developed within a reasonable time frame</li> <li>• Insights from the monitoring approach inform discussions at team and executive meetings</li> </ul>	<ul style="list-style-type: none"> <li>• How will this be informed by feedback from the sector to adequately address the risks to delivery by the department staff on the ground? See comments under response to question 1 on the need for key risks to be identified, analysed and evaluated in accordance with a contemporary risk management framework and process, ISO 31000:2018 to measure this outcome.</li> </ul>
<p><b>Capability uplift and resourcing</b></p> <p>Training, development, and recruitment are directed at identified skill and capacity gaps</p>	<ul style="list-style-type: none"> <li>• People are supported with ongoing training tailored to needs, with focused effort directed to support teams where skills gaps are identified</li> <li>• Teams are developed and resource are obtained to address issues that cannot be managed through training</li> </ul>	<ul style="list-style-type: none"> <li>• Again , how will this be informed by feedback from the sector?</li> <li>• Training in collaboration is available but it does require a culture and mind-set that will take time to develop where the culture of the department has been more one of regulator- regulated.</li> </ul>

External quality assurance measures

It is agreed that the most important factor is that changes to the approach to regulating LWU will ultimately lead to improved outcomes for utilities and communities.

We generally support the department’s initial areas of external quality assurance focus being role clarity, accountability and transparency and collaboration and stakeholder engagement but as detailed above If challenges to the department’s decisions is going to be a metric it will need to be measured immediately.

Metrics around decision making also go to the heart of the department’s delivery of its regulatory role and other internally focused performance metrics.

Specific comments on focus areas are provided below.

Reference- Table 6 -Selected external quality assurance focus areas

Potential focus areas	Definition	Comments
<p><b>Decision-making structure</b></p>	<p>The department should be able to demonstrate that internal processes and governance arrangements support regulatory integrity and transparent decision-making. Decision-making should be consistent with the regulatory and assurance framework.</p>	<ul style="list-style-type: none"> <li>• Where are the metrics around decisions being challenged?</li> </ul> <p>See comments in accountability and transparency below.</p>
<p><b>Collaboration and stakeholder engagement</b></p>	<p>The department should be able to clearly demonstrate that it is engaging effectively with stakeholders as part of achieving the objectives outlined in the new regulatory and assurance framework.</p> <p>The department can also demonstrate that it communicates in a transparent and responsive manner, implementing the new regulatory and</p>	<ul style="list-style-type: none"> <li>• This seems to be about <i>engagement</i> which is not the same as <i>collaboration</i>.</li> <li>• The <i>quality of engagement</i> referenced on page 6 under external regulatory performance factors is subjective and the metrics around how this is</li> </ul>



	assurance framework in a modern and collaborative way.	measured will need to be carefully considered.
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Reference- Table 7. External quality assurance focus area -role clarity

Indicator of regulatory performance	Measurement	Comments
<p><b>Sector understanding of the department's role</b> Objectives of the regulatory and assurance framework and the department's regulatory role are clearly understood by local water utilities</p>	<ul style="list-style-type: none"> <li>• A support program (e.g. workshops, guides) is delivered on a regular basis (subject to updates as required)</li> <li>• New questions for regulator survey to provide a quantitative rating of understanding of objectives and department's role</li> <li>• Sample of regulated parties interviewed each year – qualitative assessment of their understanding of objectives and the department's regulatory role</li> <li>• Gaps in the knowledge and understanding of regulated parties are identified and are made a focus of planning meetings within the department and externally focused engagement</li> </ul>	<ul style="list-style-type: none"> <li>• With reference to comments regarding internal quality assurance measures – will the department continue to survey the regulated on its performance to inform its own internal quality assurance processes?</li> </ul>
<p><b>Sector understanding of their responsibilities</b> Regulated parties are supported to work effectively within the new regulatory and assurance framework, and understand how and where the department can provide assistance and support</p>	<ul style="list-style-type: none"> <li>• A support program (e.g. workshops, guides) has been designed and is delivered on a regular basis (subject to updates as required)</li> <li>• Regulated parties report a clear understanding of the regulatory and assurance framework and how to work within it</li> <li>• Regulated parties are asked about any gaps in their knowledge of the regulatory and assurance framework or how to respond to the framework and practice and training are adapted in response</li> </ul>	<ul style="list-style-type: none"> <li>• If the department is going to run a support program it will need to check whether it works on the ground not just whether the LWU sector understand it.</li> </ul>

Reference- Table 8- external quality assurance focus area- transparency and accountability

