



Review of governance of the Translocation Evaluation Panel and its processes

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Background and Conduct of this Review

In 1999, the National Ministerial Council on Forestry, Fisheries and Aquaculture approved the *National Policy for the Translocation of Live Aquatic Organisms- Issues, Principles and Guidelines for Implementation (Bureau of Rural Sciences 1999)*. To meet the intentions of that policy, all Australian states and territories were required to develop translocation guidelines for their jurisdiction. Victoria consequently developed its *Guidelines for Assessing Translocations of Live Aquatic Organisms in Victoria (2003)*. Their purpose was to provide a risk based administrative framework for the assessment of proposals to translocate live aquatic organisms into and within Victoria.

The Translocation Evaluation Panel (TEP) in Victoria was initially recommended to be established under these Guidelines by the now defunct Fisheries Co-management Council. The TEP reports through the Victorian Fisheries Authority (VFA) to the Chief Executive Officer (CEO), VFA. The role of the TEP is to provide advice to the CEO VFA or his/her delegate on the management of risks associated with proposed translocations. Specifically, this advice is to be on proposed translocations not previously approved, each translocation protocol during its development, and if the panel disagrees with an administrative assessment by the VFA that a translocation application complies with an approved translocation protocol or is a low-risk translocation.

This Panel has been operating for some time and recently it was decided that a governance review was due to help ensure that it continues to meet its obligations and expectations in the future. This document reports on the resultant independent review of this panel and its processes.

The first stage of this review involved the collection and examination of available material that could be obtained up-front. This mainly involved an examination of the above-mentioned Guidelines and the various protocols that are used by the TEP to assess applications for translocations (these are available at <https://vfa.vic.gov.au/operational-policy/moving-and-stocking-live-aquatic-organisms>).

The next stage of this project was the main fact-finding step which involved an intensive period of interviews and meetings in Victoria with as many relevant stakeholders as possible during early August 2019. Thirty people were interviewed for this review, most in person, some in groups and only a few by phone. Some people were interviewed more than once. Some did not care about anonymity, others asked for complete anonymity, and others asked that their comments remain anonymous. So, to respect those latter wishes and for the sake of uniformity, individual names are not provided in this report. However, the numbers and affiliations of those people interviewed were: 10 from VFA, 6 from DELWP, 5 from the Abalone Industry Council, 3 current or former independent members of the TEP, 2 from VR Fish, and 1 each from Seafood Industry Victoria, Native Fish Australia, Future Fish and DJPR.

All information collected was then synthesised and combined into this draft final report, which was shared with senior VFA staff before finalisation.

During the course of this project, several themes emerged that gradually became regular in their occurrence and led to confidence that the review was getting a reasonably accurate impression of key issues. These issues form the basis of this report and are detailed below. Conclusions and recommendations are highlighted in **bold**. The main issues concern its membership, procedures, administration and communications. Finally, we consider the need to have the TEP at all, given the alternative processes used in other jurisdictions.

Membership

Representation

Key to having the TEP is its independence and this is where the composition of the committee needs to be considered. Most people interviewed considered that the TEP is intended to be an expertise-based advisory group. As per the Guidelines that establishes it, the committee is meant to be comprised of:

- up to four non-VFA or DELWP persons with combined experience in aquaculture, recreational fishing, commercial fishing, fish habitat and aquatic species conservation; and
- up to five representatives from VFA or DELWP with combined expertise in aquaculture, fish stocking, fish habitat, aquatic animal diseases and disease management, aquatic ecosystem management and aquatic species conservation.

Whilst the composition of the committee adheres to these guidelines, the result is that the committee is not as expertise-based as it should be. That is, it includes members whose role appears to be more advocacy-based rather than expertise-based. Whilst it was reported that the non-aligned members of the committee do tend to reign in attempts at advocacy during meetings, this is done via personalities and discussion – not due to the committee’s governance or structure. This is causing:

- a potential for the expertise-based intention of the committee to be compromised - or at least a perception of this; and
- particular groups (from both inside and outside government) that are not represented on the committee becoming dis-enfranchised and wanting a place on the TEP. If all such bodies were accepted as members in this way, the group would grow even larger and the level of specialist expertise further diluted.

