Allocation in Torres Strait

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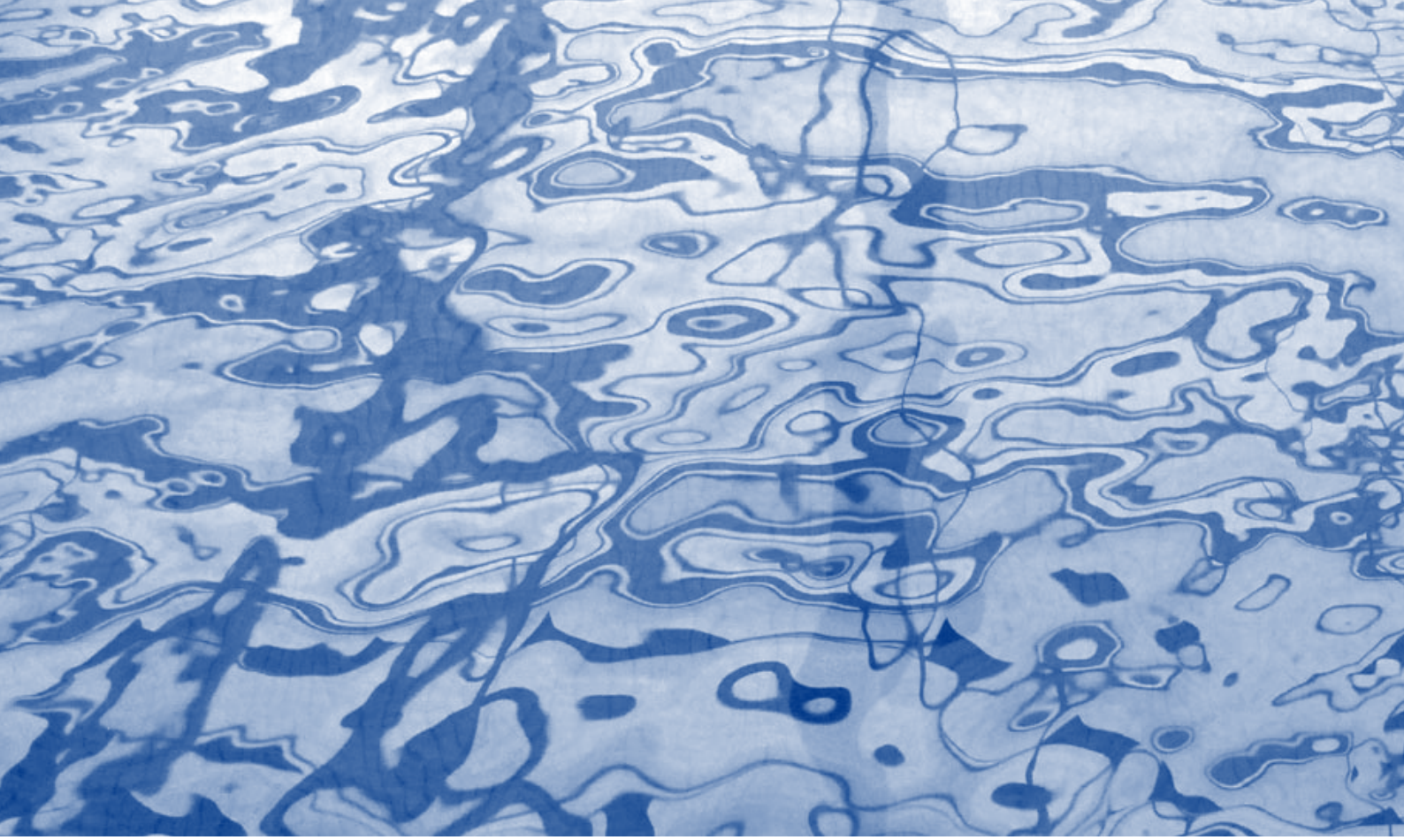

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Re-allocating resources between fishing sectors in torres strait commercial fisheries - recent decisions of the protected zone joint authority

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TABLE OF CONTENTS

Abstract	v
Introduction	1
Commercial fishing in the torres strait protected zone	3
Process established to resolve resource allocation	5
PZJA decisions relating to resource allocation	9
Giving effect resource allocation decisions	11
Conclusions	13
References	15

