

Resilient Lands Program – Resilient Lands Expert Panel

Terms of Reference

Northern Rivers Reconstruction Corporation

6 March 2023

Table of Contents

1.	Introduction	4
1.1.	<i>Purpose of this document</i>	4
1.2.	<i>Background</i>	4
1.3.	<i>Resilient Lands Program - Overview</i>	5
2.	Resilient Lands Expert Panel.....	7
2.1.	<i>Overview & Reporting Responsibilities</i>	7
2.2.	<i>Purpose</i>	7
2.3.	<i>Extent of Advice and Panel Member Obligations</i>	8
2.4.	<i>Panel Remuneration</i>	9
2.5.	<i>Panel appointment and termination</i>	9
2.6.	<i>Quorum for advice</i>	9
2.7.	<i>Decision Making</i>	9
2.8.	<i>Probity Advisor & Probity Plan</i>	10
2.9.	<i>Conflicts of interest</i>	10
3.	Roles and Responsibilities.....	11
3.1.	<i>Panel Member</i>	11
3.2.	<i>Panel Chair</i>	11
3.3.	<i>Independent Assessment Lead</i>	11
4.	Confidentiality.....	12
5.	Conflicts of Interest.....	12
6.	Code of Conduct.....	12
7.	Media Protocol.....	12
8.	Endorsement and Review	12

Acknowledgment of Country

The Northern Rivers Reconstruction Corporation and Department of Regional NSW acknowledge the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

The Northern Rivers Reconstruction Corporation acknowledges the Bundjalung and Githabul people as custodians of the lands of the Northern Rivers. It is essential that indigenous voices are part of the region's land use planning and natural resource management to help ensure we create a more sustainable, productive and resilient Northern Rivers.

1. Introduction

1.1. Purpose of this document

The purpose of this document is to provide the Terms of Reference for the Resilient Lands Expert Panel (the Panel) convened to support the Resilient Lands workstream within the Northern Rivers Reconstruction Corporation (NRRC).

This document is designed to provide information applicable to the Panel, including:

- context;
- governance;
- roles and responsibilities (including confidentiality and probity);
- relevant policy and legislation; and
- risk and change management.

This Terms of Reference should be read in conjunction with other related program documents including the Resilient Lands Probity Plan and the Land Suitability Assessment Framework.

1.2. Background

Major flooding in NSW in February and March of 2022 was a catastrophic natural disaster which caused widespread damage to homes and key infrastructure. The NSW Government declared a disaster across 98 Local Government Areas (LGAs) in an area stretching from Tweed LGA in the Northern Rivers down to Illawarra and west to Broken Hill¹. Approximately 15,000 homes were damaged in the event with more than 5,000 homes deemed uninhabitable². In NSW, more than 6,000 homes were impacted by the 2022 Floods with more than 1,300 homes either destroyed or severely damaged within the LGAs of Ballina, Byron Bay, Clarence Valley, Kyogle, Lismore City, Richmond Valley and Tweed. These events had a profound impact on the Northern Rivers communities, in the context of pre-existing housing supply shortage³.

The NRRC commenced on 1 July 2022 as a development corporation for Lismore and the Northern Rivers region of NSW². The NRRC manages the rebuilding of these communities by coordinating planning, rebuilding and construction work across multiple government agencies³. The NRRC works with the Northern Rivers Administrative Group (NRAG) across the seven LGAs.

The NRRC is responsible for coordinating across government and delivering on-ground programs to support the recovery and ongoing resilience of Northern Rivers communities, including identifying, assessing and developing projects and programs that can help rebuild Lismore and other flood impacted Northern Rivers communities quickly and for the long-term.

¹ 2022 Flood Inquiry Report, <https://www.nsw.gov.au/nsw-government/projects-and-initiatives/floodinginquiry>

² <https://www.nsw.gov.au/media-releases/northern-rivers-reconstruction>

³ <https://www.nsw.gov.au/regional-nsw/northern-rivers-reconstruction-corporation>

To achieve this, the NRRC work program is organised around three core workstreams, each of which is supported by an overarching all-hazards risk assessment to help the Northern Rivers 'build back better'. These workstreams focus on:

- Resilient Homes;
- Economic Recovery; and
- Critical Infrastructure.

1.3. Resilient Lands Program - Overview

The Resilient Homes workstream includes the Resilient Lands Program that aims to analyse the land and housing market in the Northern Rivers and identify and fast-track delivery of a land and housing pipeline across the region, and a Resilient Housing Program which will provide support for voluntary home buy-backs, house raisings and resilient retrofit of existing homes.