The operation of the TEP involves detailed and quite technical evaluations of risk assessments using established protocols, and summarising these evaluations in the form of recommendations to the VFA CEO. To maximize the quality of the advice given to the VFA CEO, **all** members on the committee should therefore be experts that have strong backgrounds in evaluating risk assessments – not necessarily as people representing particular interest groups. That is, **sound expertise in evaluating risk assessments should be the principle criterion used to appoint members of the TEP – not their role in representing particular groups, whether those groups are**

inside or outside government (all of which have their own, well-established mechanisms for providing advice). This is not to say that members of the TEP would not come from the VFA, DELWP, DJPR, the recreational or commercial fishing sectors, or any other body – the pool of expertise is too small for that. Rather, their appointment to the committee should be based on their expertise, not their employer or alignment.

Types of expertise

It was noted by several interviewees that the Guidelines mention that, in addition to environmental issues, disease, genetics, etc. it is necessary to also consider socio-economic consequences of translocations. Whilst the former types of expertise are covered by present members, there appears to be little expertise in social or economic areas on the TEP, meaning that advice on such issues is not forthcoming from the TEP to the VFA CEO. To remedy this situation, **some attention to appointing socio-economic expertise to the committee would be appropriate.**

Renewals

There was some discussion regarding the renewal of memberships on the committee being capped at 3 years with only 1 renewal. This was to foster great diversity and changeover on the committee. This was not supported by this review because:

- The pool of available experts in Victoria to serve on the committee would be quickly exhausted; and
- There are significant advantages with having experienced, long-serving members on such a committee in terms of their depth of knowledge, recall of precedents, etc.

Procedures

Working relationships

All members of the committee were interviewed in this review and Prof Kennelly also attended most of a typical meeting of the TEP. These experiences revealed certain quite positive aspects of the committee:

- most members work well together in an atmosphere of professionalism and mutual respect;
- members consider applications logically, adhered to the protocols objectively and were not overly pedantic about problematic issues; and
- the procedures operating in the committee, while not perfect have, and continue to improve.

But there are some procedural issues that were noted as requiring attention.

Conflicts of Interest

The current membership of the committee has individuals who themselves prepare, or are closely associated with people who prepare, applications for translocations. This is particularly the case

for VFA staff on the TEP. Whilst this may seem appropriate if such members are experts in evaluating risk assessments, it allows the potential for people to perceive conflicts of interest within the committee. Many people interviewed during this review felt this issue was very significant. It also raises a question of equity regarding other applications because individuals who apply for translocations but who are not members of the committee are not afforded the same opportunity to discuss their applications as TEP members who apply.

To avoid conflicts of interest (whether real or perceived), **when discussing individual applications, the Chair should require anyone who declares a conflict of interest or are in any way involved with an application/applicant to exit the meeting and not have any substantive role in its evaluation.** This is standard practice for most committees. However, it is important to note that **the Chair should also be allowed to invite any experts to comment on and present to the committee on any application, and this may include those TEP members who prepare applications.** But these invitations need to be handled equitably such that **non-TEP members who apply should be afforded the same opportunity.**

Assessment of applications

Several interviewees questioned the need for the TEP to assess all applications for translocations. That is, it was felt that certain categories of applications did not need to go to the committee for evaluation. These included:

- Applications that were poorly prepared and obviously lacked particular content that would have them quickly returned to the applicant;
- Applications of a particularly routine nature involving simple extensions or minor changes to previously approved translocations;
- Applications for translocations that had not yet applied for a licence or permit;
- Applications for translocations that are very similar to previously approved precedents; and
- Translocations that have previously been committed/approved to occur such as due to particular election commitments, historical arrangements, other guarantees, etc.

Some interviewees also questioned whether it was appropriate for members of the TEP with little expertise in a certain area to evaluate applications in that area (eg, the abalone industry expert evaluating a freshwater stocking issue, and vice versa, etc. etc.).