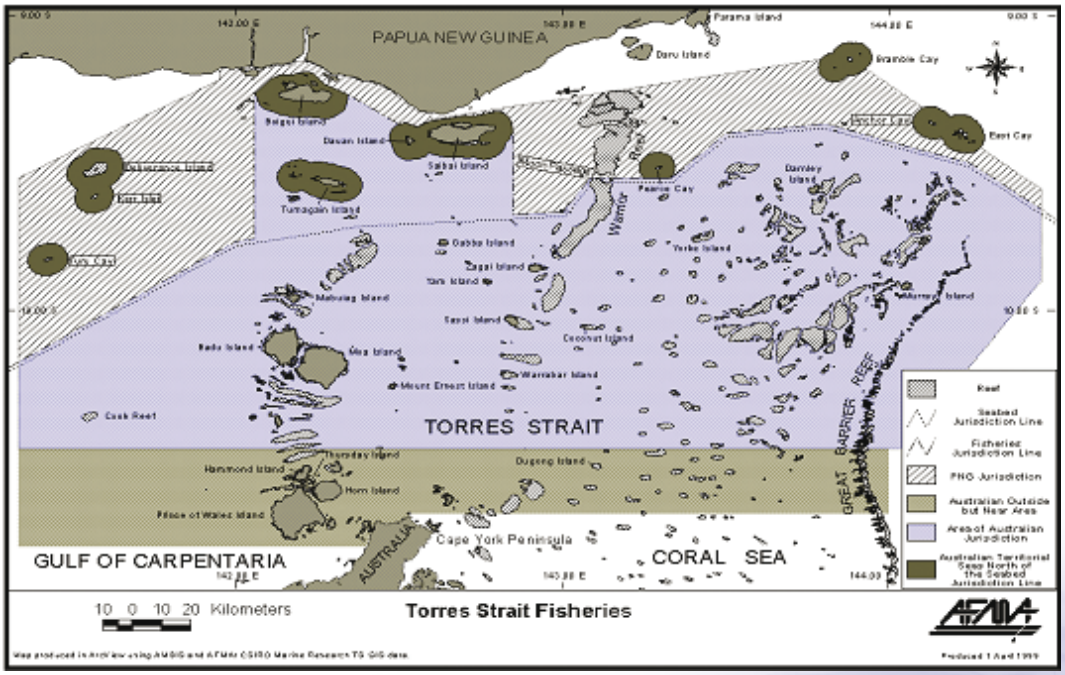
Abstract

Historically, the Torres Strait Protected Zone Joint Authority (PZJA) has used 'expert panels' to provide advice on resolution of allocation issues. This strategy has generally arisen from the inability of the established consultative structure to resolve such issues given the composition of the committees and the entrenched sectoral positions of its members. Independent advisory panels and specialist groups have been used by the PZJA since 2002 to provide specific advice on the allocation of fisheries resources between the four sectors involved in Torres Strait fisheries. In July 2005 the PZJA made landmark decisions regarding sectoral allocation in the tropical rock lobster (TRL) and finfish fisheries. These decisions result in an initial move to a 50:50 share of the fisheries between islander and non-islander commercial fishers. There is an eventual target for the islander sector to self-fund a move to a 70:30 catch ratio in these fisheries. Trading rules are being evaluated that (when implemented) may assist the islander sector to achieve this target. Funding supplied by PZJA agencies has been approved to facilitate the initial shift of fishing resources between sectors to the 50:50 catch ratio. The recent decisions also formally account for the Papua New Guinea entitlement under the Torres Strait Treaty. In order to make the resource allocations possible between sectors, and to allow for potential sustainability adjustments, the PZJA also agreed to implement a quota management system for the TRL fishery and is planning for an equivalent system based on either catch or effort in the finfish fishery.

INTRODUCTION

Since the signing of the Torres Strait Treaty between Australia and Papua New Guinea in 1978, commercial fishing pressure in the Torres Strait Protected Zone (TSPZ) has increased (Figure 1). Markets have become buoyant and developments in technology have made fishing capacity more effective over time. Today, compounded by sustainability concerns and growing desire for economic self-determination amongst Torres Strait Islanders, there is unprecedented pressure for commercial access to fisheries resources in the region.

Figure 1. Area of the Torres Strait Protected Zone.



Advice on managing these fisheries is provided to the Torres Strait Protected Zone Joint Authority (PZJA) through the fisheries consultative structure (Johnson *et al*. 2006). Fisheries issues discussed by these established committees have included resource allocation, a topic that has become a preoccupation in recent years. However, given the significant economic, social and equity issues involved, and the fact that committees are comprised of non-islander and islander[1] representatives, it has been inherently difficult to achieve resolution on issues relating to allocation.

In this paper, we described the process used by the PZJA to resolve allocation between commercial fishing sectors in the Torres Strait Tropical Rock Lobster (TRL) and Finfish Fisheries. We then outline the decisions of the PZJA in relation to this issue and how these decisions are to be put into effect.

