

# 2<sup>nd</sup> National Abalone *Conference*



Melbourne Victoria

Wednesday 13 - Friday 15 August 2003

Hosted by Seafood Industry Victoria Inc



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## National Abalone Convention Proceedings

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Melbourne, Victoria  
13-15 August 2003

## CONTENTS

### Thursday 14 August 2003

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Official Opening by Senator Hon. Ian Macdonald	02
Dr David McKinna - Defying Gravity	03
Grant Hunt - Japan Abalone	07
David Gregory - Building Customer Value Through the Food Chain	14
Alex Ziolkowski - Markets; From Reef to Restaurant	21
Melanie Fisher - Fishing and the Community	23
Damian Clarke - Access/Property Rights	25
Peter Dundas-Smith - Charting Our Future; With Respect to What? and how?	52
Dr Ann Fleming - Research and Development Investment in the Abalone Aquaculture Industry	55

### Friday 15 August 2003

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Richard McLoughlin - Fisheries Management	58
Professor Peter Cook - The Future of Abalone Aquaculture In Australia; The Influence of World Markets	60
Steve Rodis - Abalone Aquaculture; Past, Present and Future	66
Professor Malcolm Haddon - Fisheries Assessment of Abalone	70
Professor Des Gorman - The Hazards of Human Life In the Ocean	73
Dr Rick Fletcher - Ecological Sustainable Development; Where Are We Up To? What Happened With Abalone?	78
Dr Cathy Oke - Environmental Information and the Seafood Industry	83
Duncan Leadbitter - Self Management and Certification: The Role of MSC?	88
 List Of Delegates	 93
List Of Sponsors	94
List Of Exhibitors	94



## OFFICIAL OPENING OF THE 2ND NATIONAL ABALONE CONVENTION

*Senator the Hon. Ian Macdonald  
Minister for Fisheries, Forestry and Conservation*



The Howard Government and Industry

- Keep the 'big picture' right.
  - Responsible management of the economy.
  - High level of international involvement
  - Development of free trade agreements
- Potential growth and challenges for the abalone industry.

Abalone in Australia

- Produced 5,766 tonnes in 2001/02.
  - valued at \$243 million.
- Major export markets - Hong Kong, Japan, Taiwan and Korea.
  - SARS outbreak highlighted need to further diversify export markets.
- Government/industry export guides (US, EU and Middle East).

Abalone Aquaculture

- Main producers SA, Vic, Tas and WA.
  - SA and Vic largest but only produced 47 tonnes
- Increasing global demand for high quality seafood.
- Australia in a prime position to capitalise on this demand.

Aquaculture Industry Action Agenda

- Signed off by Prime Minister late 2002.
  - Consists of 10 strategic initiatives
  - Aim to achieve \$2.5 billion in sales by 2010
- \$2.5 million made available in last budget for the implementation of the Action Agenda.
- Initiative 1- National Aquaculture Policy Statement- COMPLETED!

Challenges for the Future

- Looking to the Future: A Review of Commonwealth Fisheries Policy
  - Reaffirmed ecologically sustainable development (ESD) in fisheries management.
- Pursue Marine Stewardship Council (MSC) certification.

Challenges for the Future - Poaching and Illegal Export

- Abalone has become an attractive commodity for criminals.
  - Illegal market threatens existing management arrangements and economic returns.
- Working with the States and industry to address the problem.

Stamping Out Illegal Fishing

- Strong on enforcement.
- Australian Government working with States and industry to address illegal trade.
- Hot pursuit running in the Southern Ocean as we speak.

Challenges for the Future - Food Safety and Human Capital

- Maintaining Australia's reputation as a 'clean and green' producer of high-quality seafood products.
- Industry's future success depends on its human capital.
  - Your input required and welcomed.



### DEFYING GRAVITY

*Dr David McKinna  
Principal David McKinna et al Strategic Insights  
dmckinna@labyrinth.net.au*

I have titled my talk today "defying gravity". My choice of title will become obvious later. When I was first invited to give this talk to the Abalone Conference, I was quite surprised that they were interested in hearing from a person in marketing and supply chain management. My perception of abalone is that it is a highly successful industry that made people extremely rich and a licence to dive for abalone was essentially a licence to print money. Because I have had no direct experience with abalone, I thought it important to bring myself up to date with some of the

issues in the industry. I took the opportunity to read a few papers and have some briefings from a number of people. This briefing led me to the conclusion that whilst it is probably still a licence to print money for people with licences, the industry potentially is not good shape in the longer term.

The thing that really struck me, is that the abalone industry today is still where most industries were in the 1980s and 1990s. Most agri-food industries have substantially lifted their game. In most cases, this was through sheer necessity, because they faced a crisis and were forced to act to survive. The abalone industry appears to be in a time warp. To date, it has been lucky enough to continue to succeed despite its total lack of investment in industry development. Notwithstanding the appeal of the product in the market place, the abalone industry is still relatively unsophisticated. The vast majority of the product is sold in a processed form, mainly in cans, and a vast majority of this, in turn, goes to Asian markets. This, in turn, is mainly consumed in the food service sector, particularly restaurants.

The main appeal of abalone is that there is a spiritual and cultural attraction and the folklore regarding the special properties of abalone in Asian culture. In doing my research, I made the following notes:

- *The industry is production oriented.* Divers determine what comes to market, in what quantities, and when. The value adders and marketers don't know what they have to sell until it arrives. They then have to move the products where they can, for whatever price they can get. As an industry, most of the energy goes into managing the fishing, but with virtually no attention to down-stream supply chain and market development issues.
- *The industry is highly fragmented.* Each state has a number of associations, all of which tend to have a divergence of views about the way things should be run. There is no single industry body or voice for the industry. This puts the industry at an advantage, particularly in dealings with government, because increasingly governments like to deal with one peak body, which reflects a consensus view of the industry, rather than dealing with a whole lot of industries. Effective government relations are critical in this industry because you are using a public resource.
- *The supply chain is very fragmented* with a large number of sellers competing against each other for markets, essentially in the same markets. I understand that there are over 60 licenced processors.
- *There is no industry-wide product description labelling and grading system.* Each player puts their own subjective approval on what the product is, there is no uniform trading language.
- *There is no central marketing or promotion program,* or marketing budget, with the result that there are no market development activities for the industry. It lives on the assumption that markets will always be there at acceptable returns. From my enquiries, the industry has not invested a dollar into market research.
- *The vast majority of the product is sold in can form.* In most industries cans seem to be a downmarket, old technology, which devalues the products and limits the selling price that can be received for it. In virtually every category, except pet food, cans are declining with the growth in new age packaging. You are selling a very up-market product in a very down-market package. This is greatly devaluing the product.
- *The industry lacks any formal market intelligence* about the markets which it is selling to, the size, the requirements, consumer preferences, growth trends, etc.
- *The market is heavily reliant on the Asian food service market.* The industry is heavily reliant on selling canned product to the food service sector, mainly in Asia and mainly within three or four countries in Asia. This means that any hiccup at all in the Asian region, such as a recent SARS epidemic, or political upset, greatly disrupts the industry and quickly devalues prices. More than any other region, the Asian market is extremely reliable. Luckily for abalone, it wasn't as badly affected as some other products.

- *The industry makes virtually no investment in downstream R&D.* It invests heavily in sustaining fisheries but does nothing about new product development. Only 50% of the product is marketed. There must be opportunities to value add and market some of the by-products and improve the bottom line. It seems to me that the industry is not feeding the goose that lays the golden eggs.

One of the saving graces for the Australian industry is that it is one of the few sustainable abalone fisheries in the world and, while abalone is still seen to be highly sought after by the Asians, then perhaps the Australian industry will be in a good position. Despite the fact that Australia produced around 50% of wild harvested abalone, it is not the market leader. In any other industry, a player with a substantial 50% share would dominate, drive the industry, and set the agenda and rules of engagement. This apparently is not the case with the Australian abalone industry.

In my view, there are a series of threats on the horizon that the industry needs to take on board and deal with:

1. The first is *the heavy reliance on the Asian food service market* with a strong focus on two or three countries. The slightest hiccup in these countries could cause havoc in the industry.
2. *Most of the product is being consumed by older Asian people*, based on the tradition and mythology surrounding abalone. Younger Asians are pursuing quite a different lifestyle and are unlikely to continue with the traditions of their parents and grandparents.
3. The fortune of the industry has been helped along by the relatively *low value of the Australian dollar vis-à-vis the US dollar*. The appreciation of the Australian dollar over the past few months has undoubtedly hurt the industry. The industry is probably hoping that the depreciation in the dollar in the last few weeks is a good sign of things to return to normal in the future.

My company consults to major food processors, who have access to the best economic advice that money can buy. Therefore, their forward estimates are based on the Australian dollar being in the range of 70-72 cents over the next decade.

4. *The impact of aquaculture* will not only increase the supply of product, but also potentially denigrate consumer perceptions. There is a growing aquaculture industry with a potential to increase the supply and tarnish market perceptions. There is a widely held view by consumers that farmed fish does not have the taste or performance characteristics of the natural product and as the salmon industry has found, this has tended to harm the industry and greatly devalue the product. Similarly, the image of barramundi has been tarnished by the abundance of farmed fish on the market.
5. *The threat of a food safety incident.* To date and perhaps because of good management, Australia has not had any major food safety incidents. But as some of the industries, such as the beef industry, have found, food safety incident can decimate the industry over night. A food service incident causes untold damage, which takes many years to recover from. An incident like this could decimate the abalone industry. Asians are particularly paranoid about food safety, e.g Foot and Mouth disease in beef.
6. *Restructuring in the Asian food service sector.* From the limited research that I have done, it appears that most of the product has traditionally gone to independent food service outlets in Asia, and mainly Asian restaurants. In our view, there is a strong likelihood that through structural changes, this independent restaurant sector will decline. This has been brought about by a number of factors, including:
  - a. *The growth of chain restaurants, fast food restaurants and western style dining.*
  - b. *The growing sophistication and westernisation of Asians* which is reflected in their eating styles. For example, steakhouses, Mexican food, fast food outlets and pizza shops are booming in Asia. It is also interesting to note how the Asians have taken to wine in the last few years in preference to Chinese tea.
  - c. *Food safety.* Many of the Asians who are being educated in western countries are finding that when they return, that they are no longer prepared to use street vendors, local restaurants and wet markets because of concerns about food safety. Instead, they are showing a preference for modern, clean, hygienic, western style restaurants.

Without trying to be alarmist, the combination of a few of these factors turning adverse together, could greatly damage the industry.

Industry strategy is about risk management; identifying the risks, threats and opportunities and putting in place programs to address the issues.

## BEST PRACTICE PRINCIPLES

Over the past decade we have worked on a wide range of industries and businesses, and have identified a number of best practice principles common to new industries. These are:

1. *A shared vision for the future and a strong and well funded national peak body organisation representing its needs.* As I mentioned earlier, industries are clambering for favours for the government and for a share of the tax payers' dollar to fund their efforts. Increasingly, governments want to deal with one industry body and prefer to deal with those who seem to be helping themselves and who have a co-ordinated long-term strategic vision.
2. *An industry vision and strategy plan.* Almost every industry that we work on now has a co-ordinated long-term strategic plan. These plans are based on detailed analyses that identify the opportunities and threats, and critical success factors for the future, and which deal with them by putting in place simple and effective strategies.
3. *A stable industry funding device.* Best practice and agri-business now is to have an industry levy to fund key activities such as marketing and promotion, and market development, research and development, industry development, bio-security and industry communications. These are alternatives to compulsory levies such as licence fees and franchising outlets. I understand that there is a compulsory levy but that this is largely used to pay for government services, with no money for promotion, marketing, market development and the other activities that have been talked about.

It is typical in the food industry for marketers to spend somewhere between three and ten per cent of the wholesale value of their product on marketing and a further three to five per cent on R&D. Given that the industry is worth about \$350 million, at the beach level, a three per cent levy would generate \$7.5 million. A five per cent levy would generate \$12.5 million. Individual businesses wouldn't even notice this, yet it would have a high impact on improving the industry's performance. This should not be considered to be a cost, but rather an investment. And like an investment it should repay the original investment, plus put a return on the top.

4. *The development of closed supply chain links and orderly market arrangements.* Most industries have long since bypassed central markets and working with merchants and agents and have moved to a situation where they have a strategic alliance with people at each level in the supply chain. This allows them to co-ordinate their product right through to the end user, be it a supermarket or a food service outlet. Through strategic alliances, they can more effectively, satisfy the customer's needs, provide a higher level of product integrity, co-ordinate the supply, mount an effective marketing effort, and all of the above tend to contribute to more stability and premium pricing.
5. *An industry product integrity system.* Typically, these systems are based on not only the quality of the product, its fitness for purpose and predictability for various uses, but also product integrity, food safety, etc. HACCP schemes and the like have become common practice. Industries now adopt uniform product description grading systems to make their products more predictable and to allow them to achieve premium prices for better quality product and be more selective with their markets. A good example of this is MSA (Meat Standards of Australia), which has greatly improved the returns for all people participating in it. It has increased the sales of meat and rewards people in the supply chain for doing the right thing.
6. *An industry-funded marketing and promotional program.* These programs are based on developing a marketing strategy which identifies the best prospects for increased sales and increased returns and which puts in place strategies and programs to develop these markets.
7. *A brand-based marketing program.* Increasingly, industries are moving towards using the proven technique of branding as a way to build a market for their products to protect it from competitors and to achieve premium pricing. Typically, these work by licensing agreements where people still maintain their independence; they enjoy the benefits of working under a single branding umbrella and all the benefits of an industry wide marketing program. It is interesting that recently the New Zealand Kiwifruit industry has changed the name of its fruit to 'Zestberry'. This is because the name Kiwifruit has become a generic term, making it possible for the Californians or the South Americans to sell Kiwifruit against the New Zealanders. The Zestberry brand has been registered by trademark and will be used to differentiate the New Zealand product from the rest. Other examples of industry branding include Sunkist, Dole, and the South African 'Cape' brand. These industry brands bring with them many benefits, including greater appeal to consumers and retailers. As a market leader the Australian abalone industry could own and control a brand entity, which could put it well above the rest of the industry.
8. *Market diversification.* The agri-food industries have learnt that it is very dangerous to have all their eggs in one basket and it makes good sense to diversify, even though at the present returns from particular markets might be strong. It only takes a few hiccups for a lucrative market to turn very sour. The abalone industry seems to me to be highly vulnerable, given its heavy reliance on canned product into the food service sector, into a handle full of key Asian markets.

On the surface, it would seem to me to make sense for the abalone industry to take advantage of the massive expansion of the retail sector in Asia. Throughout Asia there is a massive development of new, western style supermarkets, which have very strong fresh food departments, including live seafood. With an industry brand, a product integrity system and a closed supply chain, it would be relatively easy for the industry to exploit these retail marketing opportunities. As markets bode, the Australian abalone industry could own and control a major entity, which would put it well ahead of the rest of the industry.

9. *A strong value-adding sector.* Most industries have found that there is a big opportunity to use value adding to generate a marketing advantage and to improve their returns. Increasingly, consumers and food service operators are looking for convenience and they no longer have the time or the skill to prepare food from scratch. They therefore want to have products that can be readily used, are of a high quality and are simple to use. Most people in the food industry would consider putting a product into a can not to be value adding, but rather, devaluing. For example, the vegetable industry, which was heavily dependent on cans, has now moved to fresh-cut modified atmosphere packaging and other forms. The canning segment is in massive, long-term decline. Consumers have shown that they are willing to pay a premium for products that they believe to be a better quality and in a more convenient form. There is now new age packaging which greatly improves the earlier quality and shelf appearance of food products. Industries today are heavily investing in R&D to find new forms for their products and to find new ways to take them to market. From what we can glean, the abalone industry hasn't really invested in R&D apart from its investments in protecting the sustainability of the fishery. Without doubt the abalone industry would benefit greatly from an on-going investment in product development, and particularly take into account the new and emerging technologies in packaging and food processing.

Again, I reiterate that the above critical success factors aren't theoretical concepts to come out of textbooks, but proven business practices which reward the people who invest in them greatly every day - the way forward for abalone. From where I sit, there are basically two strategies that the abalone industry could adopt with regard to its future.

The Australian abalone industry has defied gravity. It has turned its back on taking the steps needed to ensure its future success and, to date, seems to have got away with it. You have been given the goose that lays the golden eggs, but you've got to feed it and clean out its nest.

In my view, the industry has been lulled into a false sense of security and lives in the hope that the relative scarcity of its product will continue to stand it in good stead in the future.

I hope for the industry's sake, that the good fortune continues. However, the odds of this good luck continuing are not on your side. There are a lot of circumstances mitigating against this happening, any one of which could greatly undermine the industry.

The first is what I call the spiritual strategy and that is: pray like hell that the wheels don't fall off and that the prosperity that has come to the industry will continue in the future. With a lot of luck and someone in the heavens looking down and smiling upon the industry, it may well continue to prosper well into the future. However, based on my assessment of the situation, the chances of this happening are not that good. Whilst there are no immediate threats, there are likely to be a series of long term structural changes, each of which will gradually mitigate against the industry to the point where it will greatly undermine its success.

The second strategy is to take the proactive approach and to start to put in place mechanisms to adopt the best practice principles that I have outlined above. The starting point for this is to use this conference as a vehicle to make a commitment to form a united peak national body to represent the industry.

The next step will be to form a working committee that can go away and put together a possible plan as to how the industry can be brought together, including structures, representation, funding models and so forth.

The industry needs to have a strong industry body with a well-credentialed and experienced chief executive who can work with the industry to develop and execute an industry strategy plan and working programs aimed at embracing the best practice principles described above.

Hope that you can continue to defy gravity; it is a very risky strategy. Your industry needs to act, and act quickly.





### JAPAN ABALONE

Grant Hunt

#### Japan Now

- The world's second biggest economy, and 60% of Asia's
- Has a per capita income of US\$23,400
- Australia's largest trading partner and export market
- Has accumulated personal savings in excess of A\$10 trillion
- Attracting investment from the USA and Europe
- Reform is on the agenda

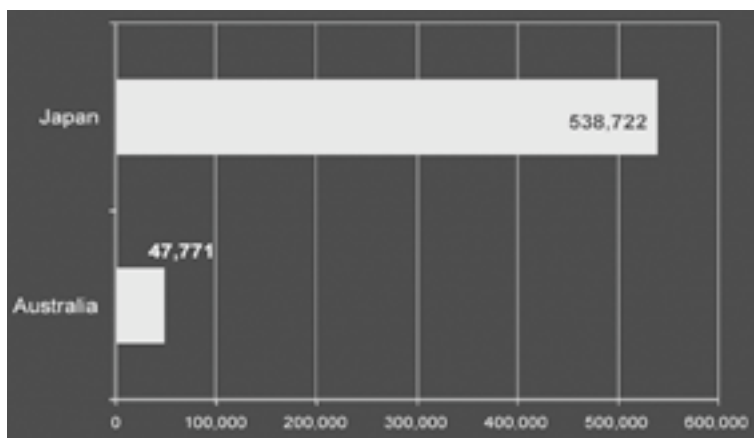
#### Japan Austrade's Key Message

##### *Don't Give Up On Japan!*

"The macro economy may be Down, but many niche markets for Australian products and services are Up!"

