

Fishery Advisory Committees

Establishment and Procedures

December 2019



Department of Primary Industries, Parks, Water & Environment
Wild Fisheries Management Branch



I, Guy Barnett, Minister for Primary Industries and Water, hereby approve these procedures to be followed by all advisory committees established pursuant to section 27 of the *Living Marine Resources Management Act 1995* to provide information and advice to me on matters related to the administration of this Act regarding fisheries.

Dated this 23rd day of December 2019

A handwritten signature in black ink, appearing to read 'Guy Barnett', is written in a cursive style.

Guy Barnett

Minister for Primary Industries and Water

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1 Background

Fishery Advisory Committees (FACs) are important in the management of Tasmania's marine fisheries in that they provide the Minister with specialist information and advice regarding key fisheries. The various committees comprise of members of the major fishing sectors, community groups, and advisers on resource management policy, policing and research. The FACs are supported by officers from the Department.

The FACs play a pivotal role in progression of fisheries policy and their involvement has improved cooperative management and contributed to better fisheries outcomes. Information on the establishment and procedures of FACs and on the roles and responsibilities of FAC members and Chairs is provided in this document.

2 Role of a FAC

Advisory committees are established under section 27 of the *Living Marine Resources Management Act 1995* (the Act) which states:

(1) The Minister may establish advisory committees to provide information and advice to the Minister on matters related to the administration of this Act.

(2) The Minister may appoint any person as a member of an advisory committee on any terms and conditions the Minister determines.

(3) The Minister may abolish an advisory committee at any time.

FACs are a major source of information and advice to the Minister responsible for the administration of the Act on issues relating to a fishery. The FAC's role is to provide information and advice to the Minister in relation to only those fisheries administered under the Act.

The FAC discusses issues and provides the Minister with information and advice but, ultimately, it is the Minister who is responsible for any management decisions.

3 Existing FACs

There are currently five FACs established by the Minister. They are:

FAC	Fishery
Abalone Fishery Advisory Committee (AbFAC)	Commercial abalone fishery
Crustacean Fishery Advisory Committee (CFAC)	Commercial rock lobster and giant crab fisheries
Recreational Fishery Advisory Committee (RecFAC)	Recreational fisheries (all species)
Scalefish Fishery Advisory Committee (SFAC)	Commercial scalefish fishery
Scallop Fishery Advisory Committee (ScFAC)	Commercial scallop fishery

4 FAC membership

FAC members are appointed by the Minister to furnish the committee with people, within a spectrum relevant to the fishery, who are positioned to consider fisheries issues. A FAC will have as members people with direct expertise in the relevant fishery, members from bodies providing fisheries support services (e.g., policing and research) and members with expertise in conservation and other matters as necessary for a particular fishery.

FAC membership will aim for 50% representation of women, consistent with the Tasmanian Government's *Women on Boards Strategy 2015 – 2020*.

Persons appointed as FAC members are required to sign a declaration that they accept their appointment as a member of the FAC and commit to abide by the requirements of this FAC Establishment and Procedures document.

4.1 FAC Chair

The Minister will appoint a Chair for each FAC who will be independent of the various interest groups in a fishery and who will have expertise relevant to managing the performance of the committee.

If a Chair is not available to attend a FAC meeting, the FAC secretariat, time permitting, may seek to arrange an alternative independent Chair to be approved by the Minister. Where time does not permit such an alternative, FAC members present at the meeting will appoint one of the members attending to chair the meeting. This member may have their view recorded at the conclusion of discussion of any agenda item.

The Chair, with the FAC secretariat, is responsible for drafting resolutions and actions agreed at the meeting so that these can be reported accurately to the Minister. The Chair will also ensure that the work of the FAC progresses between meetings through consultation with the FAC secretariat.

The Chair is responsible for maintaining a register of interests regarding all members, including personal, professional and pecuniary interests. This register is provided to the Minister along with the summary of each meeting (see below).

The Chair is to submit a summary of each meeting to the Minister in his or her own words.

4.2 Role of the Department

The Department, in the person of the Director (Marine Resources), is responsible for providing secretariat/administrative support for FACs. The Director may elect to attend meetings and/or nominate DPIPWE staff to participate in FAC meetings.

Departmental officers will not be formal members of FACs, rather they serve to support and assist the Committee as part of the secretariat role. The principal administrative roles for DPIPWE staff who support FACs are to assist the Chair in preparing the agenda and meeting summaries, prepare meeting briefing materials, record minutes, track progress on action items, and provide the Minister with a record of the meeting and advice/recommendations arising from the FAC.

By virtue of their expertise and experience in specific fisheries and regulatory role(s), Departmental representatives will, also at the direction of the FAC Chair, provide technical advice to the committee and assist in providing advice on appropriate management and policy options.

The FAC recommendations themselves will not include the Departmental view; the Departmental view and advice will be provided separately to the Minister to accompany the FAC recommendations/views.

