

TERMS OF REFERENCE

Trade Assessments Panel

1 Introduction

The Trade Assessments Panel (TAP) is an advisory panel to assist Horticulture Innovation Australia Limited (Hort Innovation) fulfil its obligations under its Constitution to provide advice to the Department of Agriculture and Water Resources (DoAWR, the Department) about the prioritisation of new and improved technical market access for the Australian horticulture industry.

TAP discharges these responsibilities through the experience of its expert members, drawn from industry, and in consultation with industry and government.

2 Function of the Panel

The panel will review applications for technical market access and improvement against specific criteria established by Hort Innovation, and aligned with the Department's nine criteria for the selection of new and improved market access activities for exports:

1. **Broadly Supported** - industry body, state and territories, commodity community
2. **Inclusive** - available to the majority of the commodity community
3. **Export Ready** - technical issues addressed, industry commitment and capacity to export
4. **Clearly Defined** - clear objectives for being able to meet proposed import conditions
5. **Technically Competent and Complete** - clear technical position to support preferred pathway
6. **Verifiable** - evidence-based analysis
7. **Prioritised by each Sectoral Community**
8. **Delivered within the context of the National Interest**
9. **Finite** - any remaining unresolved technical issues will be re-examined according to the above principles before re-negotiating conditions.¹

The panel will provide impartial assessment and commercially relevant scrutiny of applications, fostering external confidence in Hort Innovation's ability to rigorously assess, and provide evidence and merit-based recommendations to the Department.

Relevant advice will also be provided by the panel to Hort Innovation on a range of industry issues as they arise.

3 Scope

The scope of the panel includes assessing applications in light of trade impediments which are either technical (including phyto-sanitary matters) or non-technical restrictions, such as quotas, tariffs, and chemical residue requirements.

¹ As endorsed by the Department of Agriculture and Water Resources on 25 June 2015.

The scope covers market access, market improvement issues into markets which may be considered as closed or open, new or existing, on phyto-sanitary and non phyto-sanitary matters.

In the case of market maintenance where access to an existing market is threatened or suspended, the Department may seek the panel's advice on the merit of pursuing market maintenance activities around prioritisation of commodities.

The panel will consider applications to ensure alignment with industry Export Strategies, and Hort Innovation's over-arching Trade Strategy.

4 Role

Specifically, the panel will assess market access applications to ensure the following have been addressed:

- Market access/improvement impediments for horticultural products including importing country and commercial restrictions.
- Hort Innovation's application criteria;
- Alignment with the Department's nine criteria for identifying technical market access activities;
- Alignment of applications with the industry's Export Strategy and the Hort Innovation Trade Strategy; and
- Government support for pursuit of such priorities through the market access process.

The panel will also consider, and provide advice to Hort Innovation on:

- Cross-commodity/country considerations.

In addition, the panel will:

- Consider market access/improvement applications in a standardised manner (established Application Form and Guidelines), and processing these applications for acceptance as priorities and driving their progress and outcomes.
- Provide constructive feedback to industry to address issues within applications, and submit feasible applications for market access prioritisation in accordance with the Guidelines.

5 Management of the Panel

The panel will be an advisory mechanism of Hort Innovation, with individual members appointed by Hort Innovation. The panel will be facilitated by Hort Innovation's Trade Manager (the Facilitator), and chaired by an independent Chair, appointed by Hort Innovation.

It will be a function of the Facilitator to ensure the Panel operates under a transparent good governance framework.

The panel will meet thrice annually with government advisors. The panel may also meet between full meetings where deemed necessary by Hort Innovation.

6 Panel Membership

The panel is made up of four skills-based representatives, who will be appointed by Hort Innovation based upon their expertise in the horticulture and export sector. The panel will be chaired by an independent Chair as the fifth member, appointed by Hort Innovation. Consideration will be given to ensuring an appropriate skills mix.

Proxies or alternates will not be accepted.

Nominees will need to demonstrate a capacity to work in a collegiate manner for the wider horticultural good. Membership of the panel may be altered from meeting to meeting, at Hort Innovation's discretion, to address specific issues under consideration.

The skills set to be represented on the panel will include:

Sectoral experience:

1. Relevant qualifications and experience in the agricultural export sector;
2. An understanding of market access and improvement negotiations;
3. An understanding of market development activities and their alignment with access and improvement objectives; and
4. Commercial experience in export and assessment of protocol viability.

