

# Local Shellfish Committees

## Charter and Procedural Guidelines

*March 2025*

### **Important Note -**

It is expected that members will make every effort to attend meetings. Where attendance or alternative teleconferencing arrangements are not possible, an alternate delegate may be proposed by the member in writing to the Chairman, Coordinator or Secretary prior to the meeting.

For further information including criteria for the alternate delegate, see the Attendance clause contained within this document.

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## 1. INTRODUCTION

All mussels, oysters and pipis harvested for human consumption in NSW must be harvested in accordance with the NSW Shellfish Program, established under the Seafood Food Safety Scheme in the Food Regulation 2015 (the Regulation).

Local shellfish committees are established to administer the respective local shellfish program under the direction of the NSW Food Authority. The responsibilities of each local shellfish committee is set out in clause 148 of the Regulation:

*(1) A local committee is responsible for the following—*

*(a) administering, under the direction of the Food Authority, the local program for the area for which the committee is appointed, including:*

*(i) advising the Food Authority, and licence holders in the local area who harvest, collect or depurate shellfish, when the environmental conditions set out in the local program that must be met before shellfish can be harvested, collected or depurated are not satisfied, and*

*(ii) co-ordinating the collection and analysis, at the expense of the local program, of samples of the environment in which the shellfish are grown, harvested or collected, in accordance with the plan for the management of harvest areas within that local area, and any additional sampling requirements of the Food Authority, and*

*as within that local area, and any additional sampling requirements of the Food Authority, and*

*(iii) ensuring that each analysis carried out for the purposes of the local program is carried out in a laboratory approved by the National Association of Testing Authorities, or by the Food Authority, for the particular type of analysis to be undertaken,*

*(b) communicating and consulting with the NSW Shellfish Committee, the Food Authority and persons who harvest farmed shellfish, collect wild shellfish, cultivate or depurate shellfish or cultivate spat, and*

*(c) determining annually, in consultation with persons required to comply with the local program, the total projected administration and operational costs of the local program (including the cost of maintaining the local committee), and*

*(d) advising the Food Authority before 1 August in each year of the costs referred to in (c), and*

*(e) preparing and submitting to the Food Authority, before 1 August in each year, a report on the local committee's operations, including the level of participation in the local program, an account of the finances of the committee and any other matter that the NSW Shellfish Committee notifies as being required for inclusion in the report.*

*(2) A local committee is to nominate one or more of its members to assist in the day-to-day operation of the local program under the general direction of the Food Authority.*

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## 2. PURPOSE OF THIS DOCUMENT

This document aims to assist each local shellfish committee fulfil its responsibilities and ensure each local shellfish program operates efficiently and effectively to support the viability of each local shellfish industry. This document should be read in conjunction with the Regulation and the NSW Government Boards and Committees Guidelines (July 2015)<sup>1</sup>.

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<sup>1</sup> NSW Department of Premier and Cabinet, *NSW Government Boards and Committees Guidelines* (July 2015) available at [www.dpc.nsw.gov.au](http://www.dpc.nsw.gov.au)

This document will be reviewed as needed, in consultation with the NSW Shellfish Committee, to ensure it remains up to date and fit for purpose. All revisions must be approved by the Chief Executive Officer (CEO) of the Food Authority.

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### 3. BACKGROUND

Clause 147 of the Regulation provides for the CEO to appoint members to local shellfish committees.

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## 4. TERMS OF REFERENCE, ROLE AND FUNCTION OF THE LOCAL SHELLFISH COMMITTEES

The primary objective of the NSW Shellfish Program is to ensure the production and sale of NSW shellfish is safe and suitable for human consumption. All commercial shellfish in NSW must be harvested in accordance with the NSW Shellfish Program. NSW Shellfish Program requirements for licensed shellfish businesses are contained in the NSW Shellfish Industry Manual, which adopts the Australian Shellfish Quality Assurance Program as a minimum standard.

The Food Authority appoints each local shellfish committee to administer its local shellfish program. This ensures the NSW Shellfish Program is delivered in each local area in a manner that aligns with local shellfish industry needs. The local shellfish program structure allows each estuary to undertake the environmental monitoring required to maintain the classification of its harvest areas and permit shellfish to be harvested for human consumption in accordance with requirements of the *Food Act 2003*. In the event that a local shellfish program ceases to operate effectively, all harvest areas established under that local shellfish program must be closed for harvest until an effective local shellfish program can be re-established for that area.

