

Devolution: Privatizing Administrative Services in the New Zealand Seafood Industry

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Abstract. Changes to New Zealand's fisheries legislation provides for devolution of certain function duties and powers of the central government agency to the industry. Such a framework is creating considerable difficulty for decision-makers when developing implementation strategies. This paper reviews the innovations and approaches being taken to implement one of the specific provisions of the legislation, "providing for the devolution of fisheries administration functions to approved industry delivery organization/s". It attempts to look at the correlation between industry ownership, and control of administrative systems delivery, and any increased quality of fisheries management data and decision making.

Keywords: Devolution, Outsourcing, Approved Service Delivery Organisation (ASDO).

Introduction

Professor Anthony Scott predicted "*there will be another step in making the traditional laws of property contract and incorporation applicable to the offshore fishery*".

Fourteen years on from the introduction of the Quota Management System, and property rights management through ITQ, the next phase of evolution is taking place in New Zealand.

The perception that property rights contained in ITQ could conform to produce wide ranging management powers, over ones rights, has proven to be incorrect. Instead this has been replaced by an understanding that collective management through Quota Owning Companies (QOC's) provides the only means of increasing right attributes for individuals.

Devolution has become the catch cry of New Zealand fisheries management. "Devolution", in this instance, can be described as the transfer of risks and responsibilities to rights holders for management decisions within an overriding framework, being sustainability.

The establishment of Quota Owning Groups, designed around commercial company structures, is well under way. These groups are focusing on developing fisheries specific management plans covering internally purchased research, compliance and administrative services. This

will allow these organisations to step out from a centralised management framework.

The purpose of this paper is to briefly describe the development of this overall framework, the current and proposed operational delivery environment and the implications for industry of government interest/intervention within a devolved environment.

Framework Development

Since its inception in 1986 the Quota Management System has been plagued with a number of key problems:

- (1) a complex legislative and regulatory environment,
- (2) complicated decision making process, being susceptible to heavy political influence,
- (3) inefficient decision and delivery frameworks (exposed on the implementation of cost recovery in 1994),
- (4) an absence of clearly defined rights for the recreational sector,
- (5) dislocation of other rightsholders within the whole marine environment and
- (6) a lack of clearly defined "public good" needs and expectations in relation to wider eco system management.

In 1990 the Minister of Fisheries signaled the first stage of a reform agenda that was to take ten years to complete. The reform process culminated in two significant pieces

of legislation, the 1996 Fisheries Act and 1998 Fisheries Amendment Act.

During this period a number of influential reports were to be released that would have major impact on the final nature of the reform;

- (a) the Peter Pearce Report 1991 “Building on Progress, Fisheries Policy”
- (b) the Fisheries Task Force report to the Minister of Fisheries in 1992 “Sustainable Fisheries Tiakina nga Taonga a Tangaroa” and
- (c) an independent review of the 1996 Fisheries Act.

These reports referred to a wider acceptance of the risk and responsibilities of rights holders within the property rights framework. The Pearce report focusing on corresponding cost obligations and their recovery against particular rights, the task force report on a devolved management framework and the Fisheries Act Review compared the theoretical legislative definitions with practical implications of cost recovery and devolution.

The 1998 Fisheries Act review was invoked due to the sheer difficulty officials experienced in trying to implement the theoretical operational “back end” when practical application made it impossible to administer.

The review and its findings were considered before a Select Committee of Parliament. While acknowledging the opportunities co-management/devolution might provide they deferred giving explicit definition in legislation to such a framework.

Other legislation was passed in the intervening period and while not explicitly addressing co-management/devolution nonetheless had an impact. In 1992 aboriginal rights issues were resolved through the passing of the Sealord Settlement Act. This Act followed the Maori Fisheries Act of 1988 and gave legislative recognition and explicit definition of both aboriginal commercial and customary rights. Such definition and allocation of rights was to have significant impact on lifting the overall strength of the commercial right.

The introduction of cost recovery in 1994, increasing industry’s annual contribution to fisheries management costs from \$11m to \$18m (US) was perhaps the most significant catalyst for reform. Industry suddenly focused its attention on efficiency of delivery, institutional reform and contestability in service delivery.

An environment where the government was the decision-maker, purchaser and sometime provider of services, while industry was the payer, was to prove untenable.

Against this backdrop decision makers explored means by which a legislative framework could provide for management decision making and therefore the associated risk and responsibility to be placed firmly at the feet of rights owners under an overriding framework.

