

Evergreen licences, resource shares and share trading – taking them out of the 'too hard basket'.



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Setting the Scene

- South Australian Fishery GVP \$220m
- Approx 800 commercial fishing licences
- Approx 3,800 jobs
- Some good management with full cost recovery
- Historically commercial licences had a one year life and were annually renewable at the discretion of the Minister
- 1990's increasing uncertainty over access due to:
 - Netting bans,
 - Murray River fishery closure
 - Marine parks
 - Native title claims

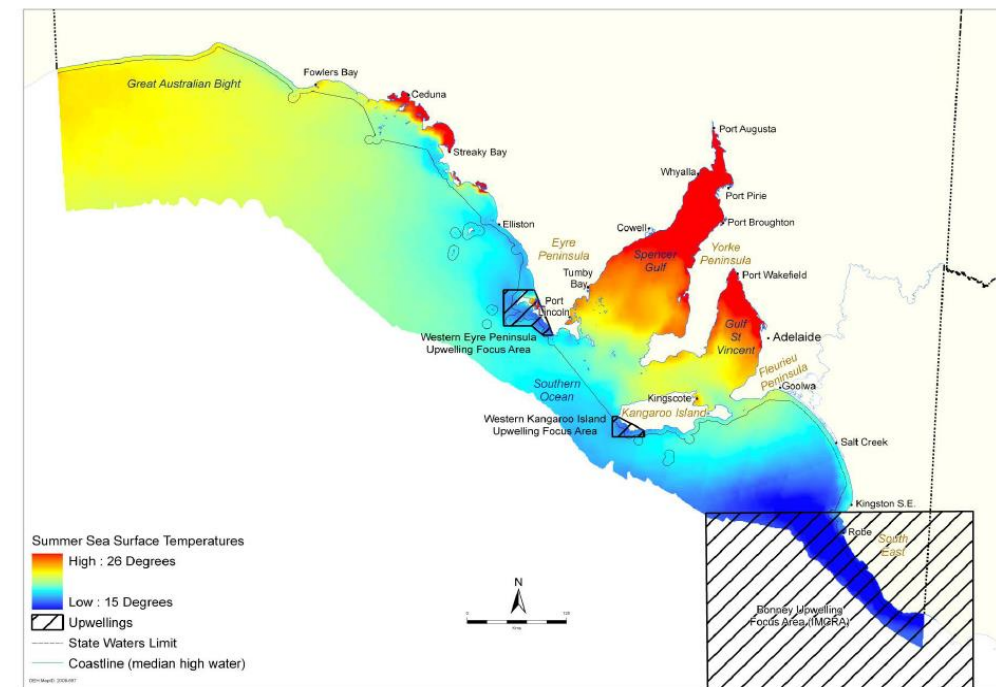


Figure 9: Summer sea surface temperature and upwelling areas in South Australia

Watershed Moment – Sept 7, 1999



- Prior to 1999 limited number (12,000) recreational lobster pot registrations were allowed.
- Application by post.
- Sept 7, 1999 application system change to telephone registration.
- What happened?



ABC Radio Program AM Archive – Tues 7 Sept. 1999 Reporter: Matt Coleman



- **COMPERE:** Telstra's level of service is again under fire after rock lobsters forced a large-scale breakdown in Adelaide's phone system. The city's phones were jammed for hours yesterday when thousands of recreational anglers scrambled to bid via telephone for lucrative lobster fishing licenses.
- **Telstra representative**, Rhonda Baker, is denying the company is to blame. 'We have recorded something like **1.66 million calls** to that one telephone number.
- **COMPARE:** But Telstra's position has been attacked by the union which covers the company's workers. The South Australian branch secretary of the telecommunications union, Jerry Candlars, says he's amazed it took Telstra three hours to bring its network back under control.