The responsibilities of each local shellfish committee are set out in clause 148 of the Regulation. Provisions relating to members and procedures of local shellfish committees are set out in Schedule 7 of the Regulation.

### 4.1 Guidance for committee members

The *NSW Government Boards and Committees Guidelines* (July 2015)<sup>2</sup> provide supporting information for members of NSW Government committees, including governance and reporting obligations, conduct and conflict of interest requirements and information about the roles and responsibilities of committee members.

### 4.2 Member liability and risk management

Local shellfish committee members must exercise a reasonable degree of care, skill and diligence in carrying out their role.

A local shellfish committee member working on a voluntary basis, is considered an 'eligible state official' for purposes of the Treasury Managed Fund (TMF) and is generally covered by the TMF for Workers' compensation and for legal liabilities he or she incurs in his or her capacity as a committee member. Further guidance on this matter is available in the *Safety and Wellbeing Policy* which is distributed directly to members.

### 4.3 Evaluation and performance review of the Committee

Performance monitoring is a fundamental responsibility of every public body. Local shellfish committee performance is subject to several layers of scrutiny and performance review including:

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<sup>2</sup> NSW Department of Premier and Cabinet, *NSW Government Boards and Committees Guidelines* (July 2015) available at [www.dpc.nsw.gov.au](http://www.dpc.nsw.gov.au)

- The Annual General Meeting (AGM) – this allows eligible licensees to obtain information on the financial and operational performance of the local shellfish program and participate in discussions on future operational plans for the local program.
- Harvest Area Annual Reviews – The Food Authority reviews compliance with harvest area management requirements annually and the review findings are sent to all local shellfish committee members for the respective local program.
- Financial statements tabled at the AGM must be submitted to the Food Authority for review of expenditure. These statements are also provided to the NSW Audit Office when it audits the Food Authority accounts.

Any inquiries or concerns regarding the operation of a local program can be submitted to the NSW Shellfish Program via email ([food.nswsp@dpird.nsw.gov.au](mailto:food.nswsp@dpird.nsw.gov.au)). Complaints can also be submitted through the Food Authority contact centre<sup>3</sup> 1300 552 406.

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## 5. COMMITTEE COMPOSITION

### 5.1 Committee membership

Local shellfish committee members are appointed by the CEO of the Food Authority. The membership is drawn from the pool of eligible licensees for each local shellfish program. Eligibility for appointment to a local shellfish program is provided at clause 147 of the Regulation, which provides:

*4) A person is eligible to be elected to a local committee if the Food Authority is satisfied that the person—*

*(a) is the holder of a licence that authorises the harvesting or collection of shellfish, the operation of a depuration plant or the cultivation of shellfish or spat in the proposed area of operations of the committee or was the holder of such a licence, and*

*(b) has previously complied with the Program.*

### 5.2 Selection of local shellfish committee members

The appointment of local shellfish committee members is at the discretion of the CEO of the Food Authority, having regard to requirements in the Regulation.

The election of members for each local shellfish committee generally occurs at the local shellfish program AGM. The election process must follow the principles of procedural fairness, diversity and integrity.

The following process must be followed to determine the candidate(s) that will be recommended for appointment by the Food Authority:

1. The position must be declared vacant, and a call made for nominations.
2. All nominations must be moved and seconded by different representatives (unless there are less than three licence holders operating under the local shellfish program, in this case a single nomination is sufficient).
3. A vote must be held for each position and the person who receives more than 50 percent of the available votes at the AGM is elected. Where more than two people nominate for a position and no nominee receives more than 50 percent of the votes, the nominee with the lowest number of votes is excluded and a second vote is taken. This process continues until one person has more than 50 percent of the available votes.

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<sup>3</sup> Contact [www.foodauthority.nsw.gov.au/about-us/contact-us](http://www.foodauthority.nsw.gov.au/about-us/contact-us)

4. In the event of a tied 50 percent vote, the meeting chairperson will have an additional casting vote.

### 5.3 Membership of the Committee

Local shellfish committees may determine the number of members required for the efficient running of the local program.

