

The Senate

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Standing Committee on  
Environment, Communications  
and the Arts

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Great Barrier Reef Marine Park and  
Other Legislation Amendment Bill 2008

September 2008

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# Committee membership

## *Members*

Senator Anne McEwen (ALP, SA) (Chair)  
Senator Simon Birmingham (LP, SA) (Deputy Chair)  
Senator Scott Ludlam (AG, WA)  
Senator Kate Lundy (ALP, ACT)  
Senator Stephen Parry (LP, TAS)  
Senator Louise Pratt (ALP, WA)  
Senator John Williams (NP, NSW)  
Senator Dana Wortley (ALP, SA)

## *Participating Members participating in this inquiry*

Senator the Hon. Ron Boswell (NATS, QLD)  
Senator Barnaby Joyce (NATS, QLD)  
Senator the Hon. Ian Macdonald (LP, QLD)

## *Committee secretariat*

Dr Ian Holland, Secretary  
Ms Kate Laffan, Principal Research Officer (WISE Participant)  
Ms Jacquie Hawkins, Research Officer  
Mrs Dianne Warhurst, Executive Assistant

## *Committee address*

PO Box 6100  
Parliament House  
Canberra ACT 2600  
*Tel:* 02 6277 3526  
*Fax:* 02 6277 5818  
*Email:* [eca.sen@aph.gov.au](mailto:eca.sen@aph.gov.au)  
*Internet:* [http://www.aph.gov.au/senate/committee/eca\\_ctte/index.htm](http://www.aph.gov.au/senate/committee/eca_ctte/index.htm)



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## Acronyms and abbreviations

Authority	Great Barrier Reef Marine Park Authority
DEWHA	Department of the Environment, Water, Heritage and the Arts
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
GBRMP Act	<i>Great Barrier Reef Marine Park Act 1975</i>
Marine Park	Great Barrier Reef Marine Park





# Chapter 1

## Introduction

### Referral to the Committee

1.1 On 1 September 2008, the Senate referred the Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008 (hereafter 'the bill') to the Senate Environment, Communications and the Arts Committee for inquiry and report by 15 September 2008.

1.2 Details of the inquiry were placed on the committee's website and the committee also wrote to a number of organisations and stakeholder groups inviting written submissions by 8 September 2008.

1.3 The committee received submissions from 142 individuals and organisations, as listed at Appendix 1. The committee also held a public hearing in Canberra on Friday, 12 September 2008. A list of those who gave evidence at this hearing is at Appendix 2. The committee thanks all those assisted the committee with its inquiry.

### Origins of the bill

1.4 In 2005-06, a review of the *Great Barrier Reef Marine Park Act 1975* was undertaken. DEWHA comments that:

The Review involved extensive public consultation. 227 submissions were received and the Panel responsible for the review held 36 meetings with key stakeholders. The Review Panel made 28 recommendations directed at strengthening legal, governance and policy frameworks relating to management and long term protection of the Great Barrier Reef.<sup>1</sup>

1.5 Recommendations relating to governance, accountability and transparency in the management of the Reef were implemented in the *Great Barrier Reef Marine Park Amendment Act 2007*, which commenced on 1 July 2007. The final set of recommendations, which relate to the regulatory framework in place to manage the Reef, are addressed in this bill.<sup>2</sup>

1.6 The committee notes that this bill was developed over a long period of time following extensive consultation with government, peak environmental groups, other stakeholder groups and the general public. It notes that much of the bill is uncontroversial, and discusses the few issues subject to debate in the next chapter.

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1 DEWHA, *Submission 75*, p. 1.

2 DEWHA, *Submission 75*, pp 1-2.

## **Outline of the bill**

1.7 The bill amends the *Great Barrier Reef Marine Park Act 1975* (hereafter 'the Act') to reflect the 'significant change in scale, scope and nature of the challenges in securing the long-term protection of the Great Barrier Reef' since the commencement of the Act over 30 years ago.<sup>3</sup>

1.8 The primary object of the bill is to protect the Great Barrier Reef Marine Park in the long term by ensuring that the use of the Park is ecologically sustainable. In achieving this goal, due consideration has been given to Australia's obligations in the protection of world heritage, and the engagement of Park users and local communities in the management of the Great Barrier Reef region.

1.9 To realise the object, the bill deals with six specific issues, each with their own schedule in the bill:

- Objects and Applications;
- Matters related to the Great Barrier Reef Marine Park Authority;
- Proclaiming the Marine Park, Zoning Plans and Plans of Management;
- Environmental Impact Assessments;
- Investigation and Enforcement; and
- Offences and Civil Penalties.<sup>4</sup>

### ***Objects and Applications***

1.10 In practical terms, Schedule 1 of the bill repeals the previous object of the Act, which was enacted prior to the declaration of the Great Barrier Reef as a World Heritage Area in 1981 and introduced at a time when 'concepts such as ecological sustainability had not yet emerged and been adopted'.<sup>5</sup> Under the amendment, the object of 'ecologically sustainable use' has been defined so as to integrate with an existing definition in the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

### ***Matters related to the Great Barrier Reef Marine Park Authority***

1.11 This schedule changes the Act by requiring that one member of the Great Barrier Reef Marine Park Authority (the Authority) be 'an Indigenous person with knowledge of, or experience concerning, Indigenous issues relating to the Marine

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3 *Explanatory Memorandum*, p. 2.

4 *Explanatory Memorandum*, p. 2.

5 *Explanatory Memorandum*, p. 4.