Impact

- Parliamentary Review
- Recommended unlimited pot registrations
- 2001 The Minister announced that the recreational share of the resource would be set at 4.5%, using recreational catch/effort survey estimates.
- 21,000 pot registrations set as the proxy for 4.5% all extractions.
- Exceed 21,000 pots, the Department of Primary Industry Regions would intervene in the market for commercial pots and would lease an appropriate offsetting amount of catch at market rates.
- No legislation.
- Anyone in Australia can apply.
- Commercial industry was nervous.
- Industry embarked on a journey to strengthen access rights.



Industry Response

- A second industry peak body, the Seafood Council formed to lead industry's input to the process.
- Well-funded, politically connected and credible with two objectives:
 1. Marine Park legislation with compensation provisions; and
 2. Fisheries legislation with access security provisions.
- Alliances with recreational and conservation sectors.
- Trade-offs and compromise.



IIFET 2002 Wellington New Zealand

- **Resource sharing – setting and evaluating the scene”, case studies and workshop. - Guy Leyland, Roger Edwards, George Kailis, and Daryl Sykes,**

Concluded:

- *Commercial rights consistently being expropriated, compromised, or demeaned by politically expedient decisions and/or conflicting government policies and society is the loser.*

Called for

- *framework that establishes explicit proportional shares of sustainable yields and enables market-led transfer mechanisms that ensure the quality of fishing co-operatively determined by extractive and non-extractive users.*

The Fisheries Management Act 2007

- The Act included several new provisions which substantially changed the nature of commercial fishing rights:
 - Formal recognition of three fishing sectors – commercial/recreational/traditional
 - Requirement for Management Plans
 - Management Plans can be for up to 10 years
 - Commercial fishing licences are automatically issued for the life of the Management Plan
 - Replacement management plan must be in place before old plan expires (ie. can't be left without a management plan)
 - Management Plans must allocate shares between three fishing sectors
 - Shares must be allocated based on current level access (at a specified point in time)
 - Management Plans must include mechanism for share to be adjusted or a process to review (eg. trading scheme)
 - Compensation for compulsory acquisition of licences if that is the mechanism of adjustment.

Access Rights strengthened

Section 50—Implementation of management plans

(1) The Minister must manage commercial and recreational fishing activities and aquatic reserves in accordance with any relevant management plan adopted by the Minister under this Part.

This section is very important because:

- It reduces scope for political intervention
- Management applies to each sector
- Any management actions must be consistent with the plan



Evergreen Licences

“A contract provision that automatically renews the length of the agreement after a predetermined period”



Section 56—Duration of authority

(1) A licence remains in force (except for any period during which it is suspended) from the day on which it is granted—

(i) if it is in respect of a fishery for which there is a management plan—until the management plan expires or is revoked;

Evergreen Licences

47—Duration of management plans

(2) Subject to this section, any other management plan expires—

- (a) on the tenth anniversary of its commencement; or
- (b) on the expiry date specified in the plan, whichever is the earlier.

(3) If—

- (a) a management plan is due to expire in 6 months or less; and
- (b) a draft management plan to replace the existing plan has not yet been adopted by the Minister under this Part,

the Minister must, by notice in the Gazette published before the expiry of the plan, extend the term of the plan for a period specified in the notice (being a period of not less than 12 months and not more than 5 years).



Evergreen Licences



(4) The Minister may not extend the term of a management plan under [subsection \(3\)](#) more than once.

(5) If the Minister has extended the term of an existing plan under [subsection \(3\)](#), the Minister must ensure that, during the extended term, he or she adopts a replacement management plan to come into effect on the expiry of the existing plan.



Resource Shares & Sharing

Section 43 General nature and content of management plans

(2) A management plan for a fishery must—

(h) specify the share of aquatic resources to be allocated to each fishing sector under the plan; and

(i) prescribe a method, or establish an open and transparent process for determining the method, for adjusting allocations of aquatic resources between the different fishing sectors during the term of the plan; and

(j) provide that compensation will be paid to persons whose licences or licence entitlements are compulsorily acquired in order to reduce the share of aquatic resources allocated to the commercial fishing sector and increase the share allocated to another sector.