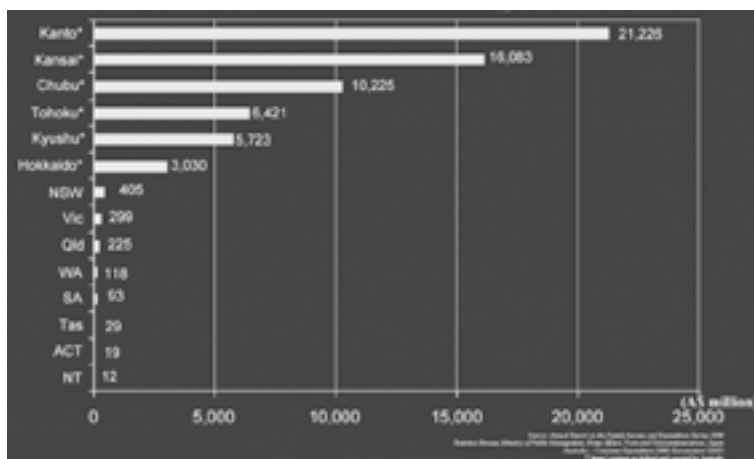
#### Buying Power - Japan & Australia

##### Annual Expenditure on Food



#### Survey of Japanese Buying Power

##### Annual Expenditure on Fish



## Key Concepts

*Give the Japanese Customers What They Want!*

*What Do Japanese Customers Want?*



Australian Exports SOURCE ABS



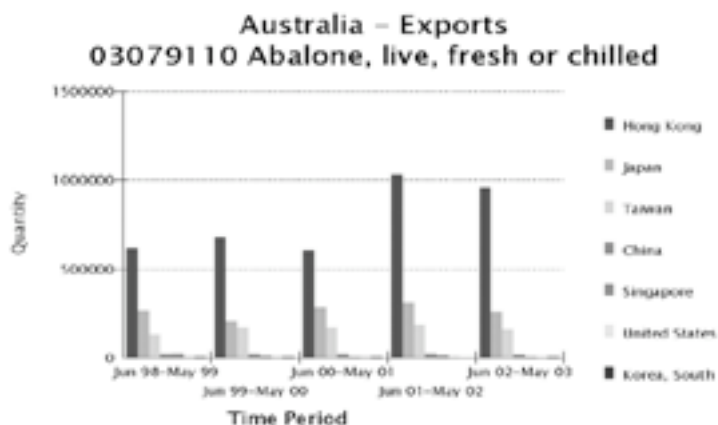
On Shell SOURCE ABS



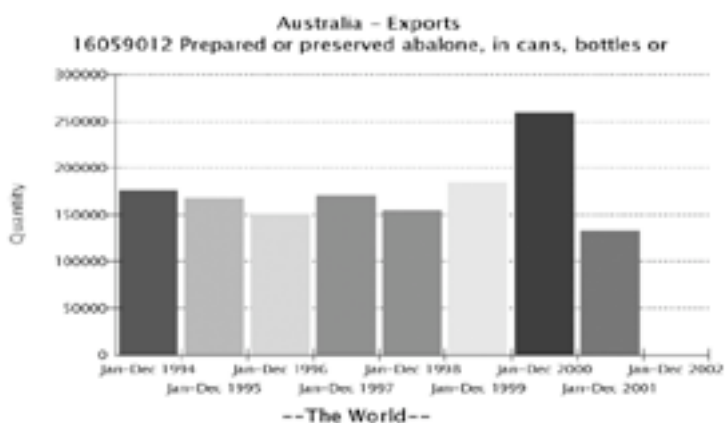
### Parboil SOURCE ABS



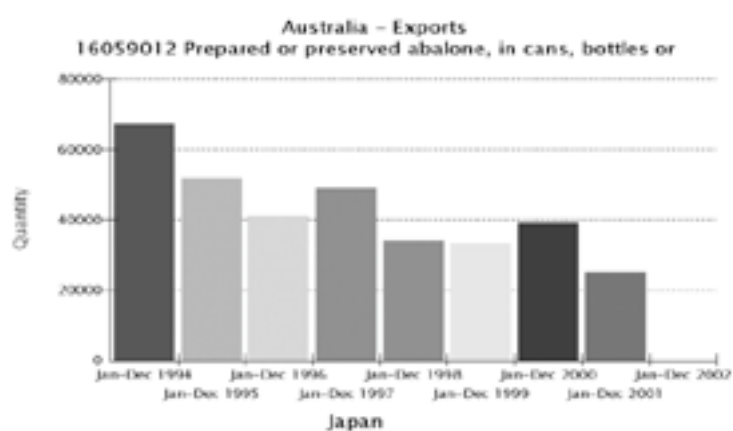
### Live SOURCE ABS



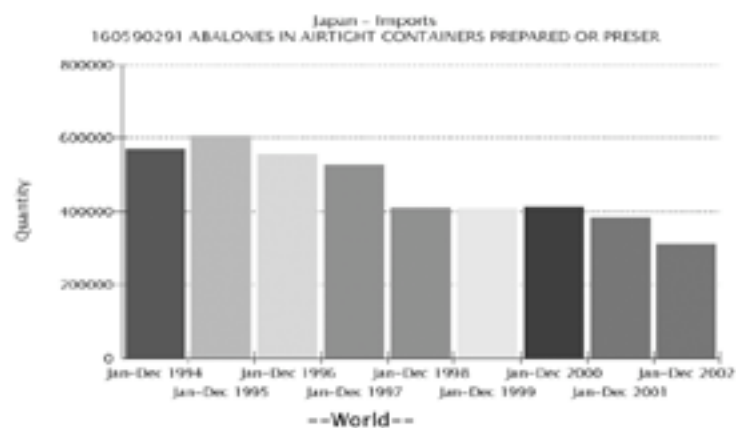
### Australian Exports World SOURCE ABS



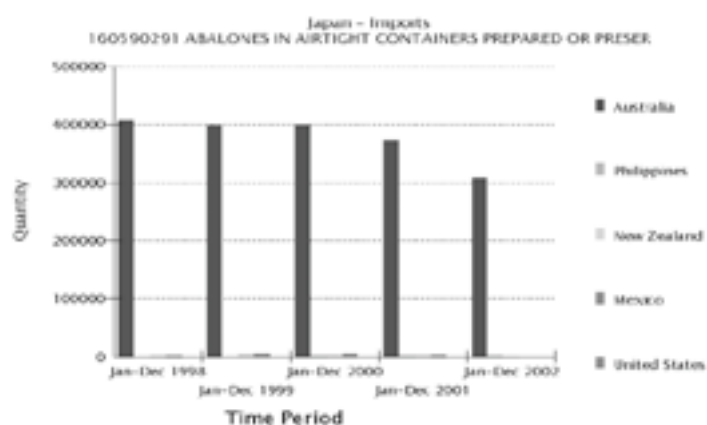
## Australian Exports to Japan SOURCE ABS



## Japanese Canned Import SOURCE JAPAN CUSTOMS

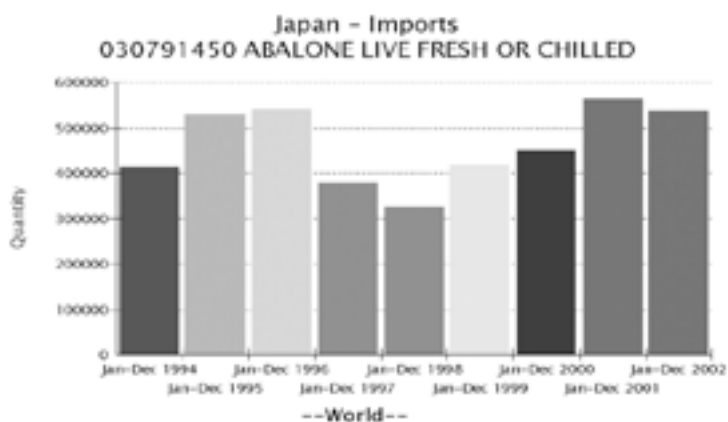


## Canned Origin SOURCE JAPAN CUSTOMS

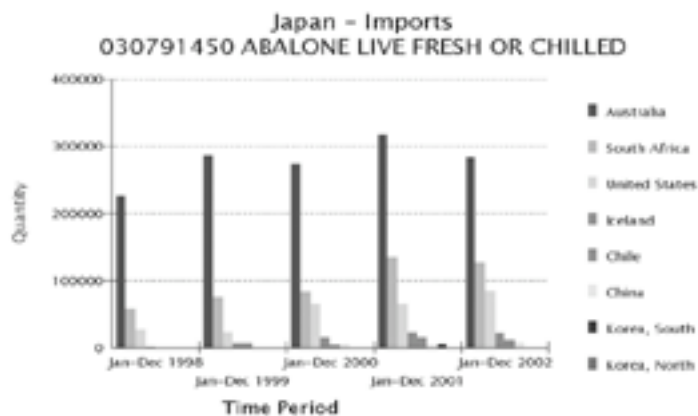




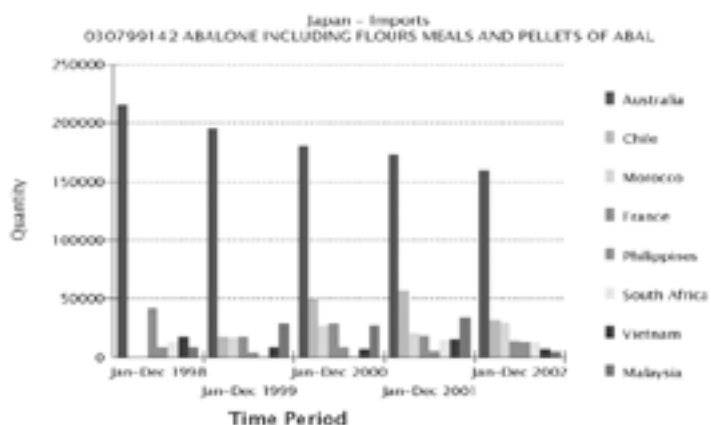
### Japan Live SOURCE JAPAN CUSTOMS



### Live Origin SOURCE JAPAN CUSTOMS



### Japan Abalone Imports SOURCE JAPAN CUSTOMS



## Marketing of Product

- Japanese Buyers are constantly being approached by your competitors
- These competitors are international
- And domestic
- And the processor down the road
- Marketing: To create an awareness and need for a product or service in order to gain market share and create a price for the product
- Selling: To transfer ownership of a product or service for a price
- Price - That level of monetary amount that causes a good or service to be sold

## The Price

- The price is ultimately set by the price that the end user is willing to pay for the product
- The price of abalone in the market, be it frozen, canned, live - does not move in isolation, it is part of the end user's basket of goods to which they allocate their expenditure

## The Beach Price

- The beach price is ultimately set by the price that the end user is willing to pay for the product
- Currency movements can mirror or allow material price movements in isolation to that of the actual final sales price in market
- The general weakening of the Australian dollar against major trading currencies over the last decade is a key example of this

## Question - Where do you source from?

- 'Depending on price (for live in this case)
  - Australia
  - South Africa
  - Mexico
  - Chile
  - China
  - Hawaii
  - California
  - Iceland
  - Domestic

## Question - Do consumers care?

- 'They don't know'
- 'They make value judgements on the product, the event or time and the price'
- 'Younger consumers are less aware of the traditional markets and products'
- BUT - There is a core of consumers who, given stable price and good quality will continue to underpin and maintain this market.

## The Market

- There is a range of prices that set the market
- Abalone is a premium product in a rarified segment of the market
- Consumers are seeking value
- Consumers are seeking constancy
- Consumers have a price level in mind

- Within a range, the consumer price sets the market price
- Value adding can create new market segments
- Quotes from the market floor

'The rise in the price of Abalone product has allowed other competitors to arrive'

'In order to market, as opposed to just selling at opportunistic prices, stability is required'

'Aquaculture is spreading around the world and is becoming intense'

'The Market ultimately sets the prices in the absence of branding or differentiation'

### AWARENESS

- The Import Trade Knows Australian abalone
- The Restaurants may know Australian Abalone
- The consumer increasingly does not know or ask about the origin

### SARS and War

- SARS and the War in Iraq has had an impact on the Abalone markets
- Not only in the affected countries but in countries such as Japan
- Was this the cause of the disruption?

### Final words

- For marketing - the key points remain relatively constant
  - Relationship is critical
  - Attention to detail and being able to deliver as promised
  - no substitute for quality
  - Understand your market!
- The market is constantly changing - both in content and purchase methods
  - Keep up to date with trends
  - Be aware of third country threats
  - Be willing to be more of a 'Partner'
  - Keep alliances

### Japan Austrade Offices Profiles of Trade Commissioners



Thank You!

## BUILDING CUSTOMER VALUE THROUGH THE FOOD CHAIN

*David Gregory*

*General Manager, Food Chain Program*

*National Food Industry Strategy Ltd*



### The National Food Strategy

By 2007, the Australian food industry will be a significant global player with a sustainable and profitable role in the global food product system.

Some of the longer-term issues

- World Best Practice (knowledge of, emulation, benchmarking)
- Levels of R&D and innovation
- Profitability (currently half the level of USA)
- Ecological issues
- How much of the world's food manufacturing industry (est. \$A 3.7 trillion in 2003) could we have (cf. 1.7% in 2003)
- Which food industry classes have "winnable wars" (exports)
- Which countries hold the most prospects (exports and/or investment)
- Can our industry be globally significant, profitable and sustainable?

To do this

- Enhance the innovative capacity of firms
- Build industry skills and capabilities
- An integrated and focussed export strategy
- Enhance product integrity and supply chain management in international markets

### FOOD CHAIN PROGRAM

Strengthening Australia's performance as a supplier to global food markets

- supporting and accelerating the efforts of businesses to build internationally competitive, customer responsive food chains

Building food industry

- Skills
- Capability
- Knowledge in chain management

NFIS Activities

- \$102.4m over five years to 2007
- Innovation
  - FIG grants (\$34.7m)
  - Centres of Excellence (\$12.4m)
- Food Chain (\$9.2m)
  - demonstration grants (\$200,000 matched)
  - capability building activities



### Abalone Industry Chain Stocktake

#### Supply Chain weaknesses:

- Individualistic industry structure
- Lack of interest in industry development
- Commodity industry nature /price-taker

#### Industry chain performance report card:

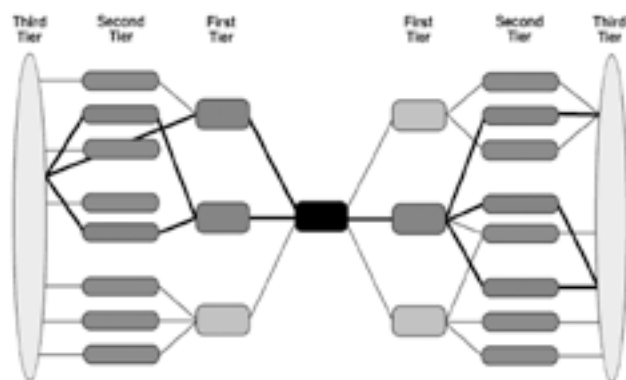
- Trust
- Formal industry planning
- Optimisation
- Rewards
- Customer focus



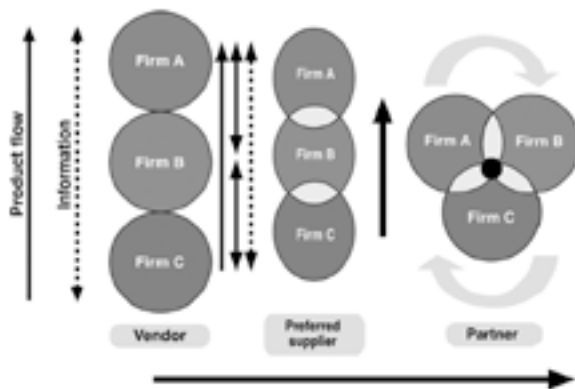
*"Successful organisations of the future will be those that effectively harness the intellectual capacity of their employees and develop the capacity to leverage their intellectual capital off that of strategically selected partners."*

(Dunne, 2003)

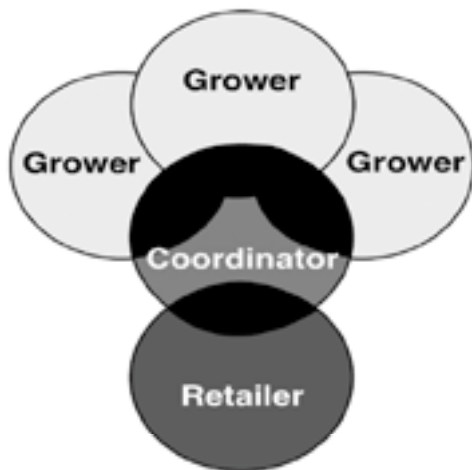
### The primary supply chain



## The evolution of chain relationships



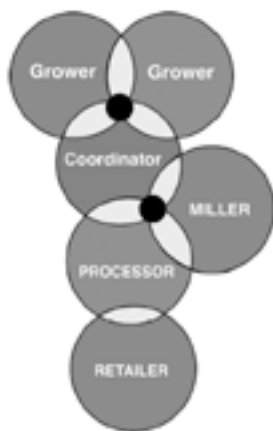
## A fresh produce value chain



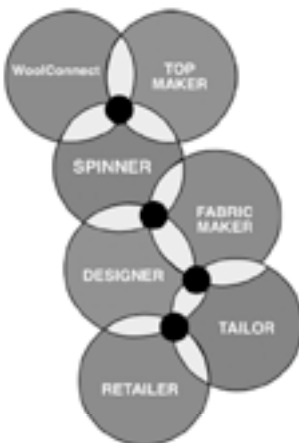
## A beef value chain



### A grain value chain



### A wool value chain



### Benefits of partnering

**Operational:** better communication less duplication better coordination better alignment

**Strategic:** knowledge transfer leverage of core competencies increased innovation increased customer satisfaction

*"For a number of firms, talk is cheap and supply chain management is still only part of today's jargon."*

*(Spekman et al., 1998)*

*"One of the major barriers to the successful design and implementation of an agri-supply chain is the existing paradigms on both the processor's and producer's side. This is largely a historical issue as both producers and processors have traditionally operated in an environment of "them" and "us". This has resulted in a system built on short-term relationships with little or no information exchange."*

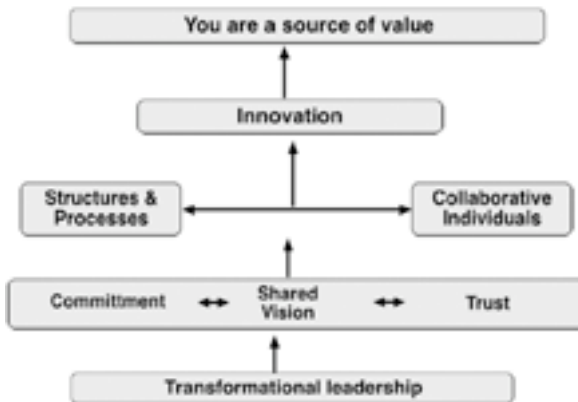
*(KPMG Consulting, 2000)*

### The process





Why would another firm wish to partner with you?