- All local programs must appoint a coordinator to assist in the day-to-day operation of the local program under the general direction of the Food Authority. The coordinator position is essential for the effective operation of the local shellfish program.
- Assistant coordinator(s) may be appointed to assist the coordinator.
- Other positions may include a secretary, treasurer, chair, members or other assistant positions as required to ensure the efficient operation of the local program.

All members appointed to the local shellfish committee are responsible for collective decision making as needed. Decisions made by the local shellfish committee must comply with Schedule 7 of the Regulation and the decision-making process must be documented.

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## 6. MEETINGS

Local shellfish committee meetings must comply with Schedule 7 of the Regulation.

Each local shellfish committee may meet as required to ensure the efficient operation of the local program.

The AGM is a separate meeting held to:

1. elect local shellfish committee members
2. provide a written report to all licensees authorised to harvest shellfish under the program (licensees) on:
  - a. reconciliation of program income and expenditure for the previous year, and
  - b. proposed budget and estimated local program levy for the current year
3. consult with licensees on operational plans for the current year (for example, seasonal harvest area closures)
4. general discussion and feedback on other matters affecting the local industry.

### 6.1 Notice of local shellfish committee meeting

All reasonable efforts must be made to provide all appointed local shellfish committee members with sufficient notice to enable them to attend meetings. Regular meetings should be scheduled at the start of the year (for example, the second Tuesday of each month). When urgent matters arise, it is preferable to provide at least 24 hours' notice of a local shellfish committee meeting unless the urgency of the matter makes this impossible. Note that a quorum must be achieved where formal committee decisions regarding the operation of the local program are made.

### 6.2 Meeting venue

The meeting must be held at a safe and secure location that is conducive to clear discussion and the tabling of reports for review by members. The location should be accessible to members, preferably in the same locality as the area covered by the local shellfish program. Meetings may be held in person, online or a combination of both.

### 6.3 Meeting length

Meetings need to be long enough for all agenda items to be fully discussed. As a guide, most AGMs will require between one and two hours.

### 6.4 Meeting responsibilities

All meeting attendees are expected to be professional, accountable and transparent in all dealings at AGMs and local committee meetings. The *NSW Government Boards and Committees Guidelines* (July 2015)<sup>4</sup> apply to local shellfish committees to the extent that they are consistent with the Regulation.

### 6.5 The Meeting Agenda

Every effort should be made to set and distribute the meeting agenda at least one week before the meeting. If an urgent meeting is called, the meeting notice should include advice on the main topic that will be discussed. A standard agenda should be used to ensure that meetings are held in a formal and orderly manner.

The standard agenda is provided below:

- welcome and apologies
- conflict of interest (any conflicts and actions to resolve them must be recorded in the meeting minutes)
- procedural matters – confirmation of draft minutes, agreement on agenda
- business arising from previous meeting
- agenda items
- general business
- next meeting date, venue and time.

The Chair may amend the order of the agenda, having regard to priorities identified.

### 6.6 Attendance

It is expected that local shellfish committee members will make every effort to attend meetings. Where attendance or alternative teleconferencing arrangements are not possible, an alternate delegate may be proposed by the member in writing to the Chair within a reasonable timeframe.

The alternate delegate:

- must be licenced with the Authority, or work for a licensee, or work within the same association/company of the absent member and be representative of the opinion of that association/company, and
- where relevant, have no outstanding Food Authority licence fees and no existing or pending Food Authority compliance issues.

### 6.7 Rules of debate

Members will always conduct themselves in a respectful and considerate manner. Conventional rules of debate will apply, with all discussion to occur through the Chair.

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<sup>4</sup> NSW Department of Premier and Cabinet, *NSW Government Boards and Committees Guidelines* (July 2015) available at [www.dpc.nsw.gov.au](http://www.dpc.nsw.gov.au)



## 6.8 Quorum

The procedures for determining a quorum are set out in Part 3 of Schedule 7 of the Regulation, which provides that a quorum for a meeting is a majority of the members.