Associated policy



- ‘Allocation Policy’ was developed to guide implementation of the legislative requirements in the Management Plans. Some of the key issues addressed:
 1. Who has shares of what resource.
 2. How should shares be expressed - % of sustainable yield
 3. Determining the first shares.
 4. Provisions for adjusting shares
 - what conditions will trigger the adjustment;
 - which sectors will be affected by the adjustment;
 - how the adjustment will occur – whether through a voluntary process or a compulsory process, and whether through tender or other scheme and
 - the timeframe within which the adjustment is to occur.

Associated policy

6. REVIEW OF SHARES

A review of shares may be triggered in one of three ways:

Category 1. The trigger limits defined in the management plan are reached; or

Category 2. There is a significant change to the management arrangements in the fishery in response to a stock sustainability risk and that change has the effect or potential effect of adjusting shares from one sector in favour of another.

Category 3. There is a significant change to the management arrangements in the fishery as a result of the impact of marine parks



Shares Transactions



Allocation Policy covers mechanisms for:

- Reducing commercial sector in favour of non-commercial sector
- Adjusting between commercial sectors with access to the same resource.
- Reducing recreational sector in favour of commercial sector

Importantly it is Government policy that –

- compensation in some form will also be paid to commercial sector fishers whose shares are reduced without any formal acquisition of licences or entitlements under licence and
- where the share of a non-commercial sector is reduced, the principle of compensation will still be applied. In other words, if the commercial sector seeks to increase its share relative to the recreational share, it will be required to effectively purchase this share through compensation to the recreational sector.

Applying the framework – making management plans

- Completed Plans
 - Commercial Marine Scalefish Fishery – 10 year Plan
 - Commercial Blue Crab Fishery – 5 Year Plan
 - Charter Boat Fishery – 5 Year Plan
 - Southern Zone Rock Lobster Fishery – 5 Year Plan
 - Abalone Fishery – 5 year Plan
- Plans Underway
 - Northern Zone Rock Lobster – due in 2014
 - Recreational Fishery – due in 2015
 - Spencer Gulf Prawn Fishery – due in 2014
 - Gulf St Vincent Prawn Fishery – due in 2015
 - Sardine Fishery – due in 2014
 - Lakes and Coorong Fishery – due in 2014



Information and resources needed to implement the policy



- Catch data for all sectors
- Design of reallocation mechanisms fishery by fishery – its complex
- Financial resources for reviews.
- Funding for the share transactions.
- In practice the Management Planning process takes 18-24 months to complete.
- Some of the tricky issues (e.g.. Stocks shared across spatial management units; species taken in multiple fisheries with different management regimes).
- Its new for all concerned.

Lessons learnt / issues for the future



- Using 'current' shares is a must because it avoids:
 - (1) costs of quantifying the social and economic value of the recreational sector and,
 - (2) Lengthy debate and conflict between sectors
- There are no definitive and acceptable way to satisfy all players with quantification exercises – keep it simple.
- Provides the policy settings to compel quantification extractions by all sectors (ie. Better recreational catch data).
- Compels management decisions aimed at maintaining share proportions – e.g. Blue crabs
- The framework accommodates both the growth & contraction of the all competing sectors.
- The process of adjustment needs to be kept as simple as possible – triggered only by significant changes in catch beyond allocated shares.
- Forward measurement of 'optimum' share mix is not built in – it's a backward looking process. Forward assessments may be too costly or not possible due to data deficiencies.



The impact of strong rights



- Places a commercial cost on all share transactions between competing sectors.
- Creates commercial discipline to Government when changing shares to address community aspirations (read votes!!!)
- Establishes transparency of re-allocation process
- Protects the commercial sector from politicization of the issue.
- In theory more certainty about investment decisions should exist.


CERTAINTY



Closing Comments



- Legislation after a long process with close involvement of stakeholders.
- Commercial sector was a strong advocate.
- There are several contextual issues that made it possible to negotiate legislation that met these objectives
- Not a perfect process or system but also not impossible.
- Early days but benefits are accruing – catch reductions in proportion.
- The true tests:
 - impact on lending by banks
 - the first share transaction.