"The most successful firms are those with the commitment and ability to learn from their mistakes and put things right."

(Ferne, 1998)

**Strategy:** A blueprint for change that is realistic, credible and attractive > FOCUS

**Culture:** A pattern of shared beliefs and associated behaviours > WILL

**Process:** The ability to act - the firm's core competencies > CAPABILITY

The drivers of performance



(Smith & Tossy 1999)



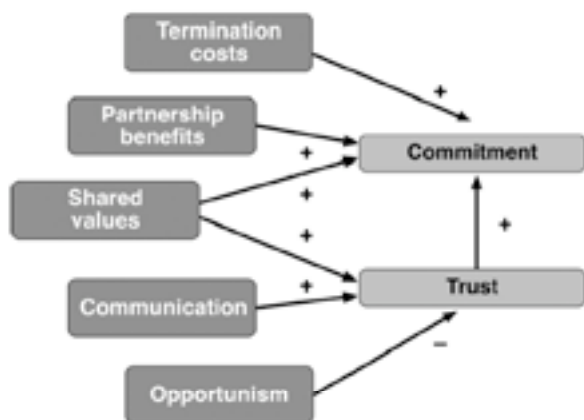
### A Learning Agribusiness



*"Value creation potential is a necessary but insufficient condition for entering an alliance. Strategic compatibility between the partners' interests is a second, often more demanding condition."*

(Doz & Hamel, 1998)

Shared vision Compatible cultures Aligned processes



*"Essentially business is about appropriating value for oneself; it is not about passing value on to customers unless circumstances decree and this is the only (and it is normally the least desirable) option available to the company in order for it to sustain itself in business."*

(Cox, 1999)



*"Indeed what separates alliances that last long enough to fulfil their aspirations from those that break apart at the first difficulty is their capacity for learning and adjustment."*

(Doz and Hamel, 1998)

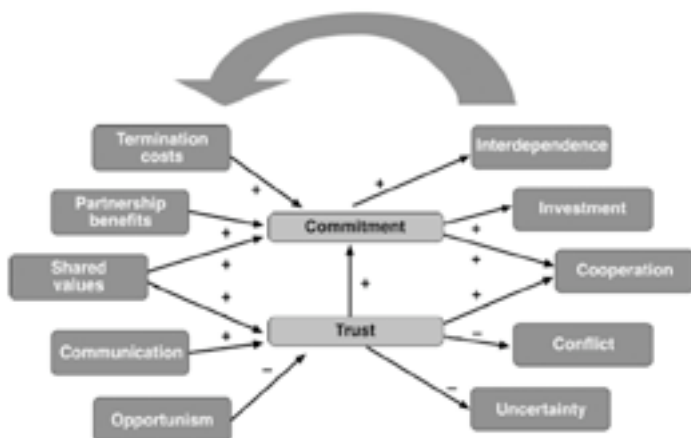
Multiple inter-firm contact points

The development of social bonds

Short-term wins

Regular evaluation

Continual adjustment



## A Learning Agribusiness Chain



The lessons we have learnt about building and maintaining partnerships

1. The need to have a clear vision and goals
2. The need to have the capabilities to create value
3. The need to have a culture that supports cooperation and learning
4. The need to have compatible partners
5. The need to proactively manage the relationship
6. The need for regular evaluation
7. The need for continual adjustment

A reminder

*"Partnerships and alliances are not a panacea nor are they a realistic alternative for some firms.*

*However, if your firm is not involved in strategic partnerships then it is essential that you develop a strategy that will allow you to compete successfully against those of your competitors who are."*

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### MARKETS - FROM REEF TO RESTAURANT

*Alex Ziolkowski*

REEF - Divers and Fishing

TO - Processors

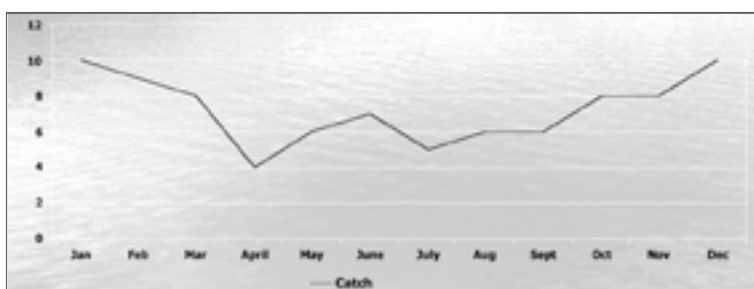
RESTAURANT - Markets and Marketing

#### Fishing

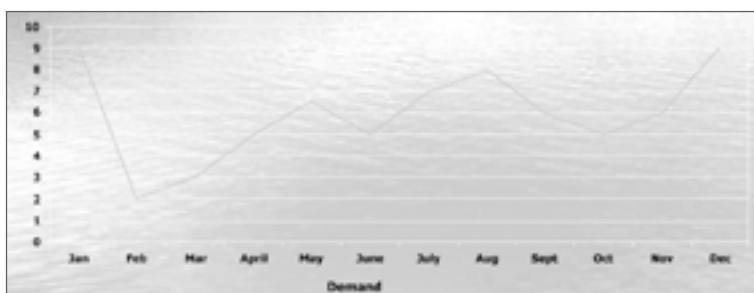
- How Does it Affect the Market?
- It is the first stage in getting our product to the market
- How we fish can have profound effects

#### Fishing to the Market

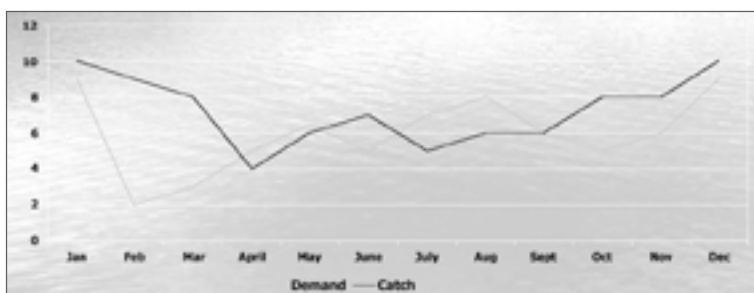
##### -Fishing



##### -The Market



##### -Not Really



## Processors

It's OK for Processors to Make a Profit - Buyers too.

---



Profitable Processors - Why?

- **Make a Profit**
  - to Satisfy Shareholders
- **Research and Development**
- **Marketing**
- **Maintenance**

Profitable Buyers - Why?

- **Make a Profit**
- **Advertising/Promotion**
- **Incentive to Sell More**

The Market - What is it?

- The group of all actual and potential buyers of our products.
- We are all part of 'The Market'.
- The science and practice of creating value and customer satisfaction.
- A process by which individuals and groups obtain what they need and want through creating and exchanging products and value with others.
- The process of creating, maintaining and enhancing strong, value laden relationships with customers and other stakeholders.

Marketing

- **It's Done by Marketers**
- **We are all Marketers**
- **We Don't - In General**
- **Most of us SELL - Most of the time**

What Does it all Mean?

- **We produce a perishable product**
- **We can flood the market**
- **We operate in a global arena**



# 2<sup>nd</sup> National Abalone Conference



Melbourne, Victoria  
13-15 August 2003



## FISHING AND THE COMMUNITY

*Melanie Fisher*

Two key social aspects

- Community perceptions and concerns
- Economic and social contributions

Why it matters

- Civil society and the invisible hand
- Mt Arthur's 13th coal mine
- Lessons from the US - Salmon vs Catfish

Community perceptions

- Sustainability
- Environment
- Industry interest
- Community involvement
- Rec fishing
- Aquaculture
- Indigenous fishing

Backyard issues

- Case study approach
- Stakeholder interviews
- Local community survey

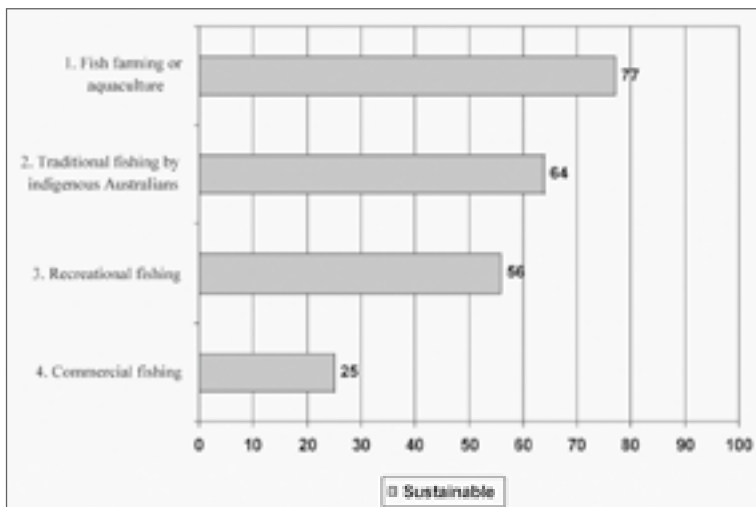
Social contributions

- Employment
- Expenditure
- Service access
- Social capital, resilience etc

What can be done

- Dealing with reality
- Codes of conduct
- Ecolabelling
- Participative processes
- Regulatory rigor not rigor mortis







ACCESS/PROPERTY RIGHTS

*Damian Clarke*

2nd National Abalone Convention

### ACCESS/PROPERTY RIGHTS: NATIVE TITLE IMPLICATIONS

Presenter and Author: Damian Clarke B.Ec., LL.B.

Research Assistant: Kate Ogden BA., LL.B.(Hons)

Thursday 14 August 2003

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### 1. Introduction

1.1 In a booklet issued by the Fisheries Research & Development Corporation entitled "From Antarctica to the Tropics; a Snapshot of the Australian Fishing Industry 2001" it is noted:

- Commercial fishing at \$2.23 billion is Australia's fourth biggest food industry. The Victorian Department's own website says landed value in Victoria alone is \$180m of which \$130m is from Victorian managed fisheries and \$50m from Commonwealth and Tasmanian fisheries.
- At 11 million square kilometres, Australia's fishing zone is the third biggest in the world.
- Evidence has strengthened of seafood's positive effects on coronary heart disease, rheumatoid arthritis, obesity and more.
- Australians are eating more seafood, and, an example quoted was Sydney people now average more than 15 kilograms each a year.
- The fishing industry generates an estimated 134,000 jobs, directly and indirectly. (The Department website indicates currently 8,000 in Victoria).
- Australia has more than 150 commercial fisheries, each targeting its chosen species in its own unique way.
- Australia wide recreational take-home catch is estimated at 30,000 tonnes, about the size of the harvest from our biggest commercial fishery.
- Recreational spending is estimated to be as high as \$2.9 billion a year making it a significant wealth distributor, job creator and contributor to the economies of popular fishing regions (and to this end FRDC predicts a continuing re-allocation of access from commercial to recreational fishing). The recently released National Recreational and Indigenous Fishing Survey quantified Victorian recreational fishing at \$396m annual worth.
- In 1999-2000 abalone production in Australia before value adding was \$235m or 10% of commercial fisheries production. In Victoria catch and effort returns showed abalone industry at \$62m in the 2001/2002 year.

- After value adding, abalone exports made up 11% of Australian exports in 1999-2000 in terms of value.
- 1.2 To say fishing is a insignificant industry flies in the face of the economic statistics, whether commercial or recreational.
- 1.3 Furthermore, not just is the fishing industry an economic contributor, it provides an invaluable food source through the harvest of a renewable resource. Commercial fishing provides food for those who do not necessarily catch their own fish or have the ability to catch.
- 1.4 Increasingly, industry faces pressures whether that be through:
- operating costs,
  - industrial relations in terms of minimum wages, hours of work, holiday pay, long service leave etc,
  - occupational health and safety,
  - general business pressures,
  - resource mismanagement
- but perhaps the two greatest factors of concern remain, as always:
- security of access to the resource, ie the access right; and
  - the allocation of that resource as between competing users/demands, ie the allocation right.
- 1.5 The access and allocation rights are essential to engender certainty in the conduct of fishing operations. By its very nature, fisheries management must be conservative and no fisheries decision will ever be risk free. Certainly there is widespread endorsement of the principles of ecological sustainable development but the cynic in me sometimes questions whether our politicians simply pay lip service to same, preferring instead political expediency and vote garnering at the expense of resource management.
- 1.6 Much has been written and spoken of property right issues which, from my perspective, refers to this access and allocation right. The challenge, dare I say, is to find a level of access and allocation right which satisfies all concerned. It has been the subject of much enquiry in many fisheries (1).



## Conference

1.7 Examples in Victoria which illustrate where political opportunism has seen major decisions made which fly in the face of access and allocation rights, are:

1.7.1 The Kennett Government in the lead up to a State election in the early 1990s announced the closure of scallop fishing in Port Phillip Bay effective 31 March 1997. Specific legislation was passed giving effect to that and a sum of compensation was subsequently fixed at \$120,000.00 per scallop licence, regardless of the holder's individual circumstances, ie boats, equipment, processing operations, longevity in industry, family reliance etc. Notwithstanding a challenge in the Supreme Court of Victoria which was initially successful, the legislation was upheld by the Court of Appeal (2). It needs to be borne in mind that in Victoria we have no constitutional protection such as is enjoyed under the Commonwealth Constitution whereby Government may only take a property right on fair and just terms (3).

1.7.2 The recent announcement by the Bracks' Government of the closure of commercial fishing in Lake Tyers and Mallacoota. On this occasion Regulations have been passed to allow for fair and just compensation to be paid to an individual holder. However, dare I suggest the Government's view on what is "fair and just" differs significantly from my view and I maintain the compensatory regulations nonetheless still under compensate a licence holder whose licence is compulsorily acquired, which in any event begs the question of why it should be compulsorily acquired in the first place when I have yet to see justification for that removal upon sound resource management principles.

1.8 Make no mistake, a fishing licence is a property right.

## 2. Property Right in Fishing

2.1 From time immemorial, the common law (being law which has evolved over the centuries as developed by the Courts as compared to legislative enactment passed by Parliament) has espoused the right of any person to both navigate and fish in all seas and tidal waters. In the matter of *Harper v. Minister for Sea Fisheries* (4), it was said:

"...the right of fishing in the sea and in tidal navigable rivers, being a public not a proprietary right, is freely amenable to abrogation or regulation by a competent legislature".



- 2.2 In that case which dealt with the impact of Tasmanian legislation on the abalone industry, the Court also commented that "the public right to fish for abalone in the State fishing waters, had been abrogated, and those who may lawfully take abalone do so not in exercise of a public right to fish but in exercise of the statutory right of licensee".
- 2.3 The view of a fishing licence conferring a proprietary right was given unqualified support in the Federal Court of Australia in the case of *Fitti v. Minister for Primary Industries & Energy* (5) which found a licence to fish for prawns in New South Wales was properly classified as being proprietary in nature, and not merely personal.
- 2.4 This does contrast with the view taken by the Supreme Court of Victoria in the matter of *Pike v. Duncan* (6). In that case the licences held under the Victorian fisheries legislation were classified as personal in nature. The Sheriff was seeking to enforce a judgment debt against Pike by seizing his licences and goods and re-selling same. It was held they were neither tangible, nor could the rights, privileges and permissions to which they relate be transferred at the direction of the Sheriff to another. In other words, they were outside the common law concept of seizable property. The Court held they did not possess the characteristics of property capable of being sold on the open market by the Sheriff.
- 2.5 In *Pennington v. McGovern* (7) the Full Court of the Supreme Court of South Australia held that a licence under the South Australian fisheries legislation was proprietary in character. So too in the Supreme Court of West Australia in the matter of *Austell Pty Ltd v. The Commissioner of State Taxation of Western Australia* (8) where it was held that a fishing licence was property for the purposes of the Stamps Act in that State.
- 2.6 In 1990 the High Court had to consider the question of abalone rights once again in the matter of *Kelly v. Kelly* (9) in which the Court looked at the question of whether an abalone entitlement could be partnership property. The Court essentially favoured the view that there could be no doubt that the abalone permit gave rise to valuable rights which were capable of being held for the partnership in such a way as to constitute a partnership property. Despite the fact that it could only be done indirectly and with the consent of the Director of Fisheries (as used to be the case in the Victorian legislation but which legislation now permits the holding of Abalone Access Licences in corporate names as well), it was only possible to make what was effectively the transfer of an

authority for consideration, thus enabling a value to be placed upon it. This was so notwithstanding there were certain requirements in respect of an abalone authority which were personal to the holder, such as the requirement that he be medically fit to dive.

- 2.7 A decision in June this year by the South Australian Supreme Court in *Hendry & Anor v. E F Hendry & Ors* (10) held a scalefish licence was property and could be held upon trust. The Court followed Pennington's case and Kelly, which were in turn followed in *Edwards & Anor v. Olsen & Ors* (11). That last case was interesting as it involved a dispute by abalone divers against the Minister for misfeasance in public office for maladministration of the fishery. The Minister won.
- 2.8 The issue of whether a right is a property right or a personal right has been considered in other contexts. For example, in *Banks v. The Transport Regulation Board Victoria* (12), it was concluded that a taxi licence was property.
- 2.9 Certainly as a counter balance there have been cases where a licence has been categorised as a non property licence albeit not in the area of fishing licences. In such cases the licence has been held to be a personal right such as, a right to sell liquor. These cases, however, I believe can be distinguished from the fishing licences. In the case such as the liquor licence, the licence fee is extracted for a right to do an act which does not involve a resource whereby there is a need for right of access. In other words, the resource exists independent of the licence.
- 2.10 I have no hesitation in saying it is my belief an access licence issued here in Victoria under the Fisheries Act 1995 and the Regulations made thereunder, does bestow what may be termed a property right, but it is one which is capable of interference for other than resource management purposes. There is a right of renewal subject to compliance with the Act and utilisation of the licence (show cause provisions), with rights and entitlements being specified in the Act and in the Regulations as regards transferability, survival in estate, security for borrowings etc. However, whilst the licence may well be a property right, it falls far short of giving absolute security of access for the holder/operator, nor does it guarantee any certainty of resource allocation given the competing demands on the resource whether that be by commercial fishing interests, recreational interests, conservationists, aqua culturists, Native Title claimants, etc.

### 3. Who Actually Owns the Fish

- 3.1 Each State has jurisdiction out to the 3 mile nautical limit. The Commonwealth Government passed the Coastal Waters (State Powers) Act 1980 so that each State Parliament could legislate for the off shore waters. This legislation was passed to remove any doubt as to the jurisdiction of the State Governments.
- 3.2 Title to the territorial sea is vested in each State by Section 4 of the above Act but it does beg the question of whether the State "owns" the fish.
- 3.3 There have been two competing possibilities that could apply being either:
  - 3.3.1 The State owns the seabed and has a property right to take the fish from the territorial seas; or
  - 3.3.2 The State has no property rights in the fish but rather the State has a right to manage the resource.
- 3.4 The argument for the first possibility, ie the State owns the fish, is as follows:
  - At common law the State had property in the solum of all waters within the realm.
  - Abalone are attached to the seabed or alternatively are so substantially connected to it by dependence upon it, that they should be treated as part of the solum and within the ownership of the Crown.
  - Therefore abalone could be considered to be susceptible of ownership so that when taken they are owned by the taker and ownership transfers from the State to the taker.
- 3.5 Arguments in support of the second possibility, ie that the State only has a management right, are along the lines of:
  - Abalone is a community resource.
  - As such it is a common property resource to which not everyone can have access or it will be destroyed.
  - Some will be given preferential access to abalone at a fee which represents the value of the preferential treatment.