Indicator of regulatory performance	Measurement	Comments
<p><b>Transparency of decision making</b> Regulated parties understand how and why decisions are made</p>	<ul style="list-style-type: none"> <li>• There is a clear and published decision-making framework</li> <li>• A survey of regulated parties highlights that they have an appreciation of this approach and why it works</li> <li>• All decisions are communicated with reasons</li> <li>• A register for documenting the reasons for request for review of decisions is in place</li> <li>• Gaps in the knowledge of regulated parties and in the decision- making approach are proactively identified and the discussion of any identified gaps is a feature of team and executive meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Where the addition of 'stop the clock' provisions, an escalation process and potential for the department to seek third-party advice on a decision under certain circumstances in the new regulatory approach are all good, this region has argued for the need for LWUs to have a right of appeal on decisions made by the Department under Section 60 of the Local Government Act through the Land and Environment Court which has jurisdiction in merit review where it is available under the LGA and the Water Management Act.</li> </ul> <p>If challenges to the department's decisions is going to be a metric it will</p>

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		<p>need to be measured immediately. There needs to be an opportunity for external stakeholders i.e. LWUs to have assurance that the third-party process is embedded in the department's processes as something that it takes seriously. The metrics need to test the extent to which the department is calling on third parties for its decisions.</p>
<p><b>Appropriateness of decisions and of the review process</b> The department is accountable for its decisions and uses the review process to assure its decision-making is sound</p>	<ul style="list-style-type: none"> <li>• Decisions are always made against a clear framework, based on clear reasons and are subject to internal review and approval</li> <li>• An external review process is established, monitored to ensure it performs effectively, and information about the process is regularly communicated to regulated parties</li> <li>• The review process is only used by regulated parties in a small percentage of cases in line with performance measures set on an annual basis</li> <li>• Survey insights from regulated parties are collected regarding the review process and any issues and how frequently it is used are a feature of team and executive meetings.</li> </ul>	<p>That LWUs are unable to trigger an external review process is disappointing.</p> <p>For confidence to be built in this approach, careful work and internal monitoring will need to be set up and readily shared with industry.</p>

Reference Table 9-External quality assurance focus area-collaboration and stakeholder engagement

Indicator of regulatory performance	Measurement	Comments
<p><b>Breadth of engagement</b> The department works with most regulated parties on a regular basis, rather than focusing solely on specific parties</p>	<ul style="list-style-type: none"> <li>• Engagements with regulated parties are measured, with the department engaging with each party at least once every 2 years, regardless of the level of risk their organisation presents</li> <li>• Feedback is collected about the department's engagement program in general, and from each specific engagement. Insights distilled from this collection are used to inform team and executive meetings and departmental planning</li> </ul>	<ul style="list-style-type: none"> <li>• Engagement is very different to collaboration.</li> <li>• It is strongly suggested that if collaboration and stakeholder engagement is going to be a key initial focus area for external quality assurance, there needs to be a separate piece of work done between the department and the sector to determine what this looks like and what measures there should be.</li> <li>• This should start with working closely with the sector in determining what success looks like and workshopping specific measures with subject experts.</li> </ul>
<p><b>Communication of expectations</b> There is regular communication about regulatory expectations and proposed approaches</p>	<ul style="list-style-type: none"> <li>• The department prepares guidance on its regulatory agenda for each year and communicates this to regulated parties</li> <li>• Data on regulatory performance is captured and published, along with key takeaways/potential risks</li> <li>• Data on regulatory performance informs annual and multi-year planning discussions at a team and executive level</li> </ul>	<ul style="list-style-type: none"> <li>• There needs to be a focus on support in all of this where this is the critical change in culture required.</li> </ul>

With respect to implementation of a quality assurance framework. It is agreed that we need to start somewhere and build the framework over time as the department and the sector grow in maturity and understanding of the new regulatory and assurance framework.

As stated earlier we recognise that this quality assurance framework needs to initially target DPE Water staff training and understanding of the objectives of the new regulatory approach including their role in its implementation and administration. This is important. Equally important is its successful implementation on the ground to ensure that LWUs are *supported* in their regulatory obligations under this new framework to deliver quality secure water and waste-water services to communities.

However, the CNSWJO would suggest that while this submission process is a first cut of this process, in the spirit of the collaborative approach taken by the TWRRP questions need to be answered such as:

- What does success look like for the sector in the short, medium and long term?
- How do the activities undertaken by DPE Water lead to the outcomes identified?
- What does collaboration look like in the context of the revised regulatory and assurance framework?
- What information should we collect to measure regulatory and assurance performance?

This should be subject to a more collaborative approach in the first instance.

We thank you for the opportunity to provide comment. For further advice or to discuss any matters raised in this response please do not hesitate to contact me on 0428 690 935 or email me on [jenny.bennett@centraljo.nsw.gov.au](mailto:jenny.bennett@centraljo.nsw.gov.au)

Yours sincerely,



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**Executive Officer**

Central NSW Joint Organisation (CNSWJO)