4.3 Role of members

While members are drawn from many interest groups, as FAC members their primary duty is to the community in developing the best possible solutions for all current and future users of the fishery. FAC members are encouraged to put forward the views of their interest groups (and may be specifically requested to do so by the Minister) but must consider the views of all groups in providing advice with a strategic focus. FAC membership should not be used as an opportunity to serve an individual or an interest group; the interest of the fishery should be put first.

Advice to the Minister, at the scale of the fishery, from the Committee must not be compromised by an individual's or a single interest group's position.

FAC members must be able to meet the following requirements:

- be able to put their views clearly;
- be able to act in the best interests of the community regarding management of the fishery rather than as an advocate for themselves or any particular organisation or interest group;
- must declare their interests and avoid the compromising of Committee advice by those interests (see section 8 *Statement of Principles*); and
- be able to make the necessary commitment of time to ensure that they are fully informed and able to attend meetings.

4.3.1 Appointment

FAC members are directly appointed by the Minister for Primary Industries and Water following nominations by interest groups, expressions of interest in response to public

advertisements, direct contact with those who can provide specific expertise and other methods as appropriate. It is important that the full range of interests relevant to a fishery has input to the FAC. Appointments to FACs will be consistent with the Tasmanian Government's *Women on Boards Strategy 2015-20*.

4.3.2 Termination of appointment

A FAC member may resign by written notification to the Minister.

Appointments may also be terminated by the Minister.

Any action by a member that demonstrates their unwillingness or inability to comply with the responsibilities of FAC members as outlined in this document may be grounds for termination of appointment.

The Minister may terminate an appointment if:

- (i) the member has been convicted of an offence under the *Living Marine Resources Management Act 1995*, any other Act or a corresponding law which the Minister considers relevant to the appointment as a member on the FAC, or
- (ii) the member without reasonable excuse fails to disclose an interest, or
- (iii) the member fails reasonably to comply with FAC operational procedures, or
- (iv) the member is absent from two consecutive meetings of the FAC.

In addition, it is the Minister's expectation that if a member is charged with an offence under the *Living Marine Resources Management Act 1995*, any other Act, or a corresponding law, which the Minister would consider relevant to the appointment as a member on the FAC, that the member opt to stand down from the FAC pending the determination or discontinuation of any proceedings against the member.

4.3.3 Alternative members

The FAC will not entertain alternative or proxy members (unless otherwise authorised by the Minister).

Particular individuals are appointed by the Minister for their expertise. It is important that FACs have a stable membership to ensure continuity and consistency of advice. If a member is unable to fulfil their responsibilities they should resign from the FAC to allow the Minister to appoint a member who can meet the commitments required. The only exceptions are the members who have been nominated by the Institute for Marine and Antarctic Studies (IMAS) and Tasmania Police. If one of these members is unable to attend a FAC meeting then, given the importance of advice from IMAS and Tasmania

Police to FAC business, it is the responsibility of the member to arrange an invitation through the Chair for an appropriate representative from their organisation.

5 Procedural matters

5.1 Ministerial direction

The FAC is appointed by the Minister to provide information and advice on fisheries matters related to the administration of the *Living Marine Resources Management Act 1995*.

The Minister may from time-to-time direct the committee to consider certain issues, to seek submissions from relevant bodies or individuals, or to provide advice relating to a specific matter.

5.2 Subcommittees

A FAC may establish a subcommittee to advise on particular matters, to be reported to the Minister by the Chair. If a subcommittee requires the assistance of an external party, that person should be approved by the Minister. The subcommittee should be chaired by a FAC member nominated and appointed at a FAC meeting. The subcommittee is solely responsible to the FAC that established it.

5.3 Quorum

A quorum will be five members of the committee. If a quorum is not present, a FAC cannot proceed with business.

5.4 Voting

Voting should not be used to reach a position by a FAC. A FAC should agree on a Committee view, and document any abstaining or dissenting opinion. If agreement cannot be reached, all views should be put to the Minister.

5.5 Agenda and records

The procedure for the calling of meetings and conduct of business at meetings will be as determined by the committee itself.

A FAC must keep a written record of proceedings at meetings. The Executive Officer is responsible for taking minutes of FAC meetings. The Executive Officer, only, is permitted to voice-record the meeting for the purpose of finalising minutes. The recording will be deleted once the minutes have been accepted as “true and correct” at the subsequent meeting. A decision to record a meeting’s proceedings can only be made by the Chair, if they consider this is required, in consultation with the FAC Executive Officer.

5.6 Invitees and observers

FACs may seek submissions from relevant bodies, or individuals, and may invite individuals to be present during specific deliberations.

Observation of a FAC's proceedings by a non-FAC member may only be at the written request of a FAC member, which must include a justification, and requires the agreement of the Committee via the Chair.

Alternatively, a request for a non-member to attend a future FAC meeting can be made at a meeting by a member, agreed by the meeting and recorded in the Minutes.