## Conference

- Hence it is irrelevant whether the Crown has sole ownership of the seabed or otherwise and that any issuing of licences is in reliance of the State's power of a right of management.
- In addition, the State may seek to rely on its general power that it has the right to legislate for the general benefit of the State of Victoria given that it has full powers to make laws for the peace, order and good management of the State and if necessary to make laws having extra territorial operation.

3.6 Victoria has sought to give some certainty in that Section 10 of the Fisheries Act 1995 takes unto the State the ownership of our fish and fishery resources. The State of Victoria has passed legislation to remove any doubt whatsoever that it is the owner of the fish and therefore has the right to have the say in relation to the fish. The validity of the State in taking ownership of the fish has not been tested. In the course of negotiations on behalf of the Victorian fishing industry in 1995 and the lead up to the legislation, we repeatedly questioned why the State needed to take unto itself ownership of the fish. We were not given an answer. Our suspicion was that it may have been tied in with royalties, ie you can only apply a royalty to something being taken which is owned by the State such as minerals or oil or gas. The other interesting aspect was the impact upon Native Title. Was this designed in some way to try and defeat Native Title claims? Is it in fact a subsequent invalid Act under Commonwealth legislation in seeking to do something so as to have an adverse effect on a Native Title claim? No answer was given. All those persons with whom I spoke, their responses were remarkable for their evasiveness on this question of why take ownership of the fish.

3.7 Hence when looking at the question of security of access and security of resource allocation, the potentiality of Native Title does need to be considered.

#### 4. What is Native Title?

4.1 Native Title is the name given to an established right of Aboriginal and Torres Strait Islander people to their country which depends upon the traditional laws and customs of those peoples. It is totally different to freehold title in that Native Title is not something that can be bought or sold. What the High Court did in 1992 in *Mabo* (13), and what the Australian Government subsequently reinforced in the Native Title Act 1993, is that Native Title is a right that already exists in places where indigenous people have followed their traditional laws and customs and maintained a continuing connection to their land and waters. The Native Title of



---

a particular group will depend on the traditional laws and customs of that group and in fact Native Title can change over time.

- 4.2 Native Title cannot take away a valid right which someone else currently enjoys, eg a fishing licence, a mining or pastoral lease. Where Native Title rights conflict with the rights of another person, then the rights of that other person are to prevail.
- 4.3 Native Title may exist in areas such as:
- Crown Land which has been unallocated;
  - National Parks;
  - Public lands;
  - Land held by Government agencies;
  - Some types of pastoral leases;
  - The seas and rivers and waterways.
- 4.4 It has clearly been pointed out that Native Title is extinguished on privately owned land, residential/commercial and certain other leases, areas where governments have built roads, schools and public works.
- 4.5 I could perhaps give a caution in that Native Title should not be confused with land rights. In land rights, indigenous persons seek to have bestowed upon them a grant of freehold title whereby they have legal ownership and it is theirs to do as they see fit subject to any legal basis on which they may hold the land, ie as trustees.

## 5. **Mabo Decision**

- 5.1 Prior to the Mabo decision in 1992 the view was that Australia was Terra Nullius, meaning "nobody's land". With the settlement of Australia by England, English law was brought over to apply. At that time there was the common law right in the public to take fish, but that public right to take fish could be abrogated by Parliament which is in fact what has been done by subsequent fisheries legislation. Mabo effectively held that the British and subsequent Australian/Colonial law does apply **but** it co-exists with concepts of traditional Native Title. Whilst the fisheries legislation has abrogated the general public right of access to the fish, it cannot impact on Aboriginal Title as any removal of Native Title may only be by way of clear, precise and unambiguous language in legislation.

## Conference

- 5.2 In simplistic terms, Mabo established principles that in order to prove Native Title it was necessary for a claimant to establish:
- 5.2.1 The claimed Native Title right was part of a recognisable system as at the time of settlement.
  - 5.2.2 That this system was observable by an identifiable group of people.
  - 5.2.3 That the person claiming the right can show a biological descendency from that identifiable group.
  - 5.2.4 That identifiable group descendants have had a continued connection with the locality and that the person claiming that Native fishing right has had a continued connection with that locality.
  - 5.2.5 That the present day group of which the claimant is one can demonstrate in addition to a continuing connection with the locality, a continuing observation of the traditional system insofar as it related to the right claimed.
- 5.3 Hence Mabo turned on its head the pre-existing common law principle that Australia was nobody's land. There was a clear recognition to be given as regards the traditional owners and occupiers.

### 6. Response to Mabo - Native Title Act 1993

- 6.1 Mabo in many quarters caused panic (in my view, unnecessary panic). Suffice to say in order to ensure some certainty, the Commonwealth Government passed the Native Title Act 1993 which among other things recognised fishing by way of the exercise of enjoyment of Native Title rights notwithstanding there may be a law of the Commonwealth, or of a State, which restricted persons from carrying out fishing other than in accordance with a licence, permit or other instrument. Section 223 of the Native Title Act provides as follows:

- "(1) The expression Native Title or Native Title rights and interests means the communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in relation to land or waters, where:
- (a) the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed... and

- 
- (b) the Aboriginal peoples or Torres Strait Islanders, by those laws and customs, have a connection with the land or waters; and
    - (c) the rights and interests are recognised by the common law of Australia."
  - 6.2 Without limiting that sub-section, rights and interests are defined as including hunting, gathering or fishing, rights and interests.
  - 6.3 In the case of fishing, and gathering, Section 211 restricts the right to the purpose of satisfying personal, domestic or non-commercial communal needs in exercise or enjoyment of the Native Title right and interest. If that is the case then that right may be enjoyed notwithstanding a law of the Commonwealth, a State or a Territory which prohibits or restricts persons from carrying on that class of activity other than in accordance with a licence, permit or other instrument. In other words, this section (Section 211) allows Native Title holders to engage in specific activities in the exercise of their Native Title rights without needing to obtain the permits or licences that would otherwise be required for those activities. But that exemption only applies for the purpose of satisfying personal, domestic or non commercial communal needs and in the enjoyment of Native Title rights and interests.
  - 6.4 This does not mean that an Aboriginal descendant can simply take fish. He/she can only do so pursuant to a Native Title right and subject to the matters just outlined.
  - 6.5 There was concern that some acts post October 1975 when the Racial Discrimination Act was introduced may in fact fly in the face of Native Title and be invalid. Acts which may discriminate against Native Title could have been or may be illegal. These are called "past acts". The Native Title Act validated past acts of the Commonwealth and also authorised the States and Territories to pass similar validating legislation. The Native Title Act also established a mechanism to deal with "future acts" which may impact on Native Title.
  - 6.6 The Victorian response was to pass the Land Titles Validation Act which validated all grants or acts since 31 October 1975 which would include fishing licences and permits. In passing this legislation the Victorian Government sought to confirm, inter alia, insofar as fishing industry is concerned, that fishing access rights issued post-October 1975 will prevail over any public or private fishing rights. Such confirmation does not necessarily extinguish or impair any Native Title rights.



## Conference

### 7. Victorian Claims

- 7.1 There are two major claims currently under way in Victoria insofar as Victorian coastal waters are concerned.
- 7.2 The Gournditch Mara claim takes in an area west of Warrnambool to just over the South Australian border and out to the horizon.
- 7.3 The second claim is the Gunai Kurnai Peoples taking in the waters from east of Wilsons Promontory to an area west of Mallacoota and again out to the horizon.
- 7.4 Other claims lodged but which have yet to go out to notification, ie advertising to see who wishes to be parties, include the area from east of Wilson's Promontory to east of Wonthaggi, being the Gunai Kurnai Boonerwung claim. There is also another claim overlapping the current Gunai Kurnai Peoples claim extending from the vicinity of Orbost east over the border into New South Wales, being the Bidwell Clan claim.
- 7.5 I am acting in both the major claims on behalf of fishing interests. Seafood Industry Victoria Inc (SIV) was itself denied standing to be a party in each of those claims so hence we have been co-ordinating individual fishers as representatives in each of those two claims currently on notification, with SIV acting as agent.
- 7.6 The Gournditch Mara claim is currently in mediation and the rules of mediation regarding confidentiality preclude me from being able to say too much. Suffice to say:
  - There has been an informal meeting with claimant groups.
  - The bulk of mediation negotiations are occurring between the claimant groups and the State Government.
- 7.7 In relation to the Gunai Kurnai claim, notifications have finished and the Federal Court is currently finalising the party lists and the case will then go into mediation.
- 7.8 There are other claims on foot in Victoria which have significance for Victorian fishers in inland waters including the Dja Dja Wurrung Peoples claim, and the claim by the Taungurung Peoples.
- 7.9 Does Native Title have the potential to diminish access to the resource or security of resource allocation? The answer is yes if a claim were to succeed but more likely a non-Native Title outcome will be achieved rather than a Native Title outcome.

## 8. Cases

### 8.1 *Walker v. State of New South Wales* (14)

8.1.1 The Defendant was charged with an offence against NSW laws. The Defendant alleged that the law relative to fishers is only valid in its application to Aboriginal people to the extent to which it had been accepted by them. The High Court rejected the proposition that a State could make laws that would not apply to a particular inhabitant or a particular conduct occurring within the State. The Aboriginal people were to be subject to the laws of the Commonwealth and to the State or Territories in which they respectively reside. The Court specifically ruled there was nothing in the Mabo decision to support the notion that Parliaments lacked legislative competence to regulate or affect the rights of Aboriginal people. The Court also ruled that the notion that the application of Commonwealth or State laws to Aboriginal people is in any way subject to their acceptance, adoption, request or consent was also not acceptable.

### 8.2 *Mason v. Tritton & Anor* (15)

8.2.1 The Defendant was found with 92 abalone in his possession on the central south coast of New South Wales. It clearly exceeded the bag limit and the abalone was shucked. He was charged with criminal offences under the NSW legislation and as a defence to the claim he sought to argue that he had a Native Title right to take the fish and that his right was not restricted in any way by the legislation. He did not succeed. Two of the three Judges ruled:

- (i) For native interest to be now recognised it had to be in existence immediately before the common law became the law of the Colony upon settlement.
- (ii) The native interest must be a recognisable part of the system of rules observed by an identifiable group of people connected with a particular locality.
- (iii) A person asserting entitlement to enjoyment of that interest today, must show biological descent with the group dating back to before the establishment of the common law.
- (iv) A person asserting such an entitlement must show that the biological descendents of the pre common law group have continued and are continuing to

## Conference

observe the system at the time the claim was asserted.

- (v) Such claims to common law recognition of native interest can only apply to certain kinds of un-alienated (not given away) Crown land.

8.2.2 The Court was not satisfied in this case that the Defendant could succeed in a claim for Native Title as they were not satisfied that the requirements of (ii), (iii) and (iv) had been met. The Court could not be satisfied that the taking of the abalone in this particular case was an exercise of Native Title right but in any event, as one Judge pointed out, if the abalone had been taken for sale to the general commercial fish market, that was not a traditional use.

### 8.3 **Sutton v. Derschaw & Ors** (16)

8.3.1 Defendants were charged under West Australian fisheries legislation and sought to defend the charges on the basis that they had a fishing right Native Title. His Honour Mr Justice Heenan in the Supreme Court of West Australia quoted with approval a statement of Chief Justice Gleeson in *Mason v. Tritton* op cit where it was said:

"Fishing is an activity which is so natural... that some care needs to be exercised in passing from an observation that people have engaged in that activity to an assertion that they are members of a class who have exercised some form of right pursuant to a system of rules recognised by common law."

8.3.2 This case also adopted the statements of His Honour Mr Justice Kirby in *Mason v. Tritton* when he said:

"In order to establish a successful common law claim for Native Title of the kind asserted here, within the rules established by *Mabo*, the evidence must be sufficient to demonstrate:

- (1) that traditional laws and customs extending the right to fish were exercised by an Aboriginal community immediately before the Crown claimed sovereignty over the territory...,

- (2) that the appellant is an indigenous person and is a biological descendent of that original Aboriginal community;
- (3) that the appellant and the intermediate descendants had, subject to the general propositions outlined above, continued, uninterrupted, to observe the relevant traditional laws and customs; and
- (4) that the appellant's activity or conduct in fishing for (the fish in question) was an exercise of those traditional laws and customs."

8.3.3 Again in this particular case, the evidence fell far short of supporting the claim for Native Title. On the afternoon in question the Defendants were engaging in "just ordinary... activity of a kind which is regulated in a way that is for the protection of Australians - Aboriginals and non Aboriginal."

#### 8.4 ***Yanner v. Eaton*** (17)

8.4.1 This was a High Court case where the appellant being an Aboriginal used a traditional form of harpoon to catch two juvenile estuarine crocodiles in Queensland. He and other members of the clan ate some of the crocodile meat, the rest was frozen, and the skins of the crocodiles were kept at home. Yanner was charged under the Fauna Conservation Act 1974 in taking or keeping fauna without being appropriately authorised. The High Court ruled that the Magistrate was right to dismiss the charges against Yanner. He was afforded the defence under Section 211 of the Native Title Act. The Court was satisfied that Yanner was a Native Title holder and therefore could hunt or fish for the crocodiles for the purpose of satisfying personal, domestic or non commercial communal needs.

8.4.2 However, one of the other Judges ruled that because ownership of the fauna was taken by the State of Queensland, then that virtually took away any Native Title right which Yanner had, and because this ownership of fish was taken, Yanner had no right which the Native Title Act protected when it came into force.



## Conference

### 8.5 ***Commonwealth of Australia v. Mary Yarmirr & Ors (The Croker Island Decision)*** (18)

8.5.1 This decision was most significant as it was the first time the Courts had looked specifically at the issue of Native Title and a claim over seas, seabeds and the resources therein and thereon. The claim was in respect of waters off the Northern Territory. At first instance His Honour Mr Justice Olney in the Federal Court found the relevant Native Title rights of the claimant group were:

- (a) To fish, hunt and gather for the purpose of satisfying their personal, domestic and non commercial needs, including observing traditional, cultural, ritual and spiritual laws and customs.
- (b) To have access to the sea and seabed within the region to fish, hunt and gather and to travel through or within the region and to visit and protect places that were of spiritual significance and to safeguard the cultural and spiritual knowledge of the claimants.
- (c) These rights did not establish an exclusive possession of the waters because the right to possess to the exclusion of all others was not part of traditional laws and customs of the claimant group.

8.5.2 This decision was appealed to the Full Court of the Federal Court which affirmed it was not an exclusive right. The Full Court held that Native Title rights and interests did extend to offshore waters and would be protected under the Native Title Act and that Native Title rights were different to common law rights, ie the Crown had been arguing that the right to fish was basically a common law right and this was not supplanted by the Native Title right. The majority of the Full Court held that as a matter of legal principle no ownership or exclusive rights to the sea could exist. The majority of the Court found that to recognise a claim for exclusive possession would contradict the right of innocent passage allowed by international law and convention and the common law rights to fish and navigate in the territorial sea.

8.5.3 The matter then went on appeal to the High Court of Australia which basically dismissed all appeals leaving the lower Court decision standing.

- 
- (a) Their Honours Gleeson CJ, Gaudron, Gummow and Hayne JJ held:
- (i) The Native Title Act makes it clear that Native Title can be recognised in relation to water as well as land, and more specifically may extend to rights and interests in respect of the seabed, subsoil and waters beyond the low-water mark.
  - (ii) S223(1) defines Native Title rights and interests as being in relation to land or water.
  - (iii) S225 defines waters as including a sea, river, lake, tidal inlet, bay, estuary, harbour or subterranean waters and the bed or subsoil under and airspace over any waters.
  - (iv) Perhaps most importantly in this instance, s6 explicitly extends the application of the Act to include the coastal seas of Australia and any other waters over which Australia asserts sovereign rights.
  - (v) Because Native Title has its origins in traditional laws and customs, it is necessary to curb the tendency to conduct an inquiry about the existence of Native Title rights and interests in the language of the common law property lawyer.
  - (vi) If the contention that the common law does not extend, apply or operate beyond the low water mark is intended to imply that, absent statute, no rights deriving from or relating to events occurring or places lying beyond the low water mark can be enforced in Australian courts, it is too large a proposition and it is wrong.
  - (vii) The requirement that the Native Title be recognisable by the common law is not correct. The rights and interests to which the Native Title Act gives effect are not rights and interests that are derived from the common law but from the traditional Aboriginal law.

- (viii) The question about recognition of Native Title rights requires consideration of whether and how the common law and the relevant Native Title rights and interests could co-exist. If the two are inconsistent, the common law will prevail.
- (ix) It is wrong to argue from an absence of radical title in the seabed to the conclusion that the sovereign rights and interests asserted over the territorial sea are necessarily inconsistent with the continued existence of Native Title rights and interests. The rights and interests asserted at sovereignty carried with them the recognition of public rights of navigation and fishing, and perhaps, the concession of an international right of innocent passage. Those rights were necessarily inconsistent with the continued existence of any right under Aboriginal law or custom to preclude the exercise of those rights (ie exclusive possession).
- (x) None of the past or present law relating to the territorial sea is inconsistent with the common law of Australia recognising Native Title rights and interests in relation to the sea or the seabed in that area. The requirement that the Native Title rights and interests are recognised by the common law, requires examination of whether the common law is inconsistent with the continued existence of the rights and interests. In this case, examination reveals no inconsistency between the common law and the Native Title rights per se, but does reveal an inconsistency with the continued existence of these as exclusive rights.

- (b) Their Honours McHugh, Kirby and Callinan delivered dissenting judgments.

### 8.6 ***Western Australia v. Ward*** (The Miriung & Gajerrong Case) (19).

- 8.6.1 In April 1994, the Miriung and Gajerrong people filed an application seeking recognition of their native rights over an



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area of approximately 8,000 square kilometres in the East Kimberley region of WA and also the Northern Territory.

- 8.6.2 The area included an irrigation area, lakes, pastoral leases, land subject to mining tenements, part of a diamond mine, national parks, aboriginal owned freehold, grazing leases, vacant crown land, various reserves, islands in the Cambridge Gulf and part of the inter-tidal zone of the Cambridge Gulf.
- 8.6.3 The Balangarra people in the Kimberley and members of three Miriwung groups in the Native Title claim later lodged claims that partially overlapped the claim area.
- 8.6.4 Others with interests in the area included the Commonwealth, the State of Western Australia, the Northern Territory government, local government and those with mining, pastoral, agricultural, recreational and business interests.
- 8.6.5 At first instance it was found that Native Title existed in a large part of the claim area.
- 8.6.6 On Appeal to the Full Federal Court a majority of the Full bench partially overturned the findings. All three judges upheld the initial finding that the claimants held Native Title in the parts of the claim area where it had not been extinguished. However, a 2:1 majority overturned the initial trial judge's findings re the nature of Native Title and the way it may be extinguished. As a result the area over which Native Title was recognised was considerably reduced.
- 8.6.7 On appeal to the High Court, a majority of the High Court upheld all appeals. The Court held the Native Title Act treats Native Title as a bundle of rights and it is properly to be thought of as such. The general issues raised were whether there could be partial extinguishment of Native Title rights and interests and what principles should be adopted in determining whether Native Title rights and interests have been extinguished in whole or in part.
- 8.6.8 The finding that at settlement, the claimant group occupied the claim area, without more, is not enough to demonstrate traditional law and customs.
- 8.6.9 Demonstrating the requisite connection with land and waters (under s223(1)) does not require evidence of a physical connection. The absence of evidence of some

recent use of land or waters claimed does not of itself require the conclusion that there can be no relevant connection with the land and waters.