The Resilient Lands Program commenced with a public invitation for Expressions of Interest (EOI) on 31 August 2022 seeking interest from landholders with potential developable land in the region. In parallel, the NRRC is working with Councils and State Government to investigate the suitability of public land to support future development that is resilient to flood events.

The Resilient Lands Program will also take an all-hazards approach, including consideration of not only flood risk but also factors such as resilience to bushfire and other natural hazards.

NRRC has developed a robust, transparent and consistent Land Suitability Assessment Framework for the Resilient Lands Program to consider proposals received through landholder Expressions of Interest, Public Lands agencies, and Councils.

The Land Suitability Assessment process is a two-stage assessment process to identify sites that are most suitable in achieving the objectives of the Resilient Lands program (see Figure 1).

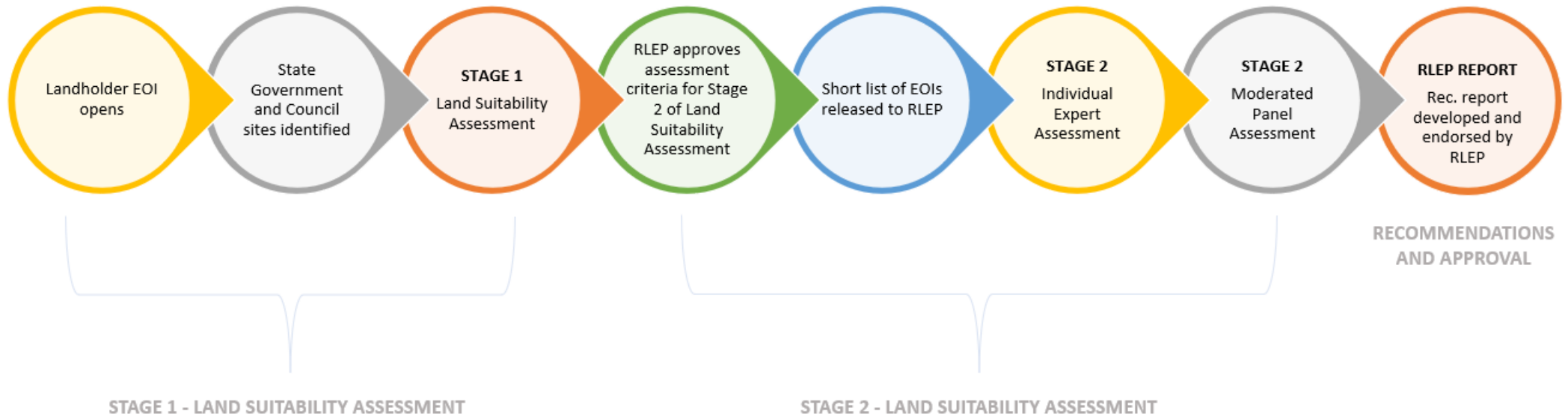
The Stage 1 Land Suitability Assessment will include an initial desktop screening that cross-references the land parcel against available data and information to shortlist appropriate land parcels that may be suitable for residential development and progress to a more detailed Stage 2 assessment.

For Expressions of Interest responses selected to progress further, the Stage 2 assessment will be undertaken by the Resilient Lands Expert Panel to assess and examine the land against its suitability for residential development and to support the long-term resilience and adaptation of Northern Rivers.

Following Stages 1 and 2, there is a recommendation and approvals step whereby the Panel will recommend a shortlist of lands for residential development as part of the Northern Rivers Reconstruction Corporation's Resilient Lands Strategy.

Land will then be considered against suitability for residential, key services (e.g. health and emergency services), commercial and/or infrastructure development, and prioritised for short, medium and long-term delivery.

Figure 1 - Land Suitability Assessment Process. Note Stage 2, undertaken by the Resilient Lands Expert Panel.



2. Resilient Lands Expert Panel

2.1. Overview & Reporting Responsibilities

The Panel consists of independent experts who provide advice on the assessment and prioritisation of land parcels submitted for consideration through the Resilient Lands Program. The Panel has the ability to draw on the expertise and experience of government agencies, landholders, Aboriginal communities, research institutions and independent specialists for advice as required.

The Panel's initial focus will be to oversee and provide recommendations and advice to the Resilient Lands Governance Group on the assessment and prioritisation of land parcels submitted through responses received under the Resilient Lands EOI.