5.7 FAC business out-of-session

Matters may be circulated to FAC members for information or consideration out-of-session. Ordinarily, the annual meeting schedule agreed to by the FAC should be adhered to, and extraordinary meetings should not be required. Occasionally, however, circumstances may warrant consideration of scheduling of such a meeting. The process to be followed is the same as for progressing any matter out-of-session, i.e., it must be initiated at Committee level by the Chair through the FAC secretariat. No single FAC member can call a meeting of the FAC or put forward a particular issue without going through the Chair. All information, requests and so on need to be circulated with the knowledge of the FAC Chair, and members need to be given adequate time to respond before any decision is taken as to how to proceed. Once a position is reached, any abstention or dissenting opinions should be recorded as usual.

6 Communication

6.1 Media

FAC members are appointed by the Minister to provide Committee-level advice to the Minister. No FAC member should speak for the Committee on any occasion without the approval of the Committee and the Minister.

FAC business is considered open (see below regarding confidentiality) and discussion of FAC business is not limited in any way.

FAC members, however, should use their judgement regarding any sensitivity that may be associated with a matter both in respect of other members as well as of the Minister.

6.2 Confidentiality

FAC meetings will be closed in terms of attendance, i.e., they are for members only, but FAC business will be open. In other words, any FAC member may discuss what occurred at a FAC meeting with anybody at any time.

Open business means that neither confidentiality nor privilege issues arise regarding information.

7 Remuneration of members

Remuneration of the Chair and members of a FAC will be determined by the Minister in line with State Service guidelines. It should be noted that it is a matter of policy that FAC members are not paid sitting fees. The Chair is paid a sitting fee in recognition of additional responsibility.

Subject to prior authorisation by the Minister, the FAC Chair and members are entitled to travelling allowances when on FAC business at State Service travel rates.

8 Statement of principles for the management of conflict of interest in fishery advisory committees

Fishery Advisory Committees (FACs) are established under the provisions of Section 27 of the *Living Marine Resources Management Act 1995* (the Act) that states:

- (1) The Minister may establish advisory committees to provide information and advice to the Minister on matters related to the administration of this Act.*
- (2) The Minister may appoint any person as a member of an advisory committee on any terms and conditions the Minister determines.*
- (3) The Minister may abolish an advisory committee at any time.*

FACs are not decision-making bodies. They comprise of members appointed for their expertise and function to provide advice and information and can make recommendations to the Minister on matters concerning the administration of the Act.

It is important that FACs operate at all times to meet contemporary expectation with respect to governance and management of conflict of interest. FAC members have an obligation to conduct themselves at all times when engaged in FAC business in a manner that meets these expectations.

Conflicts of interest arise in the context of a FAC where a member in the course of their engagement with the FAC has the potential to be influenced or seen to be influenced by personal or private interests.

The business of FACs and the nature of their membership mean that conflicts of interest will occur as a matter of course. These will be managed by appropriate process and disclosure to facilitate transparency and probity of FAC deliberations and determinations* without dysfunction to the effective participation of members in the deliberations of the FAC.

FAC members will be required to provide a written declaration of any material personal interest** that may compromise that member's objectivity in the deliberative processes of the FAC.

In determining what constitutes a material personal interest, a member needs to consider if they (or an associate***) have an interest in a matter that is likely to relate to the business of the FAC and from which they may stand to gain a benefit or a loss (or be perceived to stand to gain a benefit or a loss), as a result a decision based on, or informed by, the deliberations/advice/recommendations of the FAC.

Each FAC will maintain a register of members' declared material interests.

The register of material interests will be reviewed as a standing agenda item at the commencement of each FAC meeting and confirmed as being complete and correct. Confirmation is to be recorded in the FAC Chair's summary of the meeting and Chair summaries are to contain a copy of the register.

FAC Chair summaries of meetings are provided to the Minister allowing the Minister to be aware of individual member's material personal interests when considering the recommendations, information and advice of a FAC.

* The business of FACs involves making recommendations to the Minister on matters relating to a fishery or fisheries in which some members will clearly have direct pecuniary interests as the holders of statutory fishing rights. For example FACs routinely deliberate on the total allowable catch for fisheries. Given the statutory role of the FAC is to provide advice and make recommendations to the Minister, rather than having a determining power, it is appropriate for members with a pecuniary interest to be involved in the deliberative process.

Probity of process is addressed by all members providing accurate and complete advice of their material personal interest and the Minister being clearly aware of these interests when considering the advice and recommendations provided by a FAC, from which the Minister makes decisions.

** Material personal interests include interest in any fishing industry business and membership of any fisheries related Boards or Committees.

*** Family member, business partner, employee or employer.

9 Acceptance and agreement

I, _____ (print name), hereby accept appointment

to the _____ Fishery Advisory Committee, and agree to the above procedures.

(signature)

_____ 20

(date)

Please return this signed page to the FAC's Executive Officer.