1 The term 'islander' is generally used interchangeably with 'traditional inhabitant'. The definition of 'traditional inhabitant' is contained in the Torres Strait Treaty, and identifies with those Torres Strait Islanders living in the TSPZ or adjacent coastal area, are citizens of Australia and have maintained their traditional customary links. Commercial fishing by traditional inhabitants is referred to as community fishing.

Commercial fishing in the Torres Strait protected zone

The TRL fishery is managed as a dive fishery targeting the tropical rock lobster *Panulirus ornatus*. Islander commercial fishers predominantly free dive for tropical rock lobsters from individual dinghies based out of communities in the TSPZ. Non-islander operators based on Thursday Island or Cairns use mothership-tender operations with hookah breathing apparatus. The product is landed live or as frozen tails for the overseas Asian and North American markets.

The finfish fishery consists of two separate fisheries targeting reef fish species (plectropomids, lutjanids and lethrinids) and Spanish mackerel (*Scomberomorus commerson*). These fisheries are centred in the eastern Torres Strait and fish are harvested using line or troll methods. Non-islander commercial fishers are generally based in north Queensland and operate predominantly as mothership-tender boat operations while islander commercial fishers operate from dinghies based in each community. Fish caught are marketed as whole frozen, trunked or filleted product on the local and Asian markets.

Under the Torres Strait Treaty, TRL and Spanish mackerel are listed as Article 22 fisheries meaning subsidiary arrangements for the management of these species are negotiated for both sides of the jurisdiction line in Papua New Guinea (PNG) and Australia. As such, there is also a catch sharing agreement for these species between the two countries. These fisheries are currently managed through input controls.

Commercial fishing therefore comprises three sectors: islander, non-islander and PNG. The right for islanders to take fish for traditional purposes (traditional fishing) is also assured in the Torres Strait Treaty and the Torres Strait Fisheries Act 1984. Recreational fishing is also permitted in the TSPZ under the Queensland Fisheries Act 1994, but recreational fishing effort is considered to be a minor impact on fisheries resources, particularly in regards to resource allocation.

Process established to resolve resource allocation

Historically, the PZJA has made use of 'expert panels' to provide advice on various issues. This strategy has been extended to resource allocation and has generally arisen from the inability of the established consultative structure to resolve such issues given the composition of the committees (or working groups) and the entrenched sectoral positions of its members.

In 2002, the PZJA commissioned an Independent Advisory Panel to review sustainability in the Torres Strait fisheries and to provide advice on resource allocation and options for fisheries economic development in the islander sector. This panel comprised a fisheries scientist, legal counsel, and Indigenous policy advisor. The recommendations from this panel (Menham *et al*. 2002) were considered by the respective working groups, however, issues relating to fishing access and allocation remained unresolved between the islander and non-islander commercial fishing sectors.

Following the Independent Advisory Panel's report, resource allocation still remained the central theme within the fisheries consultative structure and amongst the fishing communities in general. Some islanders held the view that non-islander fishing effort should be substantially or completely removed from the TSPZ. Some non-islander fishers did not object to this view provided appropriate compensation was paid[2]. These requests for compensation and the significant funds that this would require were another contributing reason as to why the standard working groups were unable to progress the matter.

The fact that significant use of public funds would probably be required led to repeated requests from each sector that the matter (and potential funding sources) be conclusively considered by the PZJA itself.

2 Under the *Torres Strait Fisheries Act 1984*, there is no provision for compensation.

In February 2005, the PZJA recognised the need for a determination on resource allocation in the TRL and finfish fisheries. A specialist group was established to develop practical options for achieving appropriate resource allocation in these fisheries. The specialist group comprised of senior officials from the Australian Government Department of Agriculture, Fisheries and Forestry, the Australian Fisheries Management Authority, Torres Strait Regional Authority and the Queensland Department of Primary Industries and Fisheries[3]. Technical advice to the specialist group was provided by the Australian Bureau of Agricultural and Resource Economics, and an expert on indigenous social policy from the Australian National University.

In developing resource allocation options, the specialist group considered the following sectors as having fishing access in the TSPZ:

- PNG fishers (as per treaty arrangements);
- traditional inhabitant fishers (traditional fishing);
- traditional inhabitant commercial fishers (community fishers); and
- non-traditional inhabitant commercial fishers.

The specialist group recognised that PNG and traditional fishing were afforded priority of access in the TSPZ under the treaty. This priority is not disputed by the sectors. The specialist group also developed principles that established a hierarchy for assessing the relative merits of each resource allocation option. In developing these principles, the specialist group considered the Independent Advisory Panel's report, fishery strategic assessment requirements under the Environment Protection and Biodiversity Conservation Act 1999, and Commonwealth led discussions relating to greater autonomy in the region (Commonwealth of Australia 1997). The principles in order of importance were:

- protection of the fishery resource;
- protection of the traditional way of life and livelihood of traditional inhabitants;
- enhancing economic and employment opportunities for traditional inhabitants; and
- enhancing economic and employment opportunities for non-traditional inhabitants, and in a more general sense enhancing economic and employment opportunities in the Torres Strait region.