Because the TEP is an advisory body to the VFA CEO, it is appropriate that the VFA CEO decide which applications need to go to the TEP (or even a subset of the TEP) for evaluation using its expertise and which do not. This would require **a process for a preliminary intra-department screening of applications to decide which require full evaluation by the TEP, and/or which members of the TEP need to provide advice on the matter.**

Guidelines and protocols

In interviewing various members of the TEP, as well as other stakeholders, it became apparent that some members of the TEP were not as aware of various government policies regarding fish translocations as they should be. Even if such policy developments fall outside individuals' areas of expertise, such matters should nevertheless be taken into account when providing advice to the VFA CEO. **The TEP therefore needs to be briefed about, and take into account, current and developing government policies on translocations when framing its advice.**

The current guidelines behind the committee and the protocols/policies that the committee operate under also require updating. This is a task for the VFA with perhaps input from long-standing members of the TEP itself. In particular, these documents should take account of the above-mentioned government policies regarding fish translocations, other policy developments in other areas of government, as well as any appropriate modifications that arise from this review.

Administration

The administration of the TEP is not as professional as it should be, although many long-term members on the committee noted that there has been steady improvement in such matters over recent years. Particular current issues include:

- the timeliness of the provision of papers to the committee;
- the quality of papers provided to the committee – they can be jumbled and lack a cover sheet which summarizes the application and what is being requested (standard practice for such committees);
- the information given to the committee about applications could be streamlined – eg. they do not need to see the compliance history of applicants, copies of the guidelines, background to the process, etc.
- the quality of some of the applications - eg some lack sufficient detail such as species names, specific locations, lists of supporting references, insufficient focus on key points that the TEP is assessing the application on, poor quality risk assessments, a lack of ongoing monitoring plans, etc.;
- the website lacks sufficient information detailing the work of the committee;
- the IT system supporting the TEP makes it difficult to examine past applications, decisions, precedents, etc.
- the turn-around times for applications is supposed to be 20 days but meetings only occur every 6 weeks (ie a potential maximum of 42 days) making this timing inconsistent and often impossible;
- the various forms used by applicants are out-of-date and contain incorrect logos, letterheads, website addresses, etc.

Most of the above administrative issues are largely due to the current Administrative Officer only being in the position for a very short time, so there is little doubt that most of the relatively

straightforward problems mentioned above will improve soon. However, there is little doubt that the workload involved for the Administrative Officer in running the TEP is quite significant and has grown in recent times due to more applications going to the committee, an increase in the number of meetings from 3-4/year to 9 and the need to spend significant time dealing with poorly prepared applications in order to get them to a stage that can be submitted to the TEP.

These factors have led to a situation where the work required of the Administrative Officer is clearly more than the 3 days/week currently allocated to it. **Perhaps 4 days/week or even full-time would be more appropriate.**

In a similar vein, the skills involved to administer the TEP require attention. Currently (and in the past), “spare” scientific staff have filled the Administrative Officer position for the TEP. But the administrative skills required to run such a committee are quite different from those of a scientist. **So additional training may be required for staff in the position as Administrative Officer or a person be appointed to the position who has the necessary administrative skills.**

Communications

Issues concerning how the TEP interacts with the outside world, and vice-versa, formed a common theme discussed by many interviewees and in fact comprised the majority of negative comments regarding the committee. In particular, many stakeholders not on the TEP did not know how the TEP arrived at its recommendations, largely due to its confidentiality provisions.

The guidelines make the following points regarding confidentiality:

- Members, alternate members and observers must not disclose information that relates to a translocation application or may reveal the identity of a translocation applicant.
- Members and alternate Members may discuss with their respective groups or organisations issues before the TEP that are not confidential but may not discuss any deliberations of the TEP or circulate any meeting agendas, minutes, papers or other materials publicly without the consent of the Chair.