8.6.10 Standing alone, the fact that there has been no recent exercise of a right does not necessarily deny the possibility that Native Title can be established.

8.6.11 Cultural knowledge is not protected by the Native Title Act as a Native Title right or interest. Some uses by others of cultural knowledge (for example the reproduction of an artwork) may be protected by other laws (such as intellectual property or copyright laws) but they are not protected by Native Title.

8.6.12 Native Title is not to be understood by reference to common law concepts of property. Where the claimants cannot make or sustain a claim to exclusive possession over an area, the rights and interests they are claiming may need to be described in terms of the activities they can do because of the rights they have under their traditional laws and customs (eg right to fish, to hunt, to conduct traditional ceremonies).

8.6.13 Native Title can be partially extinguished. It is important to recognise that, despite the grant of rights to others, or the assertion or exercise of rights or powers by the executive, to some extent Native Title might survive or there might be no inconsistency in the relevant sense at all. Where Native Title interests and other interests are incompatible, Native Title is permanently extinguished to the extent of the inconsistency.

8.6.14 Native Title rights and interests cannot be asserted in any way that would interfere with the exercise of inconsistent statutory rights (eg rights granted to pastoralists under statute, or to holders of mining leases under statute). Native Title will give way to these rights to the extent of the inconsistency.

8.6.15 The claimants argued that a public right to fish in tidal waters should not be recognised as an "other right" under s225(c) of the Native Title Act because it is not a proprietary right. The joint judgement of the majority rejected this argument finding that:

- The public right to fish is an "other interest" within s225(c) of the Native Title Act and is, therefore, to be recorded in the determination.
- There is a fundamental inconsistency between the public right to fish in tidal waters and a Native Title right and interest said to amount to an exclusive right to fish in those waters.
- Therefore, any exclusive right to fish in tidal waters that the claimants might have had under traditional law and custom has been extinguished.

8.6.16 One of the problems the High Court had with this case was that there had not been sufficient findings of fact at lower levels to allow them to make final determinations. They therefore remitted the case back to the Full Court for further consideration. As the joint judgement stated: "[g]enerally it will only be possible to determine the inconsistency said to have arisen between the rights of Native Title holders and the third party grantee once the legal content of both sets of rights said to conflict has been established."

#### 8.7 ***Birri Gubba v. State of Queensland*** (20)

- 8.7.1 Two fishermen (Griggs and Porter) sought an order joining them as respondents to a Native Title claim which encompassed land and waters in a National Park in North Queensland.
- 8.7.2 The motion was brought under s84(5) of the Native Title Act which provides that: "The Federal Court may at any time join any person as a party to the proceedings, if the Court is satisfied that the person's interests may be affected by a determination in the proceedings."
- 8.7.3 They were established commercial fishermen with licences granted under the Fisheries Regulation 1995 (Qld) in accordance with the Fisheries Act which gave them rights to fish within the claim area, including in the waters of the National Park.
- 8.7.4 The State of Queensland and the claimants argued that under the Nature Conservation Act (NCA) fishing in a National Park is illegal and therefore the Fishermen had no legitimate interest that would give them a right to be joined to the claim.

- 8.7.5 Noted the undisputed evidence of the QSIA (Queensland Seafood Industry Association) that commercial fishing is a historic and well established use of tidal waters in national parks in Queensland.
- 8.7.6 Noted also that there has never been a prosecution under the Nature Conservation Act of a commercial fisher for carrying on commercial fishing operations in a National Park.
- 8.7.7 Found that a legal right to fish within the Native Title claim area under a commercial fishing licence issued by a government department under legislation requiring the holding of such a licence before a person can legally fish in that area can readily constitute an affected interest within s84(5) of the Native Title Act.
- 8.7.8 It is not legitimate, as the State tried to argue, to conclude that as a fishing licence must be renewed at regular intervals, it is too transitory an entitlement to constitute an interest under s84(5).
- 8.7.9 In the Court's opinion, the fishers do not infringe the Nature Conservation Act by engaging in commercial fishing, so long as they do so in accordance with their licences.
- 8.7.10 Stated that even if he was wrong and the fishers were in contravention of the Queensland Act in fishing commercially in the National Park, they would still be entitled to be joined as parties because they had regularly entered the national park for the purpose of fishing.
- 8.7.11 Concluded that as non-commercial interests where parties not relying on any legal or equitable rights had been recognised in cases such as *Yorta Yorta* then no reason why commercial interests with no legal or equitable basis should not also be recognised.
- 8.7.12 Joined the fishers to the claim.
- 8.8 ***Daniel v. State of Western Australia* (21)**
  - 8.8.1 In this case there were four groups of applicants with each applicant group claiming extensive Native Title rights over various parts of the claim area which included land, inland waterways, offshore islands and offshore waters. Suffice to say insofar as the offshore waters were concerned, the Court did not feel that the evidentiary burden had been



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discharged. Whereas the Court noted the Native Title Act was silent as to the onus of proof, the majority in Ward's decision clarified the question of onus of proof by distinguishing between the evidential onus and the ultimate, legal burden of proof. As to the existence, scope, content and continuation of Native Title, the applicants plainly carry both an evidential onus and an ultimate onus, or burden of proof. Insofar as the offshore waters were concerned, in this case the Court was satisfied that the evidence went nowhere near discharging the onus by way of the evidentiary burden. Interestingly enough some comments were passed as being relevant to the West Australian legislation that:

- Fishing licences also did not give exclusivity of the seas and in fact there cannot be exclusivity in any group.
- Seabed leases possibly see an extinguishment of Native Title as the grant of the lease is a grant of exclusive possession over the relevant seabed area and would be therefore a grant of rights wholly inconsistent with the continued enjoyment of the claimed Native Title rights and interests. Any Native Title over the area the subject of the lease would therefore have been extinguished by the grant of the lease.
- Jetty licences do not extinguish any Native Title but rather have the effect that any inconsistent Native Title rights were extinguished except where the rights under the jetty licence were in the form of regulation.

8.8.2 There were some Native Title right to fish and take fauna from waters but only very limited rights.

**9. Conclusions from the Cases**

- 9.1 There can be no exclusive right.
- 9.2 To have any right, Native Title has to be established.
- 9.3 Native Title is not a single right but a basket of rights.
- 9.4 To establish Native Title the factors mentioned in paragraph 6.1 to 6.3 must be proved.
- 9.5 The claimants have the evidentiary burden.

## Conference

### 10. Additional Information

10.1 Reference should be made to an information sheet put out by the National Native Title Tribunal entitled "Fishing and Native Title: What Rights Apply?". It is accessible through the Tribunal website at [www.nntt.gov.au](http://www.nntt.gov.au).

10.2 We also refer to a paper put out by the Research Unit of the National Native Title Tribunal entitled "Aboriginal Use of the Sea in the South Western and South Eastern Victoria", copies of which can be obtained from the National Native Title Tribunal.

### 11. Likely Outcomes

11.1 In light of many of the decisions that have now come down where Native Title claims have been unsuccessful, or only partially successful, when we talk of outcomes, particularly through the mediation process, it would be my submission that more likely than not a non Native Title outcome will be achieved. In other words, negotiations will occur through the mediation process on the Native Title claim whereby agreement will be reached with claimant groups but which agreement may well fall short of a Native Title being accepted. Examples of non Native Title outcomes might be, insofar as the fishing industry is concerned, participation on management committees, acknowledgment of claimant groups as traditional owners, a portion of royalties being paid, grant of a licence. There is no clear list of what outcomes could be achieved, it is a question of what may be negotiated or mediated as an outcome. It must be remembered that Native Title claims are not just about fishing. Fishing is but one small component of the claims.

11.2 Certainly in the context of Native Title claims, no mediation outcome is endorsed unless all the parties to the Native Title claim are agreeable to same. Hence why the importance of having as many fishers involved in these Native Title claims as possible so as to have a say to achieve a mutually acceptable outcome.

11.3 It also needs to be appreciated that most of the negotiations are occurring directly between the State of Victoria and the claimant groups in isolation of involvement of fishing industry. Whilst I personally have no problem with that occurring and it makes total sense in the grand scheme of things, it is important that there be open lines of communication between all parties with regular briefings as to the status of negotiations. This is not occurring.

11.4 As regards the Victorian Government's Native Title Policy, this was released in 2000. I would also refer you to the Guidelines for

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Native Title Proof issued by the Native Title Unit, Department of Justice, State of Victoria in September 2001.

- 11.5 It has at all times remained my view that the test and evidentiary burden on claimants here in Victoria will make it extremely unlikely that any Native Title claim will succeed because of the enormous difficulties faced in discharging that burden, a burden that increasingly is being criticised in many quarters as being too onerous. Suffice to say, however, even though Native Title may not be established, that does not mean there may not be a non Native Title outcome which can impact on industry through a mediated or negotiated outcome.



## FOOTNOTES

- (1) Example: "Fisheries Property Rights Working Group" New South Wales Fisheries January 1994; The Evolution of Property Rights in New South Wales Fisheries; A Discussion Paper by Gary Sturgess 27 July 1995; The Security of Access and Resource Sharing Working Group in West Australia chaired by Dr Paul McLeod in 1995, just to mention some examples here in Australia. See also paper entitled "Fishing Property Rights" prepared by John Barker 21 April 1994, Victorian Fisheries.
- (2) *Stockdale & Anor v. Alesios & Ors* [1999] VSCA 128.
- (3) s51(xxxi) of the Commonwealth Constitution. See the decision earlier this year of *South Australian Fishing Association & Warwick v. State of South Australia* [2003] SASC 38. S.A. legislation was construed to give more protection to State fishers.
- (4) *Harper v. Minister for Sea Fisheries* (1989) 168 CLR 314.
- (5) *Fitti v. Minister for Primary Industries & Energy* (1993) 40 FCR 286 and see also the matter of *Minister for Primary Industry & Energy & Anor v. Fitti* (1994) 199 ALR 108.
- (6) *Pike v. Duncan* (1989) VR 139.
- (7) *Pennington v. McGovern* (1987) 45 SASR 27.
- (8) *Austell Pty Ltd v. The Commissioner of State Taxation of Western Australia* (1989) 20 ATR 1139.
- (9) *Kelly v. Kelly* (1990) 92 ALR 74.
- (10) *Hendry & Anor v. E F Hendry & Ors* [2003] SASC 157.
- (11) *Edwards & Anor v. Olsen & Ors* (1996) 67 SASR 266.
- (12) *Banks v. The Transport Regulation Board Victoria* (1968) 119 CLR 222.
- (13) *Mabo v. The State of Queensland* [2] (1992) 175 CLR 1.
- (14) *Walker v. State of New South Wales* [1992-1993] 182 CLR 45.
- (15) *Mason v. Tritton & Anor* [1994] 34 NSWLR 572.
- (16) *Sutton v. Derschaw & Ors* (1995) Supreme Court of West Australia Unreported Decision 15/8/95.
- (17) *Yanner v. Eaton* [1999] HCA 53.
- (18) *Commonwealth of Australia v. Mary Yarmirr & Ors* [2001] HC 56.
- (19) *Western Australia v. Ward* [2002] HCA 28.
- (20) *Biri Gubba v. State of Queensland* [2003] FCA 276.
- (21) *Daniel v. State of Western Australia* [2003] FCA 666.

## PRESENTATION TO THE 2ND NATIONAL ABALONE CONVENTION

*Peter Dundas-Smith*

**Executive Director**

**Fisheries Research & Development Corporation**



Charting Our Future

- With respect to what?
- How?

With Respect to:

**Agripolitics**

- Fisheries management
- Research and development
- Marketing

How are these matters handled now?

- Agripolitics
  - Industry associations
  - Australian Seafood Industry Council (ASIC)
- Fisheries management
  - MACs
- R&D
  - FRABs
  - Subprograms
- Marketing
  - Driven by processors

Australian Citrus Industry - A Case Study

- Annual GVP \$ 400m (\$190m exports)
- Australian Citrus Growers Inc.
  - Federation of regional grower associations
  - Secretariat Budget \$150K (2 full time staff, 2 project staff)
  - Total budget (\$1m, includes external project funding)
- National citrus R&D levy
  - \$2 per tonne - matched by Australian Government
  - \$2.5m total R&D investment per year
  - Collected by Levies Revenue Service of AFFA at first point of sale i.e. processor
  - Funds managed by Horticulture Australia
- National marketing levy
  - Supports domestic and export marketing
  - NOT matched by Australian Government
  - 75 cents per tonne
  - \$400,000 investment per year
  - Same collection process as with R&D levy

# 2<sup>nd</sup> National Abalone Conference



Melbourne, Victoria  
13-15 August 2003

## Project example

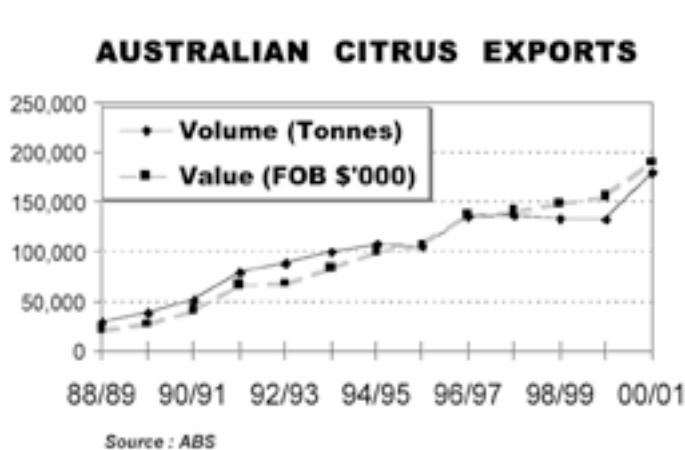
### *Citrus Export Market Intelligence Study for Horticulture Australia*

Objective - identification of overseas market opportunities, evaluation of potential sales in the short and long-term, strategic issues to be addressed in achieving that potential, drivers & barriers within the markets



## Results:

- identification of 'windows of opportunity' in certain months of the year when Australia is the sole supplier
- strategies to leverage this window to grow sales
- defensive strategies to retain share in existing markets
- strategic direction to the industry's future efforts in varietal development



## Options for improvement

- Agripolitics
  - A national abalone body
- Fisheries management
  - National co-management committee
- R&D
  - A national process
  - A national R&D levy
- Marketing
  - A national marketing body
  - A national promotional levy

## Abalone R&D status quo

- 'Voluntary' funds provided by state
- Funding shortfalls <.25% GVP
- 'Matching' dollars not being exploited
- There is no 'one' approach

#### Abalone R&D potential

- Statutory R&D levy (eg Aust prawn farmers) MATCHED by Australian Government
- Agreed to by industry
- In 01/02, an R&D levy of based on .25% AGVP would have returned \$1.23M in abalone R&D investment  
This translates to 10.6 cents per kg

#### Marketing potential

- Statutory marketing levy NOT MATCHED by Australian Government
- Agreed to by industry
- In 01/02, a marketing levy of just 10c per kilo would have returned \$580,000 for abalone marketing activities

#### Conclusion

- Charting your future is easier than you think!
- Establish national abalone agripolitical body
- Put in place a R&D and promotion levy of a level determined by industry
- Put yourselves in the driving seat

# 2<sup>nd</sup> National Abalone Conference



Melbourne, Victoria  
13-15 August 2003



## RESEARCH & DEVELOPMENT INVESTMENT IN THE ABALONE AQUACULTURE INDUSTRY

*Dr Ann Fleming*

### Subprogram structure



Subprogram value adds to R&D investment by

Allowing industry to be responsible for:

- identifying R&D needs
- managing the research as it progresses
- dictating how the results should be presented and communicated
- identifying extension materials to ensure R&D outputs are transferred to practical outcomes for the industry

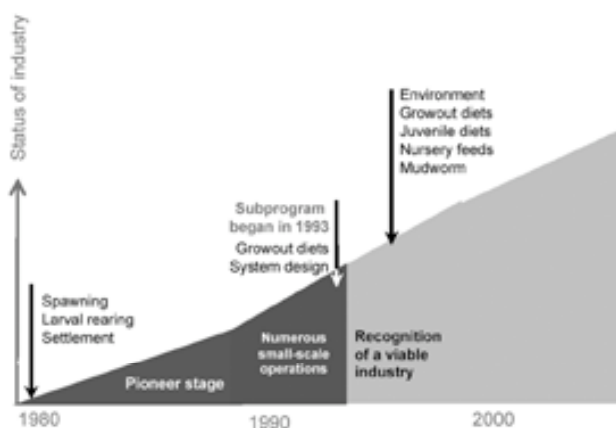


Having a dedicated manager who:

- Communicates results to industry as they become available
- Ensures research is of a high standard, is commercially focused and is not duplicated
- Acts as a central point of contact for information
- Ensures a national approach to R&D

Past needs of the industry

- System design and manufactured feed
- Environmental requirement
- Early juvenile requirement



### Current needs of the industry

- To reduce production costs at growout
- To increase productivity/ reliability of the nursery system
- To improve broodstock response
- To manage disease risk and establish response strategies



### To reduce production costs at growout

- Genetic selection
- Genetic markers
- Sperm cryopreservation



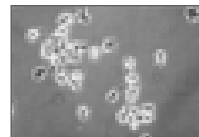
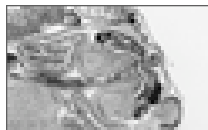
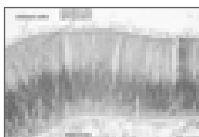
### To increase productivity/ reliability of the nursery system

- Algal foods
- System management alternatives



### To manage disease risk

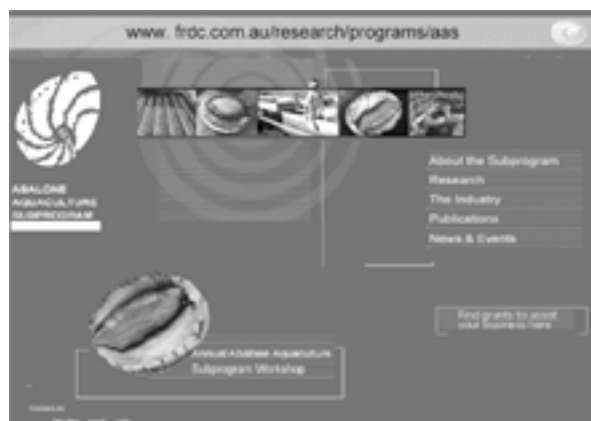
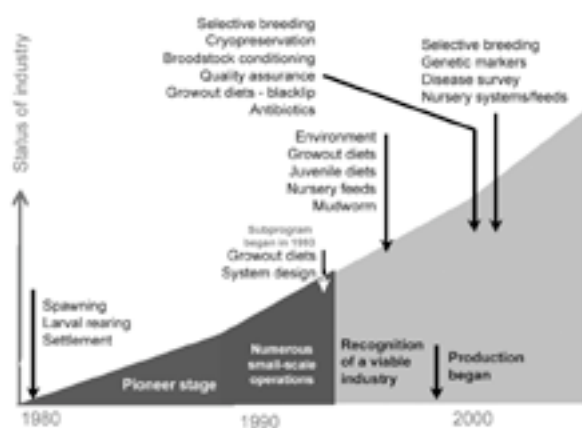
- Water quality monitoring
- Health surveillance on-farm
- Disease survey
- Assess antibiotics





To improve broodstock response

- Broodstock conditioning
- Manufactured diets for broodstock



## FISHERIES MANAGEMENT

Richard McLoughlin - Executive Director Fisheries Victoria (DPI)

Dallas D'Silva - Fisheries Victoria (DPI)



### Abalone Fisheries Management: A National Perspective

- 5 Abalone producing States in Australia.
- Total 'wildcatch' of 5813 tonnes produced in 2001-2002.
- (Growing abalone aquaculture sector nationally).
- Common fishery management tools- quotas, minimum size limits, zoning in each State.

