

Marine Farming Planning Review Panel

1 Franklin Wharf, Hobart, 7000, Tasmania, Australia

Correspondence to be addressed to the Executive Officer, GPO Box 44, Hobart, Tasmania, 7001



Guidelines for the Conduct of a Hearing

Preliminary

The *Marine Farming Planning Act 1995* (the Act) at section 12 provides for the Panel to conduct a hearing. This is at the discretion of the Panel. However, if a hearing is requested by a respondent under sections 27 or 39 in relation to a submission made in response to the public release of a draft Marine Farming Development Plan or a Draft Amendment to a Plan, the Panel must hold a hearing.

Section 12(1)(b) provides for the Panel to determine the procedure at a hearing and section 12(2) covers the bounds of operation in gathering/receiving evidence.

At the discretion of the Panel, the hearing may be a closed hearing or held in public (s. 12(1)(a)), however, this does not mean that it is a “public hearing” in the normal meaning of the term.

It is also likely that a respondent at a hearing in public may request that their evidence be given in private, for privacy or commercial confidentiality reasons. A request for evidence to be given in private should be made prior to the hearing. Such a request is determined by the Panel.

Function of a Hearing

The purpose of hearings is to allow the Panel to inform itself. Hearings enable respondents and witnesses to clarify and expand on their written submissions.

Attendance

At a hearing only the respondents requesting the hearing will be entitled to give evidence before the Panel.

The Panel may also request or require others to give evidence (s.12(2)(b) of the Act).

It will be at the Panel's discretion as to who else may attend the hearing. This will be through a process of registration of intent.

Giving Evidence

Upon arrival before the Panel, the Chair will ask each person to provide their full name and the capacity in which they are appearing *ie*, privately or as a representative of an organisation.

Participants will be given the opportunity to make a brief statement to clarify, amend or expand on points made in their written submission. (The Panel members will have already read the written submission so there will be no need to replicate what has already been presented.)

The Panel members will direct questions to clarify aspects of written submissions or other evidence given in relation to the subject of the hearing.

In taking evidence, the Panel is not bound by the rules of evidence.

Recording of Proceedings

An audio recording of the proceedings will be made for future reference by the Panel. The proceedings will not under normal circumstances be transcribed. Digital copies however, may be made available upon written request and at the discretion of the Panel and subject to Government confidentiality and right to information legislation and policies.

Marine Farming Planning Act 1995

12. Hearings

- (1) The Panel may –
- (a) hold a hearing in public; and
 - (b) determine the procedure at a hearing.
- (1A) The Panel may hold one hearing in relation to as many representations as it determines.
- (1B) The Panel is to –
- (a) give notice in writing to each person who made a request under [section 27\(2\)\(c\)](#) or [section 39\(2\)\(c\)](#) of the date, time and place of the hearing not less than 14 days before the date of the hearing; and
 - (b) by public notice, advertise the date, time and place of the hearing.
- (1C) A notice under [subsection \(1B\)\(a\)](#) is taken to have been given to a person –
- (a) in the case of hand delivery, when delivered at the person's last known address; or
 - (b) if sent by prepaid post, on the fifth day after the date of posting to the person's last known address; or
 - (c) if sent by facsimile transmission to the person's last known facsimile number and the sending facsimile machine produces a print-out which records the time and date of the transmission –
 - (i) if completion is within ordinary business hours at the place to which the transmission is sent, at that recorded date and time; or
 - (ii) if completion is outside ordinary business hours, at 9.00am on the next ordinary business day in that place.
- (2) At a hearing, the Panel –
- (a) may inform itself about any matter in any way it considers appropriate; and
 - (b) may require a person to attend the hearing; and
 - (c) may receive oral or written evidence; and
 - (d) may consult with any persons it considers appropriate; and
 - (e) need not act in a formal manner; and
 - (f) is not bound by the rules of evidence.
- (3) The Panel may take evidence on oath or affirmation.
- (4) A person, without reasonable excuse, must not fail to –
- (a) take an oath or make an affirmation; or
 - (b) answer any question; or
 - (c) attend a hearing.

Penalty: Fine not exceeding 10 penalty units.

- (5) It is a reasonable excuse under this section that any answer required to be given –
- (a) may tend to incriminate the person or make the person liable to a penalty;
- or

(b) is information of a business, commercial or financial nature that may expose the person to competitive disadvantage.

(6) [Subsection \(5\)](#) does not apply to information relating to the environmental impact of any matter.