In reading these, one can see a slight inconsistency between the first point and the first part of the second. That is, on one hand, it would appear that all issues regarding applications before the committee are confidential, yet on the other, members may discuss “some” matters with their organisations. A corollary to this is that several interviewees noted that, while consultation about translocation applications occurred with certain recreational fishing interests, little occurred with commercial fishing interests or the general public. Such inconsistencies require some attention.

Ideally, in a world where transparency and public consultation are valued, as much of the information about the work of the committee as possible should be available in the public domain. The exception to this is, of course, those matters before the committee that are commercial-in-confidence. That is, for many applicants that are for-profit businesses, it is appropriate that applications remain confidential. However, for others there is far less need for such

confidentiality. Indeed, universities and public service agencies often like to have their work displayed as publicly as possible.

So a solution could be for applicants to note on their application form whether they wish their application to remain confidential (with supporting reasons). For those applications deemed to not be commercial-in-confidence (via the above-mentioned preliminary screening process by the VFA), **a summary could be provided on the TEP's website, which would include a summary of the application, the recommendations of the committee, the final decision by the department, and the reasons for each.**

A brief public consultation stage could also be inserted into this process to enable even more complete transparency and community consultation. This would have an additional benefit by providing the CEO VFA with a more complete picture of the community's thoughts regarding each application prior to his/her final decision.

Another issue to emerge concerned feeding information back to the TEP from the department following a decision. The obvious simple remedy (which apparently is being implemented) is **a quick summary back to the TEP from the VFA providing the decision and the reasons behind it.**

The Existence of the TEP

So far this review has strictly adhered to its ToRs to "review the governance and processes" of the TEP under the objective of "to help ensure that the TEP continues to meet its obligations and expectations in the future". These ToRs and objective obviously assume that the TEP's will have an ongoing function. However during the course of this review, it became clear that some discussion may be useful regarding the need to have the TEP in the first place.

The structure, composition and processes of the Victorian TEP are unique in Australia. No other jurisdiction uses an independent committee of this nature to advise the government on aquatic translocations. Instead, other jurisdictions use their own internal expertise and, if required, external expertise to advise on such matters, just as they (and Victoria) do for applications for other permits and approvals. That is, it can be argued that the VFA CEO has a department of experts, and access to other experts in government, academia, etc., who should be able to do the advisory role of the current independent TEP. This is done in other jurisdictions.

The advantages of this latter process include:

- It would provide the CEO with greater flexibility regarding access to expertise (inside and outside government) without the need to rely on the expertise that resides in just one committee. This is particularly important in the current situation where the existing TEP lacks expertise in socio-economic matters – yet this is a crucial aspect of the advice required by the CEO in deciding on translocations. Having a process where the CEO seeks advice from anyone should increase the availability and quality of advice. This would also

address the current situation where members of the TEP who have little expertise in a particular area are expected to comment on it.

- It would allow the CEO to decide which applications require advice. This was noted to be an issue for the current TEP where several interviewees questioned the need for the TEP to assess all applications for translocations. That is, certain categories of applications may not need advice for evaluation. These were listed above and include: applications that were poorly prepared; of a routine nature involving simple extensions or minor changes; that had not yet applied for a licence or permit; that are similar to previously approved precedents; that have previously been committed/approved to occur such as due to election commitments, historical arrangements, other guarantees; etc.
- It would provide a more streamlined, simple process and flexibility in timing without the need to rely on TEP scheduling, availability of members, etc.
- It would do away with the need to run and fund the processes and administration associated with the current TEP.

The VFA CEO should therefore **give consideration to adopting the model used in other jurisdictions by replacing the TEP with a more streamlined, less formal process involving the seeking of advice regarding translocations from appropriate experts on an as-needs basis.**

Conclusion

This review identified several issues concerning the governance, processes and existence of the TEP. The key decision moving forward for the VFA CEO is whether to:

- Continue with the current model; or
- Adopt the approach used by other jurisdictions as described above.

If the former, then this review should prove useful as it identified various areas that require attention with suggested recommendations. If the latter, then many of the identified issues with the current TEP will obviously be resolved – albeit perhaps replaced with new ones.