State:	Management Zones	Legal minimum size limits
N.S.W TACC=281 t.	6	1
VIC TACC= 1423 t.	3	4
TAS TACC= 2928 t.	5	7
S. A TACC= 885 t.	3	4
W.A TACC= 296 t.	8	5
Total:	25	21

In general terms, a national approach to abalone fisheries management in Australia, which still allows for more localised management.

\* TACC data sourced from Australian Fisheries Statistics 2002 (ABARE)

- These fisheries are relatively expensive to manage -especially with respect to quota monitoring.
- Cost recovery already implemented in some States and being considered in others.
- Significant compliance resources expended on both the licensed and unlicensed sectors.
- Strong network of communication and regular meetings between Directors, managers and compliance officers.

### National Abalone Compliance Initiatives

- Victoria currently chairs the National Fisheries Compliance Committee which reports to the Australian Fisheries Managers Forum.
- National Docketing System (NDS) is in place.
- Mandatory labelling of processed abalone in Victoria to complement NDS.
- New national approach to intelligence data collection and management commenced early 2003.
- Proposed Commonwealth listing of abalone as a prohibited export unless it satisfies minimum labelling or document requirements.
- Effective abalone compliance requires a national approach using planned
- multi-jurisdiction operations.
- 6 multi-jurisdictional operations over the last 18 months.
- Planned compliance operations involving abalone being implemented at approximately 3 week intervals in Victoria - similar commitment in other states
- In the 12 months to 30 June, the Department achieved a 100% success rate in Court, prosecuting 218 offenders with a total of 1060 charges, resulting in 14 vehicles and 6 boats seized, 9 persons sentenced to terms of imprisonment and more than \$250,000 in fines imposed.
- Additionally, in Victoria 29,124 persons were checked for compliance with regulations and 700 penalty infringement notices issued.

### National Abalone Research and Development

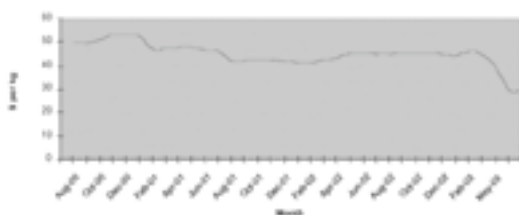
- In general terms, a national, albeit informal approach to research and stock assessment.
- Regular meetings between abalone fishery scientists.
- Highly collaborative approaches in formulating research proposals where relevant.
- Length-based stock assessment models being utilised in all jurisdictions (except WA) for abalone due to absence of age-based techniques.

- National length structured 'Bayesian' stock assessment model developed through FRDC project now available to all States should they wish to use it.

### Marketing Issues and Trends

#### Marketing Issues and Trends

Average monthly price for Victorian wild caught abalone (shell weight)  
from 07/2000 to 06/2003.



## THE FUTURE OF ABALONE AQUACULTURE IN AUSTRALIA:

### THE INFLUENCE OF WORLD MARKETS

*Professor Peter Cook*



### ABALONE AQUACULTURE IN AUSTRALIA:

#### WHAT WILL THE MARKET BEAR ?

#### AND WHY ARE WE NOT YET PRODUCING THAT AMOUNT ?

#### AND WHY IS SOUTH AFRICA LEADING AUSTRALIA ?

#### Acknowledgements

*Roy Gordon, Fishtech Inc., California*

*Tomo Kawamura (Japan), Nie Zong Qing (China), Arthur Seavey (USA), Enrique Vazquez Moren (Mexico), Cristobal Borda (Chile), Steve Edwards and Steven Reynolds (Australia), Rodney Roberts (New Zealand), Nick Loubser (South Africa), Terrence O'Carrol (Ireland and Europe) Alawai Salim Al-Hafdh (Oman)*

### WORLD ABALONE MARKETS

#### SIGNIFICANT FACTORS

##### 1. FISHERIES

1989	14 830mt
1999	10 150mt (30% decline)
2002	10 212mt

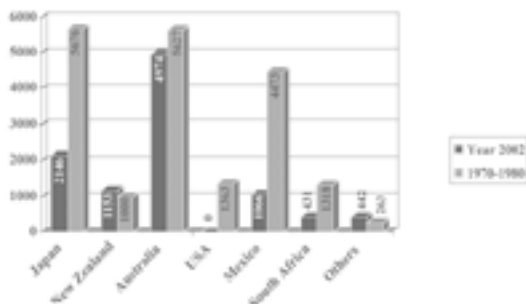
- BUT -

Significant increase in illegal product

#### PROBLEMS WITH ASSESSING PRODUCTION

1. DIFFERING "WEIGHT" EXPRESSIONS  
(in shell, shucked, canned, etc.)
2. LACK OF STATISTICS FROM CHINA
3. DIFFICULTY OF ASSESSING ILLEGAL CATCH

#### Fisheries landings

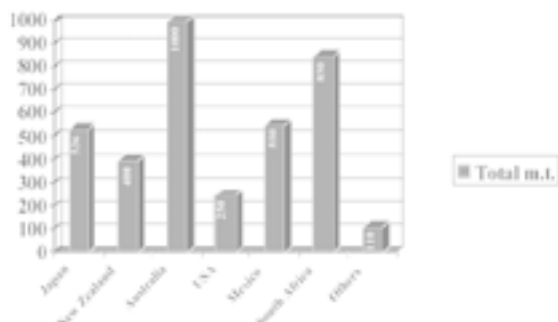


*Notes: USA year 2002 : commercial fishery closed*

*Others = Korea, Philippines, Solomons, Oman, Taiwan*

*1970/1980 = average of high and low years*

### Illegal catch estimate: 2002



### 2. FARMED PRODUCT

1989 1 220mt

1999 7 775mt (600% increase)

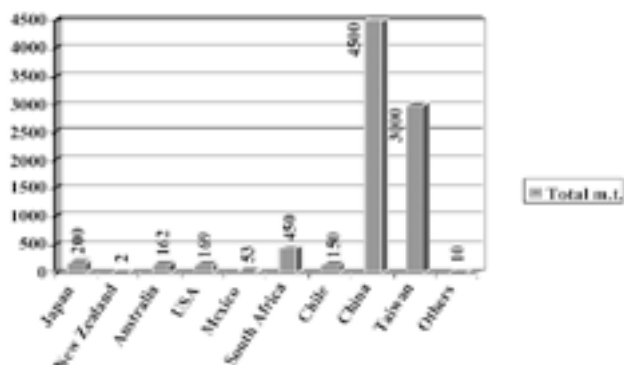
2000 most of 1999 production in Japan (3500mt), China (3000mt) and Taiwan

2002 +/- 9 000 - 10 000mt

Most significant increase in China – now producing between

4 500 - 6 000mt (most consumed inside China)

### Farmed abalone production : 2002



### SUPPLY / DEMAND

In 1975 supply and demand were about - 20 000mt

By 1999, because of fishery decline, demand outstripped supply by about 7 000mt

By 2003 /04, because of increased farm production, and illegal harvest, supply is likely to return to a figure close to traditional demand

**BUT - ALL IS NOT LOST !**

1. Illegal supply WILL be reduced in the future
2. New or increased markets for "traditional" products are developing in China, Korea, Europe, etc.
3. Demand for "new" types of products in Japan, China, etc. e.g. supermarket frozen packs

The bottom line.....

The traditional idea that the Japanese abalone market is “insatiable” is no longer valid

Producers will have to become more innovative in finding new markets and producing a wider range of products

**BIG IS BEAUTIFUL !!!**

### **Abalone production in Australia**

	TONNE			
	1998	1999	2000	2001
TAS	8	10		20
VIC	0	7		20
SA	27	72		100
WA	0	0		0
<b>TOTAL</b>	<b>35</b>	<b>89</b>	<b>58</b>	<b>140</b>

#### Abalone farming in Australia



compared to



#### Abalone farming in South Africa

In 1994, at the time of the Tasmania abalone conference

- Australia**
  - several existing farms
  - small but significant farm production
- South Africa**
  - no functional farms
  - no production

In 1998

- Australia**
  - production +/- 35 mt
- South Africa**
  - test marketing
  - +/- 2 – 5 mt



# 2<sup>nd</sup> National Abalone Conference



Melbourne, Victoria  
13-15 August 2003

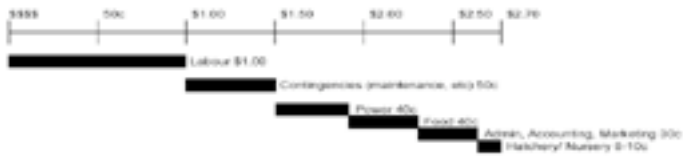
In 2001 – 2002

Australia +/- 140 mt production

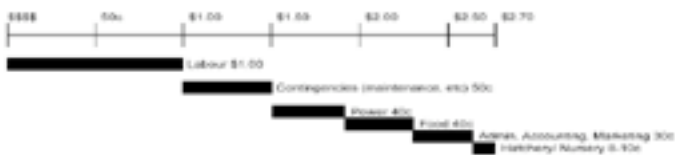
South Africa +/- 450 mt production

(one single farm produced +/- 130 mt in 2002)

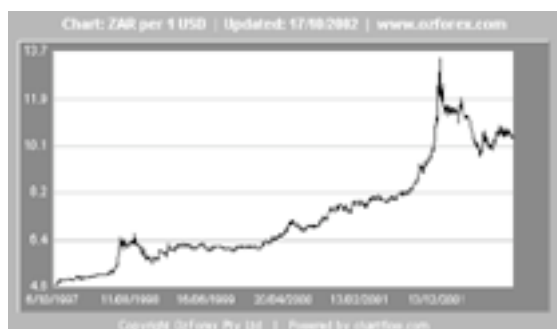
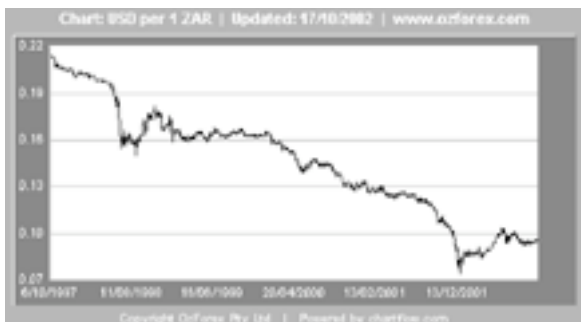
The cost of producing an 80mm animal - Australia



The cost of producing an 80mm animal - Australia

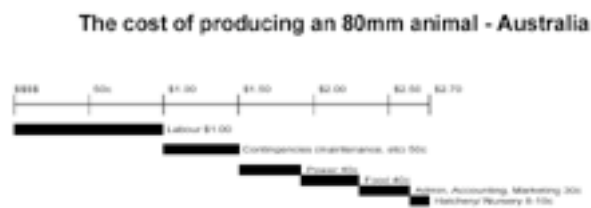


South Africa ?





The cost of producing an 80mm animal - Australia



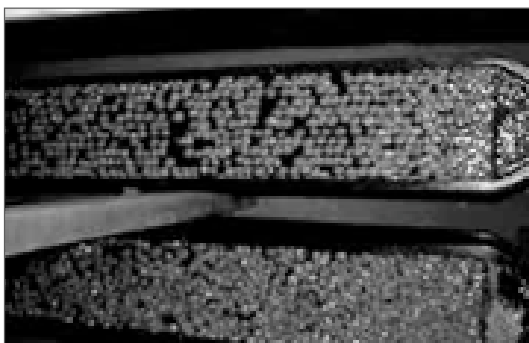
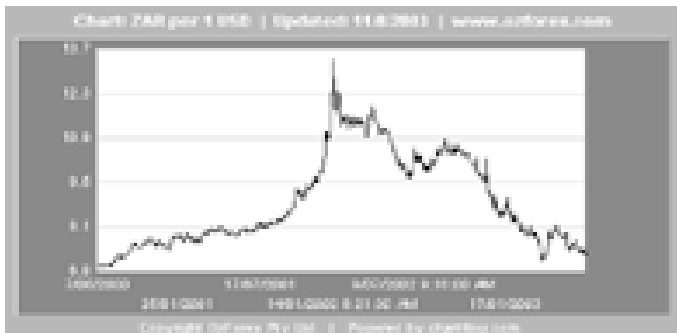
Number of employees

Average WA prediction per 100mt

- +/- 25

Existing South African farm that has just produced a little under 100mt

- 73



# 2<sup>nd</sup> National Abalone

## Conference

Melbourne, Victoria  
13-15 August 2003



### Newspaper advertisement Hong Kong

- 1 = Frozen super large, South Africa
- 2 = New Zealand canned
- 3 = Chile (actually Loco)
- 4 = Cal Mex canned, Mexico
- 5 = Australian canned
- 6 = Frozen greenlip, Australia



### Example of branding and marketing



## ABALONE AQUACULTURE PAST, PRESENT AND FUTURE

*Steve Rodis*

### Production Cycle

- Two principle production methodologies
- Land Based
- Sea Based

### Production Stages

- Hatchery
- Nursery
- Weaning
- Grow-on



*Great Southern Waters farm site - Indented Head*

### Planning Submission

- A Marine Ecology survey
- A Coastal Processes report
- A Flora report
- A Hydrographic survey
- A Feature survey
- An Archeological survey
- A Landscape plan

### Issues for objectors

- Aquaculture Industry
- Dirty, polluted water
- Smells
- Noise
- Increased traffic

Letterbox drop by objectors

- We would kill fish in the bay
- Property prices at risk
- You couldn't swim at the beaches
- The smell would be terrible
- The noise you would hear kilometres away
- You would have to climb over pipes on the beach.
- Small fish would be attracted to the outlet which in turn would attract bigger fish which would in turn attract sharks and it wouldn't be safe to swim in the water

## Locals fear aquafarm

**A PROPOSAL** to develop an aquaculture farm at 18 Levenhoe, near Geelong, has residents worried about its environmental impact.

The Levenhoe residents say the farm for abalone and other shellfish would pollute the sea, create noise and be an eyesore.

More than 150 residents yesterday attended a public meeting to discuss the development.

Residents have filed an appeal against the proposed development with the Victorian Civil and Administrative Tribunal, to be heard on October 18.

But the farm developers, Great Southern Waters, yesterday dismissed the residents' claim that the development would be detrimental to the area.

The proposal already has approval from the Environment Protection Authority and the Natural Resources and Environment Department's Coastal Management Act. The City of Greater Geelong Council also supports the development.

**By REGINA TITELIUS, environment reporter**

point and has issued a notice of intention to grant a permit.

Great Southern Waters has been making an aquaculture hatchery at Levenhoe for the past three years.

Geelong's occupying director Margaret Rennie said her business had established a strong record in environmental and community land terms, and was not aware of the effects of the proposed farm.

Ms Rennie, already a resident, said her family would live on the site.

She said the farm would employ up to 30 people and would likely attract sea pests to nearby fish production farms.

A spokesman for the local residents group, the Bushwags, said residents and fishermen would be disturbed by the noise and pollution from the farm.

There was also concern about potential disease.

## Court bid on fish farm

**BY REGINA TITELIUS**

Opponents of a \$1.5 million aquaculture development at Levenhoe Road are trying to raise money for a Supreme Court challenge.

They want the court to overturn the Victorian Civil and Administrative Tribunal (VCAT) approval of the proposed abalone and fish farm.

VCAT granted a planning permit for the farm last week, ending the end of a year-long approval process.

"Opponents, including Victor Bushwags, argued VCAT's decision was 'poor and planning failure'."

Ms Bushwags said opponents would choose it as a venue for the weekend when to present the case.

"We will continue to fight it and try to raise legal fees," Ms Bushwags said.

"The Bushwags clearly say the decision is wrong and we will fight it and try to raise legal fees."

Ms Bushwags said VCAT's decision was a "poor and planning failure" and was "nothing short of a disaster."

"The farm has caused major problems and the plan is wrong."

Great Southern Waters said the farm would be a "major success" and would be a "major success" and would be a "major success."

VCAT's decision was "very positive."

"That was a very good decision and we will continue to fight it and try to raise legal fees."

VCAT's decision was "very positive."

## Fish farm fight

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## New bid to stop fish farm

### Batman enters fight

**BY REGINA TITELIUS**

Listing of industrial land's historic Batman Memorial as a Victorian Heritage Inventory could hamper development of a \$1.5 million fish farm.

Former ports and harbours commissioner Brian Cameron, who had the site put on the inventory, said the listing would mean the site would be a "major success" and would be a "major success."

VCAT's decision was "very positive."

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VCAT's decision was "very positive."