Economic drivers are rarely seen as a means of delivering sustainability objectives and therefore generally take a back seat. Even wider public good interest provided a major dilemma for officials when attempting to define and apply potential devolved management frameworks to the new legislation

Due to public political pressure based around the age old argument of “letting the fox into the hen house”, the Government of the day backed off the concept of explicit definition of full devolution within legislation when amending the Fisheries Act in 1999.

While conceptually sound, decision-makers required tangible evidence that such an approach might “work in practice” before freeing up the legislative environment. The result, industry to a large extent is stuck with the consequences of a new management framework constrained by characteristics of a problematic system of the past.

Nonetheless a number of sections were retained which leave the door open to full devolution in the future. One of those sections provides for the devolution of administrative services to industry. NZ Fisheries Act 1996 “**Section 296B Transfer of specified functions duties and powers to approved service delivery organization** – (1) *The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister after consultation with the Minister responsible for the administration of the Environment Act 1986, transfer any specified function, duty, or power of to an approved delivery organization*”

To adjust to such change the industry has undertaken a number of initiatives.

Restructuring

Industry realised if it was to influence future change, and recoup the benefits, it had to develop an infrastructure that could deliver management objectives that were robust, supported by those who were most affected and met wider fisheries management objectives.

Historical input into fisheries management was based around representation through trade associations. These organisations were largely centralised and many had

considerable cross membership. As time went by and quota changed hands these associations began to struggle with clarity of mandate to represent the interests of the rights holders (quota owners). Industry began to get sidelined by the ability of adversaries to drive wedges between the competing interests.

A new model was developed. The focus of this model was “quota owners” through quota owning groups taking the lead role in advocating specific fisheries management issues. Quota ownership/shares in a fishery are transformed into quota shares in a management (Quota Owning Company QOC) company with voting power relevant to the shares held.

The company must then develop a management plan for approval by the Minister. In order for the company’s management plan to be approved the company must show that all rights holders have been consulted on the plan and minority interests have been considered in any decision making process.

These groups are supported by a single organisation, in New Zealand’s case, the Seafood Industry Council (SeaFIC), who focuses on (1) providing a generic framework for quota owning groups to operate within (2) and wider general industry generic issues. Each QOC holds shares in SeaFIC equivalent to the amount of levies paid to the organization by its shareholders and shareholdings are then used to appoint Directors.

In order to give confidence to such an approach, Industry and Government through the Ministry of Fisheries worked closely to develop an appropriate model.

Operating Framework

Two key questions were addressed in the process (1) what should be the core role of Government? and (2) what are the responsibilities of rights holders?

From this the following framework emerged.

The Minister being responsible for:

- Meeting International and Treaty (Aboriginal Rights) obligations
- Approving management plans developed by Quota Owning Companies
- Ensuring the management plans and management decisions meet overall sustainability objectives

The Ministry of Fisheries being responsible for:

- Developing appropriate specifications and standards from which Quota Owning Companies can work within. With a heavy emphasis on outcomes not outputs or inputs.
- Auditing management plans that are developed by stakeholder against the specifications and standards
- Providing strategic policy advice to government that is outcome based
- Delivering criminal enforcement capabilities a primary responsibility of government.

Quota Owning Groups being responsible for:

- Working with shareholders (quota owners) in the development and application of their management plans
- Delivering administration requirements of the group, permitting, trading, balancing and reporting.
- Designing and purchasing research that supports management objectives outlined in management plans
- Implementing self compliance regimes to ensure shareholders work within set guidelines
- Undertaking consultation with other stakeholders on the management plan and its application in the wider marine environment

SeaFIC being responsible for:

- Promoting profitability and sustainability of the industry
- Generic service provision (information/reporting)
- Delivering strategic policy advice to the government and its supporting bureaucracy
- Driving for simplified legislation and operating frameworks
- Developing/enhancing property rights against the spectrum of terrestrial rights
- Ensuring efficient resource use where services are outside of the direct control of industry
- Developing a high level environmental policy to meet the wider marine management objectives
- Delivering cost effective and efficient registry services

This reform is in its early stages and will take some time for all those with an interest in the resource to adjust. Understandably, opposition comes mostly from non-rights holders and those in bureaucracy with paradigms confined to the past.

This model, while constructed with the commercial sector, can be applicable to any resource user group. Maori Customary groups have already developed individual reporting and compliance programs under a similar model for certain tribal areas in New Zealand.