The assessment of private land will be further supported by State and Local Government land sites in subsequent tranches and these lands will be incorporated in to a Resilient Lands Strategy.

2.2. Purpose

Individual experts will participate as members of the Panel as recognised specialists in their respective fields, and collaborate with other Panel members to provide expert advice on the suitability of land for development to support the long-term recovery and adaptation of Northern Rivers communities following the 2022 Floods. This includes advice on:

- a. Best practice urban design for community cohesion, resilience and adaptation;
- b. Suitability and constraints of land parcels for residential, business or commercial development;
- c. Climate adaptation and risk management by adopting an all-hazards approach;
- d. Ecologically sustainable development from a site and regional planning context by balancing social, economic and environmental outcomes;
- e. Ensuring that indigenous knowledge is a key part of the region's land use planning and natural resource management, including consideration of key frameworks such as the NSW Government 'Our Place on Country' Strategy (DPIE, 2020) and the Connecting with Country Framework (GANSW, 2020);
- f. Supporting economic resilience and growth of communities, industry and businesses through:
 - i. Social and community outcomes including diverse and affordable housing, key worker accommodation, and outcomes for Aboriginal communities
 - ii. Infrastructure and utility services present or required to accommodate development, and
 - iii. Integration of land parcels with strategic development of Northern Rivers communities, including consideration of regional and local development plans;
- g. Transition planning for impacted communities including advice on a long-term strategy to reuse flood impacted areas for environmental and community benefit; and
- h. Urban investment strategies for sustainable growth.

Panel members will be appointed for an initial term of 12 months to support the establishment and implementation of the Resilient Lands Program. Panel members will meet on an as-needed basis to support Land Suitability assessments, estimated once a fortnight between January and March, and then as required to support Land Suitability Assessments and the broader Resilient Lands program.

2.3. Extent of Advice and Panel Member Obligations

Panel members will be asked to:

1. Review shortlisted EOIs against set assessment criteria, and based on available information provided by NRRC, including the ability to consider clustered sites which collectively could lead to strategic outcomes; and
2. Make recommendations on the suitability of the land at a site and landscape scale to progress to next stages of planning and assessment for the intended use based on available information (considering two initial objectives, the first being suitability to relocate flood impacted residents, and the second being the capacity for rapid delivery).

To assist the Panel to conduct its evaluation, the NRRC will prepare information packs to be provided to the Panel for consideration and assessment. A template will be provided for the provision of Panel member advice, including specific criteria (and their weightings) to be applied in the assessment, endorsed by the Resilient Lands Governance Group with appropriate sign-off from the Probity Advisor. The criteria for assessment will be agreed by the RLEP prior to any assessment being undertaken.

Drafts of the above information packs will be provided to Panel members following their inception meeting with the view to providing feedback to the NRRC. After considering this feedback, the NRRC will then distribute final, approved versions of the information pack to be used by Panel members when conducting formal evaluations of Stage 2 Expression of Interest responses.

Prior to receiving Expression of Interest responses to evaluate, the NRRC will ensure appropriate document controls are in place for the management and circulation of lodged responses. These document lodgement controls will be verified by the Probity Advisor.

The assessment will also draw on the Panel member's knowledge, experience and technical expertise.

Given the circumstances, and in particular the significant impact on some sections of the Northern Rivers community, the Panel will conduct a rapid, merit-based assessment noting consideration against existing available environmental planning instruments (EPIs) and strategic plans under the NSW *Environmental Planning and Assessment Act 1979* has informed the Stage 1 shortlisting process.

Subsequent to the Panel's assessment process, prioritised sites will progress through a due diligence and valuation process to inform investment and development pathways and the application process consistent with existing legislative requirements.

Panel members will be able to consider public feedback as part of the wider Resilient Lands Program, including any feedback on draft public consultation documents before these are finalised. However, where there is any inconsistency between public statements and content in lodged Expression of Interest responses, the NRRC or Panel will either seek formal clarifications from Expression of Interest applicants or else use only the information provided in lodged Expression of Interest responses.

The Panel member's recommendation will include (but not limited to):

1. Recommend a shortlist of lands for residential development as part of the Northern Rivers Reconstruction Corporation's Resilient Lands Strategy
2. Endorsement of the site to progress to the next stage of the Resilient Lands Program process

3. Endorsement subject to certain conditions or requirements being met through the subsequent stages of the Land Suitability Assessment process or latter development approval stages
4. The site not to proceed at this point in time (noting that subject to conditions, the shortlist may need to be revisited at a later date to ensure adequate sites are available to relocated flood impacted residents.