South Australia



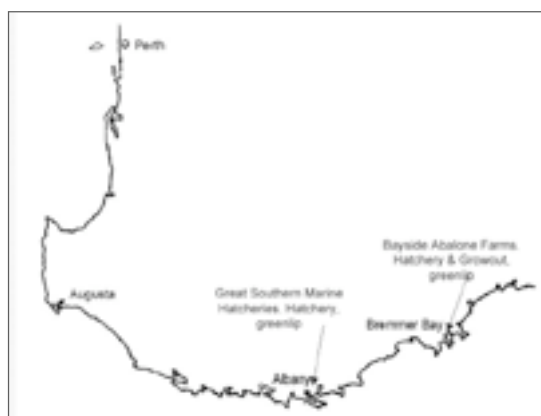
## Victoria



## Tasmania



## Western Australia





# 2<sup>nd</sup> National Abalone Conference



Melbourne, Victoria  
13-15 August 2003

## Farms operating in each state

	NO OF HATCHERIES	ON-SHORE (GROWOUT & HATCHERY)	ON-SHORE (GROWOUT ONLY)	ON-SHORE (HATCHERY ONLY)	OFF- SHORE (AIRS ONLY)	OFF-SHORE (AIRS & OTHER SPECIES)
TAS	5	4	2	0	3	0
VIC	5	4	1	0	1	0
SA	5	5	0	1	1	0
WA	2	1	0	0	0	0
TOTAL	17	14	3	1	5	0

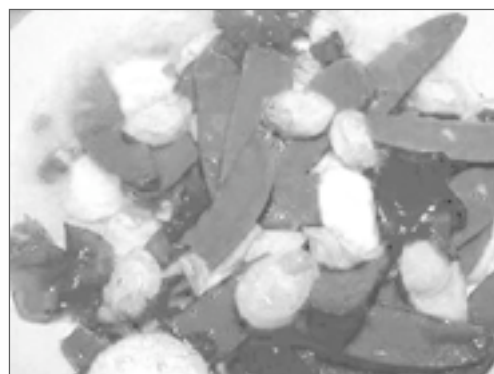
## Production by state

	1997/98	1998/99	1999/00	2000/01	2001/02
SA		21.0	40.0	53.0	34.0
VIC			14	5.0	12.0
TAS	3.0	3.9	3.8	9.0	19.5
WA	0.0	0.0	0.0	0.0	0.0
NSW	0.0	0.0	0.0	0.0	0.0
Total	3	24.9	43.8	68	65.5

Source: State Fisheries & Aquaculture Agencies

## SWOT

- Strengths
  - Continuity of supply
  - Established market presence with Australian species
  - Acknowledgement between growers that a coordinated marketing approach is absolutely vital.
- Weakness
  - Emerging Industry
  - Need for cashflow
- Opportunities
  - Product differentiation
  - New value added product lines
- Threats
  - OURSELVES



## FISHERY ASSESSMENT OF ABALONE

*Professor Malcolm Haddon*



What does a Stock Assessment do for you?

- Should provide objective advice about an optimal sustainable TAC
- Optimal is a balance that : minimizes risks to sustainability, and minimizes lost opportunities.
- i.e. TAC shouldn't be too high or too low.
- The assessment and TAC should be defensible.

A Good Assessment Should:

- Describe the strengths and weaknesses of the available info.
- Synthesize all available information.
- Advise whether present Mgmt is:
  - Risk averse or Risk Prone
  - Sustainable
- Identify when management action is advisable.

Information used in Assessment.

- Diver/Industry opinion
- Catch rates
- Catches
- Size structure of catch
- Biological information (e.g. growth)
- Fishery Independent Abundance Surveys

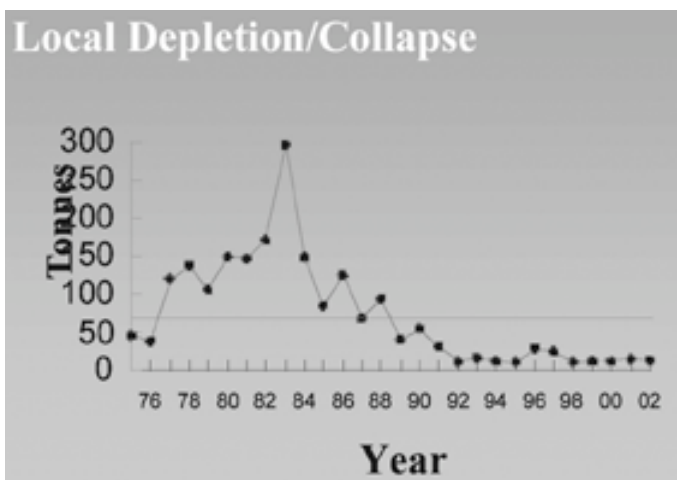
Problems with Assessing Abalone

- Hyper-stable catch rates.
- Effort creep - \_Fishing Power
- Patchy Distribution – low dispersal
- Productivity changes over small spatial scales
  - Growth
  - Recruitment
- Obtaining adequate data by area.
- Significant, unknown cryptic population.

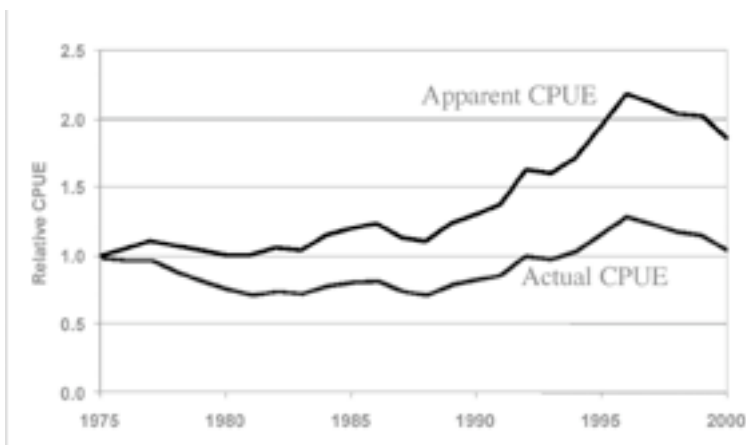
Stock Assessment by Past Experience

- Advantages
  - Intuitively reasonable
  - Easily understood
- Disadvantages
  - Improvements in fishing power
  - Invasions/habitat changes/disease
  - Local collapse/poaching

### Local Depletion/Collapse



### Effect of Effort Creep



### Stock Dynamics





### Models – Strengths & Weaknesses

- Good at synthesizing complex dynamics.
- Quantitative; characterize uncertainty.
- Heavy data requirements.
- Ignores a great deal of spatial variation.
- Focussed on one species only.
- Difficulty obtaining data on poaching.

### Models are Not Yet Enough!

- Not sufficiently complex to capture full dynamics of abalone stocks.
- Current models useful approximations.
- Need also to consider such things as:
  - Environmental influences
  - Changing spatial distribution of catch & effort
  - Fine scale stock structure.
  - Fine scale productivity differences.
  - Cryptic population contributions.
  - Effects of other species (disease, competitors, habitat change, etc.)

### Conclusions

- Abalone Assessments improving.
- Management options for Abalone are being expanded.
- If no long term environmental change occurs, and poaching can be contained, sustainable and profitable abalone fisheries should continue.

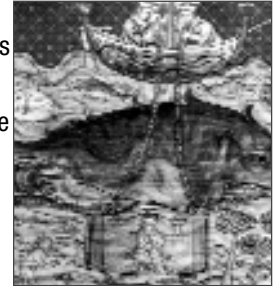


### THE HAZARDS OF HUMAN LIFE IN THE OCEAN

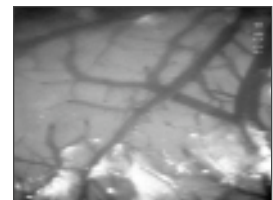
*Professor Des Gorman*

What are the drivers for the human attraction to being in the ocean?

- The attraction to being underwater is ancient, but is it entirely explicable in terms of primary and secondary gain?
- Even allowing for the reality of some hazards, life in the ocean is hazardous for humans.
- Jacques Cousteau rationalised this phenomenon in terms of reverse evolution – E mare a mare.



- In the context of E mare a mare; what is the extent and efficacy of human adaptation to being in the ocean?
- It is only a physiological fluke that enables prolonged human activity in the ocean without invariable significant disease.



- For my generation, much of the appeal of being in the ocean can be attributed to the hero's and anti-hero's of the day, and to the media.
- Some of our hero's were physiologically abnormal and popularised what we now know to be very high risk diving.
- The media has had both positive and negative effects on the popularity of diving.
- The current interest in teaching younger children to dive has much to do with a decreasing market in the context of a change in perception – diving is a victim of its own success.
- Changes in perception of risk and risk-related behaviour may also explain some of the interest in so-called technical diving.



The hazards of human life in the ocean.

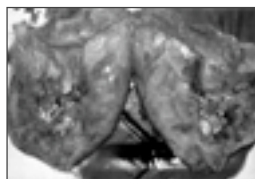
- A progression from breath-hold to surface supplied to self-contained diving and a concurrent development of armour for divers.

Breath-hold diving

- Adaptation versus acclimatisation for Ama.
- The effect of immersion on blood volume and lung function.
- Hypothermia.

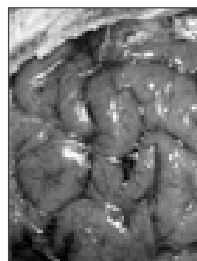


- The effect of ambient pressure on fluids and gases.
- Dangerous marine animals.
- Entanglement and drowning.
- Hypoxia of ascent.
- Salvage of ancient vessels.
- Bell supported breath-hold diving.
- Breath-hold diving from a compressed gas environment.
- The evolution of pulmonary barotrauma.
- Decompression illness.
- The concept of the armoured diver.



The armoured diver.

- Proprioception and torque; the utility of the human hand.
- Control of oxygen and carbon dioxide levels.
- The submariner.
- Problems of environmental control.
- Problems of escape and rescue.
- Escape and rescue from a submarine – the conflict between the morbidity and mortality of escape training and that of escapes at sea.
- The un-manned underwater vessel.
- Proprioception and torque re-visited.
- The balance of divers and remote operated vehicles.
- The evolution of SSBA.





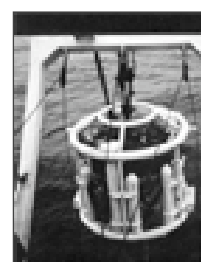
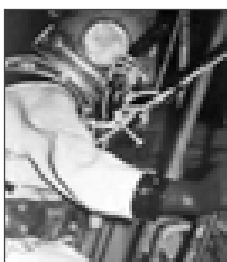
# 2<sup>nd</sup> National Abalone Conference



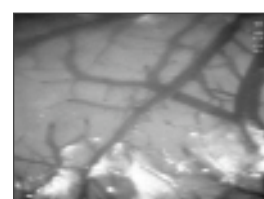
Melbourne, Victoria  
13-15 August 2003

Surface-supplied breathing apparatus.

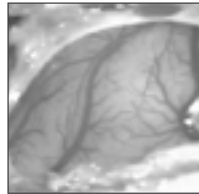
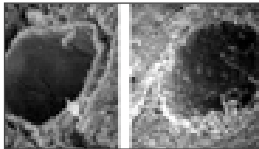
- Increasing depth and narcosis, gas density and the work of breathing.
- Increasing hyperbaric exposure and the risk of a decompression illness.
- Increasing depth and narcosis, gas density and the work of breathing.
- Helium and hydrogen as gas diluents in diving.
- Helium and hydrogen as gas diluents in diving.
- The discovery of HPNS.
- The economic evolution of saturation diving.
- The mechanics and physical demands of saturation diving – the development of standard operating procedures for offshore diving.



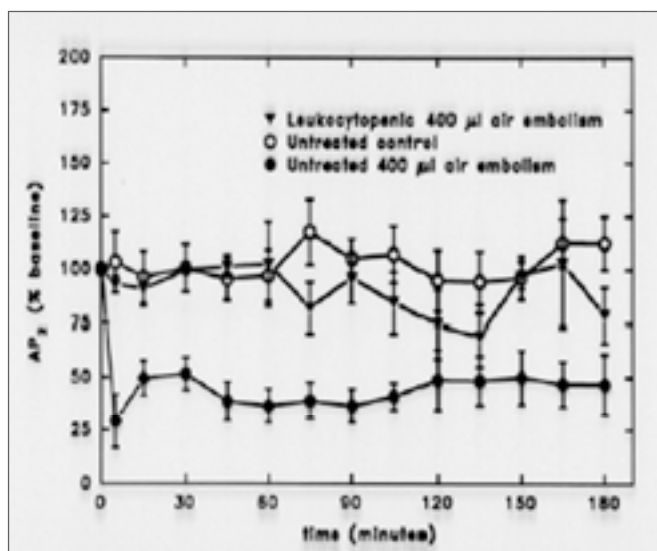
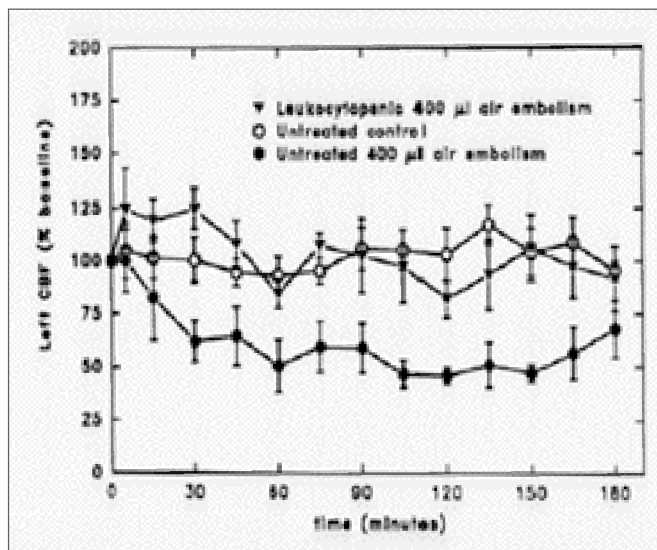
- The physiology and psychology of saturation diving.
- Liquid breathing.
- The persistent scourge of decompression illness.
- The liberation of SCUBA.
- Open-circuit demand SCUBA.
- The changing demography of divers.
- Drowning.
- A variable problem of decompression illness.
- Closed and semi-closed SCUBA.
- Oxygen toxicity and hypoxia.
- Carbon dioxide toxicity.
- Cave divers and wreck diving.
- Technical diving and an increasing problem of decompression illness.
- Decompression illness.
- What is a decompression illness, to what extent does it exist by definition and to what extent is it avoidable?
- The natural history of bubbles.



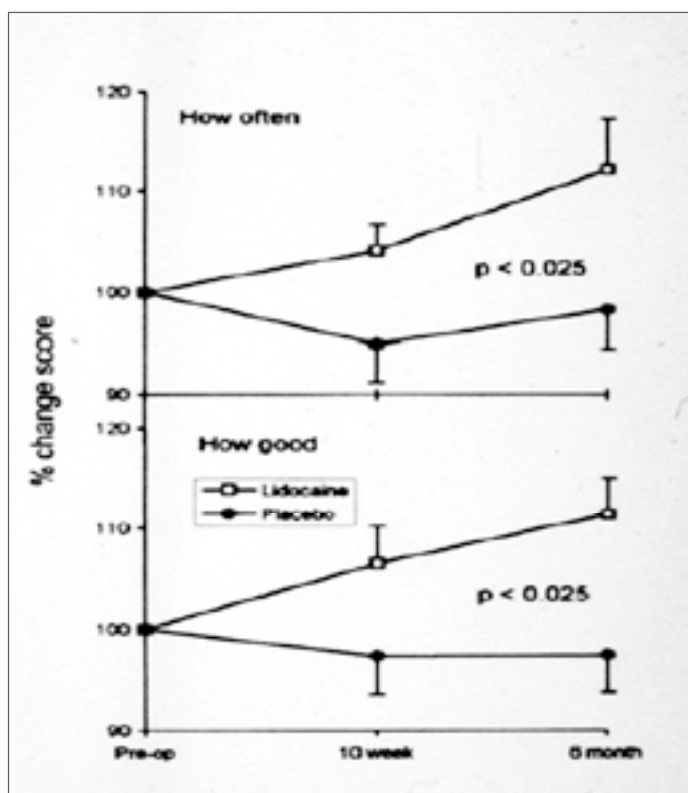
- The disease that arises from the mechanical effects of bubbles.
- The disease that arises from the biochemical effects of bubbles.
- The disease that arises from the vascular effects of bubbles.
- The effect of bubble-induced blood vessel dysfunction on brain function after air embolism of the brain.



The effect of bubble-induced blood cell dysfunction on brain function after air embolism of the brain.



The management of the decompression illnesses.



The hazards of human life underwater.

- What are the drivers for the human attraction to being in the ocean?
- How do these drivers operate in the context of a rich environment of hazards and recognising the limited adaptations for humans in this context?
- What of the future?

## ESD

Where are we up to?

What's happened with Abalone?

*Dr Rick Fletcher*



### Outline

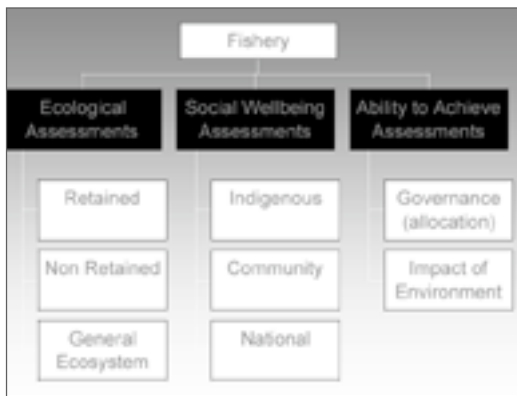
- A review of progress to date
- Outline what is proposed for ESD reporting in both wild-capture and aquaculture sectors
- Examination of trends seen in ESD assessments of abalone and potential implications
- Initiatives to assist future assessments

### History of Project

- 1997 - 1999 Preliminary work by BRS, SCFA, CSIRO , UN
- March 2000 ESD Conference in Geelong
- June 2000 ESD reference group meeting in Glenelg
- July 2000 Case Studies Begin (Including Vic Abalone)
- October 2000 Case Study Workshop
- March 2001 Complete More Case Studies
- March 2002 Publish How To Guide
- Feb 2002 – Start Assessment Elements

### National ESD Framework

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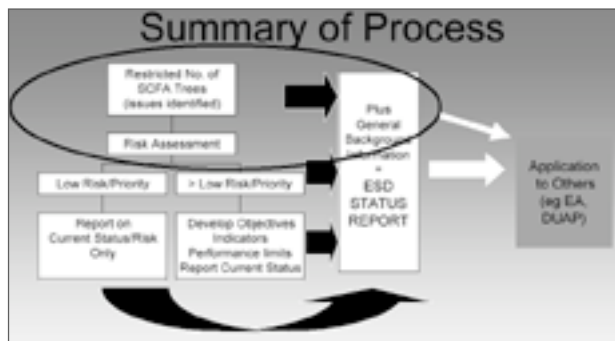
### Why Not Just Environment??

- Natural resource management needs more than just having minimum standards for affected populations
- Depending upon societal values - acceptable impacts can be from “not to be harvested” (e.g. dolphins/seals/whales) to “fully exploit” (e.g. prawns).

This changes through time

- To effectively manage a fishery (and meet ESD Principles) requires integration of environmental, social and economic factors.

### Summary of Process



The process provides a set of tools which can be used at varying levels to assist the management of all or part of the fishery. They are consistent with what's needed for developing an EMS or any business model

### National ESD Framework

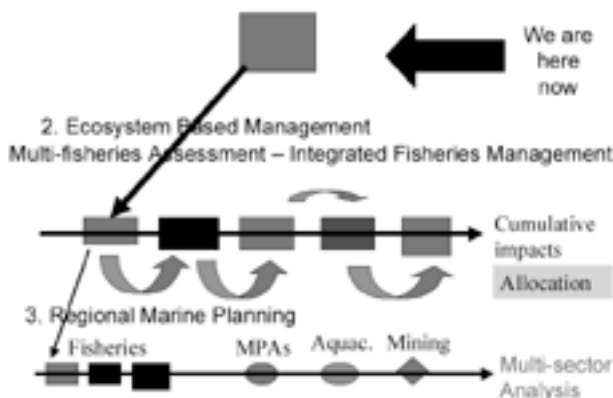
- The "HOW TO GUIDE" was written to "operationalise" ESD for fisheries
- In WA we now have an ESD Policy built on this framework
- There is now also a Technical Summary – listing the data collected in the Case Studies
- This first phase project has now been completed – the final report has been released

### ESD Reporting- Future Actions

- ESD Fishery Reporting process largely completed
- Tools being used in various guises in each jurisdiction (varies depending upon local conditions)
- Publicise to general public the progress made in implementing the process and the outcomes (reports/assessments etc.) that are being generated.
- Need to develop frameworks to deal with regional (cross fishery – cross sector) issues (in conjunction with NOO)
- Complete the ESD Framework for aquaculture
- Ensure linkages between ESD and other acronyms such as EBM EBFM EMS IOM etc are understood and integrated.