Information Frameworks

The new Fisheries Act focuses on a much wider ecosystem and information management base approach:

Part II Purposes and Principles

8. *Purpose-* (1) *The purpose of this Act is to provide for the utilization of fisheries resources while ensuring sustainability.*

The section is immediately followed by two further high level sections of the legislation.

9. *Environmental Principles* - This section requires all persons exercising or performing functions, duties or powers under the Act to consider (1) Associated or dependent species (2) biological diversity (3) Habitat protection.

10. *Information principles* – Similarly for those exercising or performing functions, duties or powers must consider that, (1) Decisions should be based on best available information (2) uncertainty of information to be considered (3) caution should be applied when uncertain, unreliable or inadequate information is available (4) absence or uncertainty should not be used to postpone or fail taking measures to meet the purpose of the Act.

As the implications of “devolution” become more apparent, industry’s focus is turning to the potential information requirements of the future. Current data systems are simply not capable of delivering the perceived needs in quality, efficiency or responsiveness.

Through cost recovery, industry suddenly faced a new challenge, to either take control of the process for design and build of new IT systems to support the legislation, or run the risk of bearing the likely inefficiency costs from a Crown run project.

In 1998 SeaFIC established Commercial Fisheries Services Ltd (CFS) as it’s commercial arm to begin putting in place arrangements for the design, build, and implementation of new IT systems to support the new Act.

Under a joint program with the Ministry of Fisheries, a team of 45 personnel is now working together to design, build and implement new systems by 1 October 2001.

This investment by Industry in new systems is currently sitting at \$9m US.

Parallel to this development industry realized that optimum efficiency would only be forthcoming through long-term service delivery control.

“Outsourcing” of administrative services became the catalyst for this to occur.

With SeaFIC and CFS being relatively new organisations “in substance” testing normally attributed to government outsourcing contracts became difficult. As an interim move Commercial Fisheries Services linked with Datacom Employer Services (DES), an organisation already successfully delivering education payroll services to the government. This provided much needed substance to the “credibility” of industry’s approach.

In August 1999 the Ministry, Industry and Datacom Employer Services signed a \$6.8m tripartite contract for the delivery of outsourced services on behalf of the Crown. Seventy of the seventy-five existing Ministry staff moved across to the new organisation.

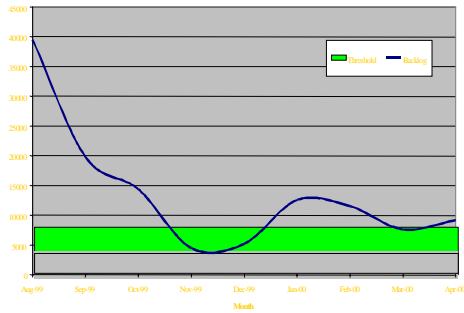
Under the brand name of “FishServe” (fishserve.co.nz) the new organisation has been operating now for almost 10 months. The transition from public service to private enterprise has been an interesting one for staff and the new focus on production and customer service has produced excellent results.

Production focus change has meant historical data entry backlogs have been removed,

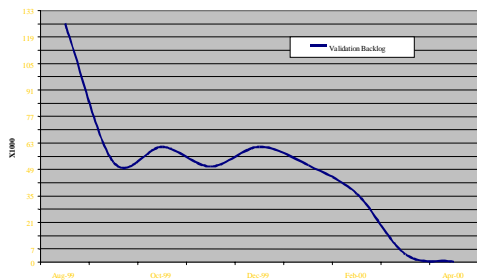
and catch document validation processes are now up to date and being expanded.

The most significant impacts are client errors are down, turnaround times are shorter, interaction is up, and industry support is increasing. Customer refocus is transmitted through quarterly newsletters and monthly tip sheets all designed to make fishers administrative requirements simpler.

Data Entry Backlogs



Validation Backlogs



The success of the project can be summed up in the following quotes.

Peter Jones, (President, New Zealand Federation of Commercial Fishermen)

“The focused approach on service and education by the new organisation is really helping our grass roots fishermen”

Lesley Campbell (General Manager, FishServe)

“It is so good to have the flexibility to manage the business in a way which provides the best outcomes for both the staff and the clients”.