Advice and recommendations provided by the Panel and its members will be provided for internal NRRC use⁴, and may be summarised as part of responses and/or notifications to landowners.

As a recognised expert in a field relevant to the Resilient Lands Program, NRRC may seek expert advice from Panel members out of session on emerging issues or areas of interest as they relate to the NRRC's work program.

2.4. Panel Remuneration

Remuneration for Panel meetings and work out of session will be remunerated at an hourly rate as invoiced by the Panel member. Panel members meals, travel and accommodation will be reimbursed by the program in compliance with rates outlined in the NSW Government Meal, Travelling and Other Allowances policy⁵.

2.5. Panel appointment and termination

The Panel will consist of a minimum of 5 expert members. Panel Members will be appointed on the basis of their qualifications and experience, and absence of any real or potential conflict of interest. To account for illness, absence and/or conflict of interest, the panel will include alternate panel members and alternate panel Chair.

As a condition of appointment, prior to commencing duties, Panel Members (and alternate panel members) have signed Confidential & Conflict of Interest declarations and returned to the NRRC.

Panel members will be appointed by NRRC and the composition and membership of the Panel will be made publicly available on the NRRC website and updated periodically as required. Changes (additions and terminations) to the makeup of the Panel are at the sole discretion of NRRC.

Panel members must undertake their duties in accordance with the Code of Ethics and Conduct for NSW Government Sector Employees⁶ at all times.

2.6. Quorum for advice

A quorum for RLEP shall comprise of a minimum four panel members including the Panel Chair. Where four panel members and/or the Chair are not available alternate members may be called on to replace an absent panel member. Any meeting that does not attract a quorum will be deferred.

2.7. Decision Making

Decisions of the RLEP where possible will be by consensus. Decision making will also include a panel moderation component (as shown in Figure 1), to help calibrate and compare individual scoring by Expert Panel members using the approved assessment format and related information packs.

In the event of disagreement, dissenting panel members may first submit minority reports to the

⁴ The NRRC will have appropriate information controls in place to record its internal use/application of the Expert Panel's advice and recommendations.

⁵ See <https://arp.nsw.gov.au/c2022-08-meal-travelling-and-other-allowances-for-2021-22-and-2022-23/>

⁶ <https://www.psc.nsw.gov.au/about-us/our-code-of-ethics-and-conduct>

Panel Chair for consideration and adjudication by the Chair. The Chair will form a draft view on how best to address any submitted minority report (having regard to the Corporation's objectives for the RLP) and then bring that draft view back to the Expert Panel for discussion and agreement prior to finalising the evaluation report.

2.8. Probity Advisor & Probity Plan

The NRRC has in place a Probity Advisor and Probity Plan providing guidance on how the Resilient Lands Program under the Resilient Homes Fund may engage with the Expression of Interest process and seek independent advice and assurances.

The Resilient Lands Probity Plan must be complied with at all stages of the Land Suitability Assessment. Prior to commencing EOI evaluations, all Expert Panel members will confirm they have read and agreed to the relevant Probity Plan.

A probity register will be maintained throughout the process to record and manage any identified probity issues.

2.9. Conflicts of interest

Conflicts of interest (perceived or actual) will render a Panel member ineligible to provide advice in relation to sites that may be the subject of that conflict. Panel members must recuse themselves from any involvement in sites where they may have a direct or indirect financial interest, provided professional advice to a private interest or party in relation to the specific site within the preceding seven (7) years, or otherwise have a direct or indirect connection to the site in question. NRRC also reserves the right to excuse a Panel member from providing advice in relation to a specific site at its sole discretion.

Any current perceived or actual conflict of interest must be declared as part of accepting the invitation to be a Panel member. Any perceived or actual conflict of interest that arises during the Panel member's service on the Panel must also be communicated as soon as reasonably practicable once the Panel member becomes aware of the conflict.

Where a perceived or actual conflict of interest is identified, an alternative panel member may be called on to ensure a quorum is maintained and assessment can progress for the sites relevant to that meeting.

See also Section 2.5 regarding the requirement for Panel members to provide a signed Confidential & Conflict of Interest document prior to commencing any duties.