Technical skills:

5. An understanding of technical barriers to trade in export markets;
6. Familiarity with sanitary and phyto-sanitary (SPS) issues and plant quarantine;
7. Growing, packing and exporting agricultural produce; and
8. International trade policy formulation, including tariffs, quotas and trade analysis.

The panel should have expertise with commercial trade-related activities, in particular the evaluation of the viability of commercial projects.

7 Other Members

The panel will also include one non-voting observer/advisor from each of the following organisations:

- Department of Agriculture and Water Resources (DoAWR)
- Department of Foreign Affairs and Trade (DFAT)

With the agreement of the Facilitator other observers/advisors may be present to address subject matter under consideration.

8 Voting Rights

Consensus decisions will be taken by the panel wherever possible. If consensus cannot be achieved, decisions made by the panel will be made by majority vote. Each panel member, excluding observers, will have full equal voting rights. In the event of a tied vote, the Chair will have a casting vote.

A quorum of at least three members, plus the Chair will be required in order to constitute a formal panel meeting.

Observers/advisors and the Facilitator will have the opportunity to engage in discussion around matters under consideration, but will not have voting rights.

9 Confidentiality, Declaration of Interests and Agri-Political Refrain

Panel members will be required to sign a confidentiality agreement given the nature of material likely to be presented to them as part of a market access application. All commercial and trade-in-confidence material contained in market access applications is to be considered as sensitive and must not be distributed or discussed outside of the panel's deliberations or other formal requirements of the panel. Panel members must maintain confidentiality around material provided and discussion held in the course of the panel's activities.

Information presented to the panel may be commercial-in-confidence, government-in-confidence, or otherwise open. The nature of the information presented will be clearly advised by the Facilitator. Any breach of this confidentiality will fall under unacceptable norms of business behaviour and may result in removal from panel membership, at the discretion of Hort Innovation.

A Hort Innovation Undertaking to Refrain from Agri-Political Activity is required to be signed and returned to Hort Innovation before nominees can join the panel. This refrain acknowledges the member's consent to abstain from commenting on trade matters from a panel-member perspective for the duration of their tenure as a panel member. Comment on trade matters from a non-panel member perspective is not restricted.

Additionally panel members must complete and sign a Declaration of Interests Form and immediately advise the Chair and the Facilitator should they have a commercial or other conflict of interest in any topic under consideration by the panel.

10 Term of the Panel's Membership

Appointments to the panel and the position of Chair will be for a period of two (2) years, with no maximum number of terms.

Membership on the panel will be reviewed biennially, or as deemed necessary by the Facilitator.

11 Panel Funding

The activities of the panel are funded by industry through Hort Innovation's Trade Unit.

For face-to-face meetings, funding will include travel, accommodation and meal costs relating to panel member attendance at meetings.

Panel members will be reimbursed at Hort Innovation's standard daily allowance rate.

All funding and allowances will be awarded in accordance with Hort Innovation policies and procedures.

12 Handling of Proposals

The principal activity of the panel is consideration of market access applications to ensure the applications are complete. The panel may also provide advice to the Trade Manager on broader industry trade matters.

Applications are reviewed by the panel who vote on their acceptance for inclusion in an eligible pool of applications based on an agreed scoring system. The recommendation of the industry experts, as panel members, the decision of the panel and the supporting reasons

are recorded and available to the applicant. Decisions are then the responsibility of Hort Innovation to communicate to the Department and industry.

13 Applications for Market Access/Improvement

Parties submitting applications for establishment of market access/improvement priority status may be individuals or groups consisting of individual producers, exporters or others in the supply chain. If not an industry body, applicants must liaise with and demonstrate support from the appropriate representative body prior to lodging their application, in alignment with the principles detailed in section 2.

14 Communication of Outcomes

Upon approval by the Facilitator, minutes and relevant attachments will be distributed to all panel members. This function will be the responsibility of Hort Innovation.

The panel is responsible for ensuring that growers, exporters and other stakeholders are advised of:

- market access and improvement priorities and progress summaries;
- any emerging access or maintenance issues; and
- activities of the panel, reported annually.

Communications may include Hort Innovation newsletters, the trade components of the Hort Innovation website, trade related media releases by Hort Innovation and direct circulars to industry distribution lists by the Trade Unit.

The Facilitator is responsible for communicating the panel's advice to Hort Innovation, industry or the Department, as appropriate.

15 Dispute Resolution

The Facilitator will adjudicate on any matter(s) requiring resolution, which cannot be resolved within the panel by the Chair.