The principles were consistent with past actions and policies of the PZJA and were underpinned by the following clear imperatives:

- the need to control catch and/or effort (sectoral and total);

3 These agencies collectively provide administrative, day-to-day fisheries management, and policy support to the PZJA.

- the need to adopt more contemporary management methods; and
- the need for better catch/economic data reporting mechanisms as a basis for future decision-making.

In June 2005, a consultation paper based on the work of the specialist group was released to canvass stakeholder views on resource allocation options in the TRL and finfish fisheries, and the mechanisms to achieve such change. The outcomes of consultation were then presented to the PZJA in July 2005, from which landmark decisions were made.

PZJA DECISIONS RELATING TO RESOURCE ALLOCATION

The PZJA decisions of July 2005 (supported by further decisions in November 2005 to give effect to funding arrangements) represented the first formal allocation of fisheries resources between and among the three commercial fishing sectors in the TSPZ.

These decisions will result in an initial 50:50 allocation of the Australian share of each fishery between islander and non-islander commercial fishers, with an eventual target of 70:30 in favour of islander commercial fishers. The July 2005 decisions will also result in an allocation of fishing access to PNG. This is the first time that PNG's entitlement under the Torres Strait Treaty will be formally accounted for, significantly improving efficiency over the previous system where fishing access was negotiated on an annual basis.

Significant effort was required on behalf of each of the three PZJA members and their respective agencies to achieve a confluence of financial approvals from the Commonwealth and Queensland governments. These were the funds for the required shift of access from the non-islander commercial sector to both the islander commercial sector and PNG. Funding of payments will occur through an open tender process. The role of the open tender process is discussed in Maxwell & Colquitt (2006).

In the longer term, the proposed shift to 70:30 in each fishery will be facilitated by islanders via a self-funded process through the development of trading rules for the transfer of quota. Given the cultural and economic significance of fisheries resources to islanders in the TSPZ, these allocations are a positive step for islanders to realise their potential for economic development.

Underpinning these allocations will be the development of management systems providing a mechanism for sustainability adjustments and management certainty for fishers. For the TRL fishery, a quota management system based on individual transferable quotas (ITQs) is to be developed and management

control in the finfish fishery is to be based on either catch or effort. These management systems are to be delivered by management plans commencing in 2007. These are tasks currently being consulted through the working groups.

Giving effect resource allocation decisions

Key elements in delivering the PZJA's decisions include:

- the management system development process;
- research and advisory processes to set up the total allowable catch/effort;
- legislative processes to promulgate the fishery management plans;
- establishing the allocation advisory panels for the individual shares;
- developing and running the open tender process; and
- consultation and extension strategy.

As much of the delivery is process oriented, a project team from the four PZJA agencies was created. For management, resourcing, efficiency and synergy, the process for the TRL and finfish fisheries would run concurrently. The project team has developed a project plan that covers these elements and well as identifies progress milestones and prerequisite approvals from the PZJA. The project plan also serves as a communication and extension document so that stakeholders are aware of the development stages and the consultation feedback required of them (Torres Strait Protected Zone Joint Authority 2005).

Again, the use of an independent expert panel is expected to be employed. This will be in the form of an allocation advisory panel to make recommendations regarding intra-sectoral allocations. The use of such a panel in the Torres Strait is discussed in Maxwell & Colquitt (2006).

Conclusions

Although delivery of the PZJA decisions on resource allocation is in progress, there are some lessons that have been learnt.

1) It is inherently difficult for stakeholder representative committees to make decisions on resource allocation. In the Torres Strait, the emotive nature of the issue and entrenched sectoral interests makes it difficult for agreements to be reached. Inevitably, in the absence of a clear policy framework, resource allocations between competing sectors require political will to be resolved.

2) The use of expert panels to provide advice acts as a good circuit breaker. In particular, the independence and expertise of the panel should be a feature upon which acceptability of advice is focused.

3) Any transitions for resource allocation between sectors should ideally be funded to facilitate the necessary structural adjustment. The provision of adjustment funds promotes goodwill between fishers and management agencies as well as maintaining, to the extent possible, economic capacity amongst the sectors.

4) Significant resource allocation conflicts should be addressed expediently. Delaying potentially difficult decisions typically adds further complexity to the issue as each sector becomes further embedded in its position and more heavily reliant on the resource. To this effect, other issues may not be progressed and sustainability concerns coming to the fore may require stopgap measures.

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