3. Roles and Responsibilities

3.1. Panel Member

Panel members will be responsible for:

- Attending panel meetings on an as needs basis, with periods of increased activity around key milestones. These meetings may be face-to-face but can also be facilitated online;
- Reviewing applications received through the Resilient Lands EOI process, in addition to Council and State Government-owned land proposed, to help meet NRRC program objectives;
- Reviewing and providing advice on site and summary assessment reports as part of the Resilient Lands Program;
- Reviewing a Land and Housing Masterplan for the Northern Rivers; and
- Delivering technical advice in regard to, but not limited to, urban planning, housing strategy, climate adaptation, Indigenous land management or natural resource management.

3.2. Panel Chair

One member of the Expert Panel will also undertake the role of Panel Chair. The Panel Chair will lead and coordinate the RELP discussions to achieve well-informed and peer endorsed outcomes of the Assessment process. The responsibilities of the Chair include:

- chairing all meetings of the RLEP;
- ensuring that the RLEP has sufficient time, information, and resources to evaluate submissions, that there is genuine debate, and that the RLEP arrives at a consensus position or documents differences in position;
- ensuring the evaluation process is consistent with the approved and the NRRC's objectives for the RLP;
- ensuring that the RLEP maintains the highest standards of probity and conduct, including disclosing and managing all conflicts of interest and associations; and
- seeking expertise from other sources, endorsed by NRRC, on matters relevant to evaluation deliberations where necessary, and noting probity and confidentiality obligations.

3.3. Independent Assessment Lead

The NRRC has engaged an Independent Assessment Lead to administratively support the Panel, facilitate meetings, undertake secretariat duties, and produce summary reports that capture the Expert Panel's advice and appraisal.

The Independent Assessment Lead will support the Expert Panel and Panel Chair in developing a consolidated draft and final report of all written assessments and individual recommendations of Panel Members, which provides a collective Panel recommendation for NRRC consideration.

The Independent Assessment Lead is to circulate the draft recommendation report to all Panel members, and provide sufficient time for Panel members to consider and review the draft report. The Panel's joint and agreed version of a final evaluation/recommendation report will then be provided to the Independent Assessment Lead to progress administratively to the Resilient Lands Governance Group for consideration and endorsement.

Panel members may provide additional written advice to the Panel Chair and the NRRC's Resilient Lands Governance Group prior to the final recommendation report for NRRC consideration, as long as such advice is separate and not inconsistent with the Panel's final recommendation report.

4. Confidentiality

All information provided by the NRRC should be treated as strictly confidential. Information provided must not be further distributed or used outside of the purpose of this project unless mutually agreed in writing.

See also Section 2.5 regarding Panel members obligations.

5. Conflicts of Interest

Panel members must advise the NRRC of any real or perceived conflicts of interest with regard to the Resilient Lands Program or related matters. Panel meetings will include as a regular item of business the declaration of any conflicts of interest that may arise over the course of the Resilient Lands assessment process.

See also Section 2.5 regarding Panel members' obligations.

6. Code of Conduct

As a condition of appointment members of the RLEP agree to adhere to the following conditions:

- engage respectfully and productively with other panel members, staff of the NRRC, and the public;
- understand that no form of bullying will be tolerated by panel members or the NRRC;
- commit to open communication by being clear with panel members and staff of the NRRC about relevant issues, ideas and concerns;
- respect differences of opinion, experience and knowledge and debate issues in a constructive manner by seeking resolution where possible;
- not deliberately disrupt other panel members or staff of the NRRC;
- abide by the directions of the panel Chair
- understand that missing three consecutive meetings without prior explanation may result in removal from the RLEP

7. Media Protocol

If a member of the RLEP receives an enquiry from the media regarding the NRRC or Resilient Lands Program, they should direct the enquiry to the Director of Strategy and Planning of the NRRC.

If the RLEP believes a media statement could be considered to support the Resilient Lands Program at any point, the RLEP will first seek approval by the NRRC and delegate its drafting and release to the NRRC.

RLEP members should not speak to the media or circulate any information regarding the RLEP's unless mutually agreed in writing by the Chair and NRRC. Nor should RLEP members discuss views expressed by other panel members without their knowledge or consent.

The conditions outlined above include social media platforms.

8. Endorsement and Review

These terms of reference have been endorsed by the RLEP on 6 March 2023.

These terms of reference will be reviewed within six months of its endorsement to ensure it remains relevant and consistent with the RLEP's purpose and responsibilities thereafter these terms of reference will be reviewed and, where necessary updated, on annual basis.