John Ayers, (Quota Manager Sealords Ltd, New Zealand’s largest deep water company)

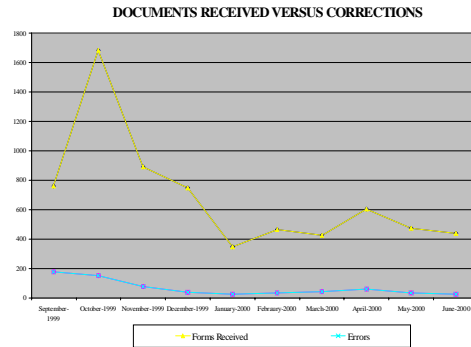
“ Same people, same services but people now seem to listen, look for improvements and focus on making life easier”

Bruce Young, (CEO Moana Pacific Ltd, New Zealand’s largest inshore company)

“The change is like a breath of fresh air and the improved relationship means our internal costs are going down as well”

Peter Murray, (Corporate Services Manager, Ministry of Fisheries)

“This initial outsourcing has been from the Ministry's view an unqualified successful transition and enabling arrangement”



Efficiency gains in real dollar terms from Fishserve first eight months of operation, (for which it has direct control), are currently sitting at 6.5%. That figure is likely to increase next year to around 10% pa. These efficiency gains will be passed directly through to industry.

This model is recognized as not being the most efficient (creation of a monopoly supplier) However as Fishserve is wholly owned and supported by industry the arrangement is seen as an acceptable short term strategic move to secure long term devolution objectives.

Through ownership the scrutiny and disciplines will be applied to Fishserve to ensure the organisation will:

- Maximise value in the new systems
- Encourage accurate reporting (increase the value to fishers)
- Increase value added services (provide greater feed back loops)
- Look for external revenue opportunities (to offset costs)
- Continue to drive for optimum efficiency in delivery of required services
- Support increased fisheries management devolution through stakeholder groups

New IT Systems Development

The whole operational fabric of the New Zealand fishing fleet is about to change with the introduction of a more responsive and user friendly IT based quota management system.

The new IT systems project is on target for implementation by 1 October 2001 and it is hoped to

deliver even greater efficiency and simplicity for the future.

A key component of the new systems will be the development of feed back loops to fishers directly related to their individual operation, and to quota owning groups through collective information provision to assist in their management planning.

Fishserve has 20 staff committed throughout all levels of the project. This is seen as a strategic investment by industry in building a wider policy and operational knowledge base around the new Fisheries Act. Inevitably, as devolution unfolds, these people will provide a pool from which stakeholder companies can utilize this skill base as company and management planning develops.

Government Intervention

Having developed and implemented a new devolved framework the most significant challenge is getting those people traditionally responsible for delivery to let go the reins.

This is no easy task. Fisheries development from open access, to controlled environments, through input/output and property rights changes and finally devolution has not been an easy road.

For those having participated in such a process, paradigms of the past are hard to change. Devolution is a substantive mind shift change that requires a stringent conviction of belief to succeed.

Any attempt to “cover all bases” for possible uncertainty results in inefficiency of outcome, the very reason for the application of the model in the first place.

This has provided a dilemma for industry and officials working through the development of such a framework.

On the one hand industry is keen to remove the governments interest through prescription of delivery while the government is concerned with maintaining continuity and protecting the wider public good interest.

From a policy perspective discussions have centered around defining the following levels of government interest in service provision

- Devolved Services = Outcome only
- Outsourced Services = Output and outcome levels.
- Inhouse Services = Input, output and outcome levels

A nervousness to apply such disciplines is adding a layer of complexity and costs to the new framework and supporting systems development. How this might be overcome is difficult to gauge and perhaps time may be the only cure.

Summary

Through systems and operational ownership, industry is not only beginning to reap substantial efficiency gains but the quality of data is increasing markedly. It is hoped this enthusiasm will be maintained as it moves to an environment where ownership responsibility produces information outcomes commensurate with the risks of the management decisions taken.

Through Quota Owning Groups, individuals are having greater input into the management decisions affecting their rights within sustainability guidelines.

Voluntary definition and therefore delivery of ones responsibilities should always mean greater acceptance of the challenges such an environment creates.

Aligning property rights with strategic and operational management risk, forces ownership of the “outcomes” required to produce wider fisheries management objectives firmly at the feet of rights holders.

Individual rights holders, unless they own the whole fishery, rarely have the resources or control to influence change. Only collective rights holder frameworks can provide the structure to deliver fisheries management objectives of the future that better protect individual rights.

END

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