### 1. Fishery ESD – Ecosystem Based Fisheries Management



What about Aquaculture??

Significant developments for abalone in last few years and expected in future

What are the main differences with Aquaculture with Wild Capture

- Requirements are often developed and imposed at operator level not the sector level
- Many industries are land based
- Often private land not common property
- Many issues come from what is put in, not what is taken out
- Already some assessment/planning schemes in place
- Issues cut across many government agencies



Future Actions

- Draft Framework discussed with AFMF, Environmental Agencies and NAC
- Work within each jurisdiction
- Finalise by end of year through national steering group – NAA group
- Complete “How To” version for aquaculture by end of year

Progress on Socio Economic Reporting

Socio Economic Elements

(details presented by Tor and Melanie)

Summary of Initiatives -

- Social Impact Assessment Handbook
- Community perceptions Survey
- Marine Atlas
- Contingent valuation of recreational vs commercial fisheries (including one abalone case study in WA)

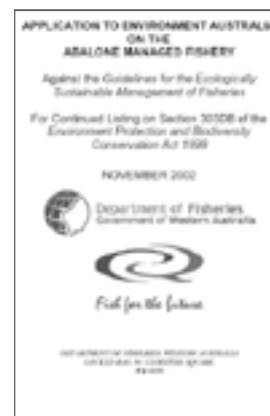
These elements will becoming increasingly important through time – particularly public attitudes and perceptions

What have been the trends in EA assessments for abalone fisheries?

Lots of work has been done to complete these applications



## Assessing the Ecological Sustainability of the Tasmanian Abalone Fishery May 2001



### Main Issues For Abalone Fisheries

- Spatial Scale of information (how fine a scale is needed?)
- Fishery Independent Monitoring (is it needed and how often, how comprehensive?)
- Ecosystem effects – trophic dynamics (what level of knowledge/monitoring is needed?)
- Compliance (what else can be done)

*Overall, the requirement to undertake comprehensive assessments has/will produce positive benefits for industry.*

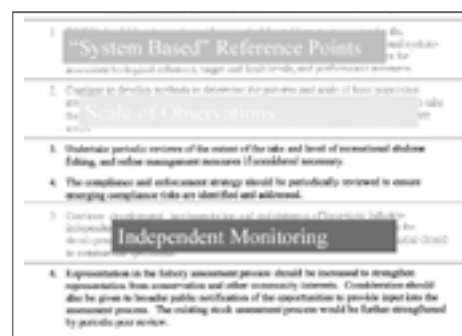
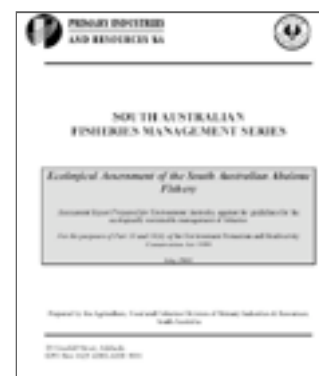
*The final outcome may be affected by the level of attention placed on some issues. What is appropriate?*

### ISSUE

- Without nationally agreed ESD 'operational standards', each stakeholder group currently applies their own, usually undocumented set.
- This could lead to significantly different outcomes occurring depending upon which agency/group conducts the review, and potentially who within the "auditing agency" reviews the report.
- Such a situation may result in a higher level of uncertainty than is acceptable to many stakeholder groups (both industry and non-industry).

### ESD Assessment Tools

One of the initiatives of the ESD subprogram is the compilation of information on each of the major fisheries into an Assessment Manual to assist in the development of ESD reports and their assessment.



## Main Objectives

- To summarise the information available on what what is known about the main species in Australian fisheries
- What was considered acceptable &/or best practice for the main species/fisheries within Australia.
- Who has accepted them and why?
- What has been rejected and why?

Activity	ABALONE
Information gathering	100%
<b>MANAGEMENT REFERENCE POINTS</b>	
Spawning biomass	Stocking 40-45% Spawning production (Tan, 1998) 90% of 1990 (Range) (VA)
<b>ECOLOGICAL REFERENCE POINTS</b>	
Stocking	100% of 1990 (Tan)
<b>INDICATORS OF ABUNDANCE</b>	
(Reference)	
Catch	1.1%
Catch Rate	1.1% (1990)
Recruitment Ratio	100% (1990)
Current Stock Size/Abundance	100% (1990)
Probability of meeting target	100% (1990)
Mean Stock	100%
Recruitment Ratio	100%
<b>MANAGEMENT RESPONSES</b>	
(Effectiveness of tools)	
Stocking	100%
Catchment	1.1% (1990)
Effort	1.1%
Output	100%
Advisory	100%
<b>ECOSYSTEM</b>	
Impact on Fish	1.1% (1990)
Impact on Production	1.1%

## ESD Issues For Abalone Industry

- Completing the environmental assessments and complying with new requirements over next 5 years.
- Ensuring ongoing profitability (marketing etc)
- Engaging in the integration of fisheries management with other relevant sectors – recreational, indigenous sectors (plus the non-catching sector who want access to areas).
- Understanding and participating in the broader issues of marine planning that could affect the industry (introduction of marine parks, aquaculture, development in general) – selling benefits of industry to general community

## Summary of ESD Subprogram Activities to Assist

- Extending reporting framework to include multi-fishery and multi-sector assessments
- Complete development of the Aquaculture Framework
- Continue to refine/adapt tools for socio-economic assessments
- Compile acceptable/best practice information for use in future assessments
- Generate tools to assist assess across components of ESD – management strategy evaluation and across fisheries – resource allocation

Thank You and thanks to FRDC for their ongoing support



### ENVIRONMENTAL INFORMATION AND THE SEAFOOD INDUSTRY

*Dr Catherine Oke*

#### Types of environmental data

- Spatial
- Temporal
- Whole system interactions
- Habitat and ecosystem types
- Fauna and Flora interactions
- Water quality
- Biological characteristics
- Social interactions
- Economic factors

#### Sources of environmental data

- Fishermen / fisheries
- Independent observers
- Research institutes
- Industry Associations
- Government
- Environmental groups
- Media

#### *Importance of reliable, verifiable data*

#### Users of environmental data

- Scientists
- Fisheries managers
- Fishery / Industry Associations
- Conservation groups
- Government
- Community
- Media

## Industry Associations

- Latest environmental information
- Helping with environmental reporting and management
- Communication with community, NGOs and government
- Risk Management

## Research Institutions

- Fisheries management
- Ecological assessments
- Whole system interactions
- Data base management
- Basic knowledge

## Environmental NGOs

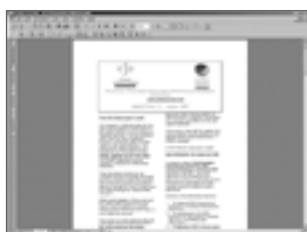
- Communications
- Campaigns - Consumer / Community
- Advisory committees
- Consultation process
- Submission writing

## Government

- State / Federal fisheries departments and advisory boards
- Natural resource management
- Risk management
- Community consultation
- Stakeholder consultation

## Presentation of information

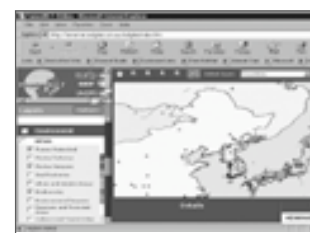
- Websites
- Newsletters
- Newspapers
- Magazines
- Maps
- GIS



## GIS and Fisheries

- A geographic information system (GIS) is a computer system with the ability to compile, store, manipulate, and display spatial data sets.
- Data files that may be loaded into the system include any geographically referenced data set, such as rivers, coastal boundaries, fishing grounds, habitat types, aerial photographs, site management reports, impact assessments, ESD requirements, by-catch details, water quality etc.
- A GIS has the capacity to perform various analytical functions that combine information from different sources to obtain significant associations and interactions between the various data.
- Viewing platforms can be made accessible to internal or external audiences, via internet, intranet or can be produced as a CD Rom or as a series of maps.

## Gis System



## Examples:

MAFRI's Catch and Effort GIS system

Natural Resource Atlas, Environment Australia

Australian Coastal Atlas: [http://www.environment.gov.au/marine/coastal\\_atlas/](http://www.environment.gov.au/marine/coastal_atlas/)

State and Territory nodes

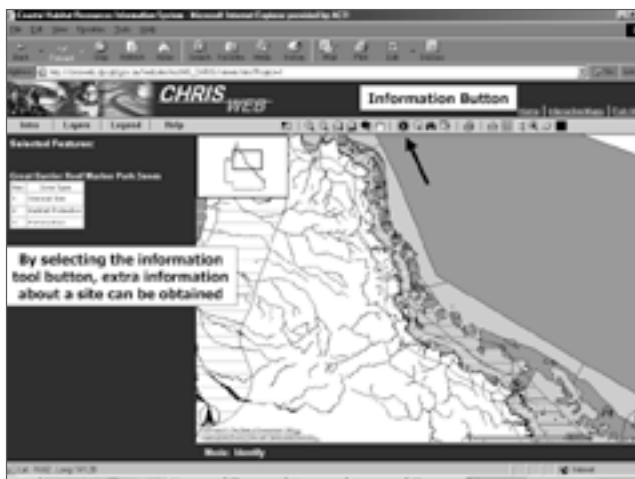
After, Marine Resources GIS – from Meaden and Kemp, World Fisheries Congress Proceedings, pg 240

## MAFRI Abalone GIS

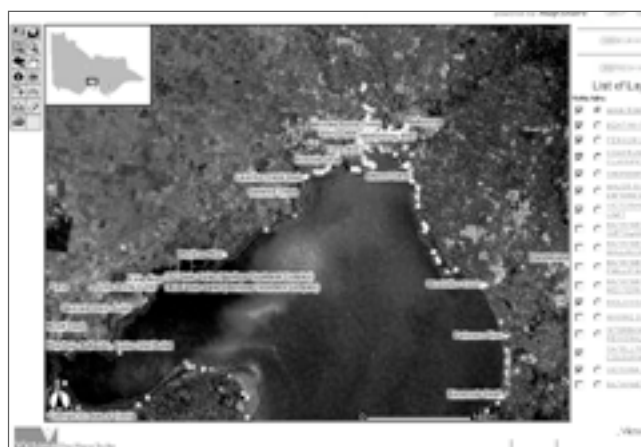


## MAFRI Abalone GIS









## SELF MANAGEMENT AND CERTIFICATION: THE ROLE OF THE MSC?

*Duncan Leadbitter*



- Why self management?
- Issues to be addressed
- Auditing and the role of the MSC
- A pathway forward
- Advantages for industry
- Advantages for governments
- Advantages for non fishing stakeholders
- Advantages for research providers

Some issues to be addressed

- Costs
- Technical issues
- Transparency, accountability and credibility

Elements of self management

- Policy
- Strategy
- Plans
- Protocols
- Audits

Auditing options

- Self assessment
- Peer assessment
- Third party assessment

MSC Roles

- **Standard Setting:** MSC Principles & Criteria and associated certification methodology
- **Accreditation:** MSC assesses & monitors certifiers
- **Logo Licensing:** trademark rights owned by Marine Stewardship Council International (MSCI), the trading arm of the MSC

MSC Principles & Criteria

- Principle 1: Performance standard relating to the status of the targeted stock(s)
- Principle 2: Performance standard relating to fishery impacts on the marine ecosystem
- Principle 3: Performance standard relating to fishery management systems

## Fishery Certification



## Ongoing Validation

- Fishery certification lasts 5 years.
- Annual audit by certifier to ensure fishery continues to meet certification requirements.
- These audits check for progress on any Conditions placed on the certification whilst also evaluating any significant changes to the fishery which may have occurred, amongst other factors

## Chain of Custody

- Traceability from the certified fishery to the consumer.
- Company by company basis - certification by MSC accredited certifiers.
- Required for on-product logo licencing

## A way forward

- National guidelines
- Agreed policy framework
- Capability assessment
- Plan preparation
- Performance indicators
- Auditing and reporting

## Summary

- There are many good reasons for greater self management
- Transparency and credibility are crucial
- MSC's third party certification system can play a role

## ACTION AGENDA

1. Should we have another convention – yes, every 2 years.
2. Marketing – the development of a national marketing strategy for abalone was suggested in response to perceptions that Australia was a price taker and not a price setter.
3. Developing quality procedures for handling abalone – post harvest.
4. The national abalone processors are developing a national logo to identify Australian abalone in overseas markets.
5. Developing a structure for managing abalone R&D – still being progressed.
6. A forum needs to be progressed for discussing national issues.
7. Dive health and safety – conflicting information – needs to research and document what best practice is.
8. Access rights and transferability – state to state differences in costs and royalties are behind Commonwealth fisheries.
9. Development of AQIS classification of abalone to “prohibited export” – particularly tourist trade.
10. Labelling of abalone product from point of origin – aquaculture.
11. Trade issues.
12. Public image – how, who etc needs to be done by a group – need to expand on the benefits for different sections of the abalone industry – need a statement on the industry not supporting non-compliance.
13. Snapshot of the abalone industry.
14. Need to talk to local communities, councils, regulators about what was discussed at convention etc – raise the positive profile.
15. Need more data on the flow on effect of the abalone industry to other sectors – being re-invested in local economies.
16. Document the early history of the fishery – important as a reference point.
17. Development of fisheries management objectives that move away from single species to system based.
18. Micro management – development of management tools to assess this concept to rehabilitate previous productive bottom – needs case study research and development (needs to be extended to all states).
19. Size/frequency – including divers in collecting data for fisheries management – this is the measuring device presented by Harry Gorfine.
20. National abalone committee – meet every six months. Use this to facilitate this action list.
21. Accredited health protocol for abalone to be used in reseeded.

## THE NATIONAL ABALONE COUNCIL

### Structure

- Shareholding will be equal between member States.
- The Committee will comprise two representatives from each member State.
- The Committee will have the capacity to appoint independent members with special expertise as required.

### Vision

- To achieve world's best practices and have Australian abalone recognised as the best in the world.
- To facilitate such a way that our practices and product are recognised as the best in the world.

### Mission

Whilst acknowledging the autonomous management role of each jurisdiction, the Council will promote the harvesting, value adding, and marketing of abalone in order to optimise the economic and social rewards for our members, communities and the nation.

### Objectives and Strategies

These objectives shall be defined in a five year strategic plan with targets, strategies and timelines to achieve them. Annually, progress will be measured and reported and the plan updated. Objectives shall include:

- Maximising value per kilogram
- Planned reduction of illegal unregulated, unreported fishing (thieving)
- Maximising promotional value of environmental and ESD credentials
- Complementary R&D
- Communications Strategy

## ACTION AGENDA

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# 2<sup>nd</sup> National Abalone



## Conference

Melbourne, Victoria  
13-15 August 2003

### List of Delegates

<i>Brad Adams</i>	<i>Damon Edmunds</i>	<i>Peter Johnston</i>	<i>Bob Pennington</i>
<i>Darren Adams</i>	<i>Melanie Fisher</i>	<i>Tony Johnston</i>	<i>Gunther Pfrengle</i>
<i>Terry Adams</i>	<i>Ann Fleming</i>	<i>Mark Kalazich</i>	<i>Alexander Pitman</i>
<i>Gary Allen</i>	<i>Rick Fletcher</i>	<i>Jo Kennedy</i>	<i>Grant Pullen</i>
<i>Ed Arron</i>	<i>David Forbes</i>	<i>Nathan Kimber</i>	<i>Adrian Purdie</i>
<i>Samuel Askew</i>	<i>Wes Ford</i>	<i>Darryl King</i>	<i>Peter Riddle</i>
<i>Kaz Bartaska</i>	<i>Dean Gaebler</i>	<i>Paul Kornan</i>	<i>Cameron Robinson</i>
<i>Fiona Bloss</i>	<i>Peter Gaebler</i>	<i>David Lane</i>	<i>Steve Rodis</i>
<i>Tony Boyd</i>	<i>Peter Gane</i>	<i>Greg Langley</i>	<i>Peter Ronald</i>
<i>John Breeden</i>	<i>Jeffrey Garnaut</i>	<i>Duncan Leadbitter</i>	<i>Kerry Rowe</i>
<i>Mike Brown</i>	<i>Mark Gervis</i>	<i>Fred Ledwell</i>	<i>Chris Royans</i>
<i>Don Buckmaster</i>	<i>Harry Gorfine</i>	<i>Soon Lee</i>	<i>Luke Royans</i>
<i>Steve Bull</i>	<i>Des Gorman</i>	<i>David Leith</i>	<i>Emma Rudge</i>
<i>Dean Burt</i>	<i>Michelle Grady</i>	<i>Zelko Lendich</i>	<i>Nick Ruello</i>
<i>Tiong Kang Chan</i>	<i>Stuart Graham</i>	<i>Anne Leonard</i>	<i>Phil Shaw</i>
<i>Michael Cheung</i>	<i>Graham Grant</i>	<i>John Lindsey</i>	<i>KP Sivakumaran</i>
<i>George Chung</i>	<i>David Gregory</i>	<i>Dean Lisson</i>	<i>Barry Smith</i>
<i>Damian Clarke</i>	<i>Malcolm Haddon</i>	<i>Ted Loveday</i>	<i>david Smith</i>
<i>Peter Clauson</i>	<i>Allen Hansen</i>	<i>Eleni Lovell</i>	<i>Clark Smock</i>
<i>Ewan Colquhoun</i>	<i>Darvin Hansen</i>	<i>Hon. Ian Macdonald</i>	<i>John Smythe</i>
<i>Peter Cook</i>	<i>Michelle Hansen</i>	<i>Len McCall</i>	<i>John South</i>
<i>Jeremy Cooper</i>	<i>Anthony Hart</i>	<i>Steve McCormack</i>	<i>Che Spruyt</i>
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<i>Diana Darcey</i>	<i>John Hoult</i>	<i>Jim Miller</i>	<i>Michael Tokley</i>
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<i>Cameron Dixon</i>	<i>Grant Hunt</i>	<i>Cathy Oke</i>	<i>Lyn Williams</i>
<i>Sandra Downes</i>	<i>Peter Hunter</i>	<i>Kylie Paulsen</i>	<i>Jonas Woolford</i>
<i>Dale Duggan</i>	<i>John Illingsworth</i>	<i>Joe Peel</i>	<i>Duncan Worthington</i>
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