## 6.9 Minutes

Minutes of each meeting that record attendance, the topics discussed, and any decisions made, must be produced and kept for at least 2 years.

Draft minutes must, where practical, be confirmed as final minutes at the following meeting. The Chair will seek feedback on errors or omissions in the draft minutes, and the meeting will then adopt the draft and any agreed amendments as a true and accurate record.

## 6.10 Local Shellfish Program Annual General Meeting (AGM) requirements

Annual General Meetings are an important mechanism to engage with all local shellfish industry licensees. The following procedure must be followed to provide notice of the local shellfish program AGM.

- The meeting date and venue must be set, and the NSW Shellfish Program notified, at least 28 days before the meeting.
- Notice of the AGM time, date and venue must be sent in writing to all licensees covered by the local shellfish program at least 21 days before the meeting. This notice must include contact details to provide agenda items for the AGM.

The NSW Shellfish Program will use the NSW Shellfish Program SMS notification system<sup>5</sup> to help local shellfish committees meet the AGM notification requirement.

Voting during the AGM will be one vote per licence holder. The official list of licence holders is supplied to the local program by the Food Authority along with the AGM papers. The local program may request an updated list at any time.

The election of committee members at the AGM must follow the process outlined in section 5.2 of this document.

Items which must be tabled at the AGM include:

- minutes of the previous AGM
- local program account reconciliation
- local program budget proposal
- a summary of the previous year's operation, such as closures, major events and compliance with sampling requirements
- implementation of seasonal closures, and
- election of local shellfish committee members.

While it is not mandatory for licensees to attend the AGM, attendance is strongly encouraged.

## 6.11 Administrative support for the Committee

Local shellfish committees are responsible for providing any administrative support required by the local program. NSW Shellfish Program can provide technical advice to help committees make decisions, issues related to harvest area classification, and more complex matters such as taxation.

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<sup>5</sup> Note that only persons who have registered their mobile phone number with the NSW Shellfish Program will be sent an SMS via this system. Registration is only open to confirmed contacts of licenced food businesses that operate leases in the area covered by the relevant local program.

The NSW Shellfish Program provides each local shellfish program with a set of AGM papers including sample agenda, account reconciliation template, annual budget proposal template, form to record local shellfish committee election results, and information on any important issues that need to be shared with licensees at the AGM.

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## 7. COMMUNICATION

The local shellfish coordinator is the main point of contact with the NSW Shellfish Program on matters related to harvest area management.

The local program is required to establish a mechanism for keeping licensees in its area informed of matters related to harvest area management e.g. sampling plan to re-open harvest area following closures.

It is important that the communication process does not place undue pressure on the coordinator as the sole person responsible for coordinating sample collection, liaising with the NSW Shellfish Program, and communicating with licensees. Local shellfish programs may consider sharing responsibilities, e.g. a secretary or assistant secretary could be appointed to handle communication with licensees operating under that local shellfish program.

Each local committee needs to implement a communication system that is best suited to its local program.

The welfare of local committee members is of the utmost importance, and all communications regarding the operation of the local program must be undertaken respectfully.

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## 8. FINANCIAL MANAGEMENT

Local shellfish programs are established under the *Food Act 2003* and operate under the general direction of the Food Authority. Accordingly, the financial management of local shellfish programs is subject to NSW government requirements and guidelines.

Local shellfish committees are responsible for managing program finances including keeping proper records of all financial transactions, and ensuring all expenditure aligns with requirements in clause 155(2) of the Regulation which stipulates that funds can only be used to pay for:

- (a) costs incurred to maintain the local shellfish committee, and*
- (b) costs incurred by the local shellfish committee to carry out its responsibilities.*

Budget reconciliation and trust account statements must be submitted to the NSW Shellfish Program annually following the AGM and are subject to review by the NSW Audit Office.

In addition to reviewing annual reports, each local shellfish committee will periodically receive an in-depth audit of expenditure. The Food Authority may also require any local shellfish committee to produce its accounts for inspection at any reasonable time.

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## More information

- Visit [foodauthority.nsw.gov.au](http://foodauthority.nsw.gov.au)
- Email [food.contact@dpird.nsw.gov.au](mailto:food.contact@dpird.nsw.gov.au)
- Phone 1300 552 406

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