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Park'.<sup>6</sup> This change not only acknowledges the large number of Traditional Owner groups along the coast of the Great Barrier Reef, but has a practical basis, recognising that expertise in the traditional use of the Park is of value in achieving the bill's object of ecological sustainability. A second change made by the bill relates to the administrative responsibility of the Authority.

### ***Proclaiming the Marine Park, Zoning Plans and Plans of Management***

1.12 Schedule 3 updates the development of zoning plans of the Marine Park, including (but not limited to) ensuring the protection of areas that are of high conservation value and managing competing usage demands on the Marine Park. The bill also modernises the requirements of developing zoning plans and plans of management to ensure integration with other Commonwealth and Queensland legislation. In addition, this schedule mandates that the Authority publicly consults on proposals to proclaim an area as part of the Marine Park, or to remove an area from the Marine Park.

### ***Environmental Impact Assessments***

1.13 Schedule 4 simplifies the requirements relating to environmental impact assessment and approval by establishing the:

...EBPC Act as the primary basis for environmental impact assessment and approval of actions in the Marine Park having a significant impact on the environment.<sup>7</sup>

1.14 This recognises the best practice environmental impact assessment processes of the EPBC Act.

### ***Investigation and Enforcement***

1.15 In addition to modifying investigation provisions to establish a single arrangement for the Act and the EPBC Act, Schedule 5:

- lists new enforcement mechanisms for the GBRMP Act, including: enforceable directions; a civil penalty regime; enforceable undertakings and infringement notices;
- encourages responsible use of the Marine Park by including the following changes: publication of offences; liability of executive officers; liability of permission and licence holders; remediation orders; environmental duty; and directions limiting access to the Marine Park;
- facilitates efficient enforcement action; and

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6 *Explanatory Memorandum*, p. 7.

7 *Explanatory Memorandum*, p. 15.

- addresses emergency management.<sup>8</sup>

### ***Offences and Civil Penalties***

1.16 Schedule 6 reorganises some of the existing penalty provisions in the Act. It also establishes new offences under the Act, changes some existing offence provisions in the Act while establishing civil penalty provisions for many of those offences, and extends existing liability provisions.

### **Scrutiny of Bills Committee**

1.17 It is the responsibility of the Scrutiny of Bills Committee to examine all bills which come before the Parliament and reports to the Senate whether such bills:

- (i) trespass unduly on personal rights and liberties;
- (ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;
- (iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- (iv) inappropriately delegate legislative powers; or
- (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny. [see standing order 24]<sup>9</sup>

1.18 The committee notes that the Scrutiny of Bills Committee examined the bill in accordance with its usual processes and that there are no outstanding issues with the bill to be resolved.<sup>10</sup>

### **Additional reports**

1.19 The committee notes that, in addition to the Dissenting Report that accompanies this majority report, there will be a further report provided by Senator Joyce.

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8 *Explanatory Memorandum*, pp 24-26.

9 Scrutiny of Bills Committee, <http://www.aph.gov.au/Senate/committee/scrutiny/cominfo.htm> (accessed 12 September 2008).

10 Senate Scrutiny of Bills Committee, *Alert Digest*, No. 6 of 2008, 25 June 2008; Senate Scrutiny of Bills Committee, *Report on Legislation*, No. 7 of 2008, 27 August 2008.

## Chapter 2

### Issues raised in the inquiry

2.1 This bill is the product of a major review of the governance of the Great Barrier Reef Marine Park, and has been brought to parliament through the efforts of both the current opposition, which was in government at the time of the review, and the current government. The committee heard evidence in support of the bill from a range of stakeholders. These included the Australian Institute of Marine Science,<sup>1</sup> the Great Barrier Reef Foundation,<sup>2</sup> the Association of Marine Park Tourism Operators,<sup>3</sup> and the Environmental Defenders Offices.<sup>4</sup>

2.2 The committee notes a number of specific issues, not all of them related to the current bill, have been raised in submissions. Some of these are also addressed in proposed amendments to the bill that have been put forward during debate in the Senate. These issues are discussed below.

#### Past criminal convictions

2.3 Under the Act, it is an offence to breach the Park's Zoning Plan. The Zoning Plan is a statutory instrument that prohibits fishing in parts of the Park, including in what are known as 'green zones'. Following a major review of planning for the Great Barrier Reef Marine Park, the green zones were expanded to cover approximately a third of the Park. This new zoning – the Great Barrier Reef Marine Park Zoning Plan 2003 – was introduced by then Minister David Kemp in December 2003 and took effect from 1 July 2004.

2.4 The Department has indicated that, associated with the implementation of the new Zoning Plan, education and awareness raising activities were undertaken. The Department described some of these activities:

These stages included developing education material of primary communication importance (ie zoning maps) and ensuring that information was available for free from a range of distribution points. This included boat and fishing shows and rural and provincial shows, working closely with reef related businesses to encourage and assist them to participate as distribution points, and maintaining close contact with key community stakeholders.

In addition to this on-ground education and networks, the campaign was executed across television, radio and press across the entire Great Barrier

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1 *Submission 76.*

2 *Submission 53.*

3 *Submission 59.*

4 *Submission 57.*

Reef catchment. It was substantially supported by a comprehensive publicity campaign to highlight the new arrangements and there was a proactive approach to using media interviews as a means to highlight the new zoning.<sup>5</sup>

2.5 Despite these awareness raising activities, and a graduated approach to the enforcement of the new Zoning Plan, the increased restrictions on fishing in the Park resulted in an increase in the number of contraventions of the Zoning Plan and, as a result, an increase in the number of convictions of people committing offences under the Act.

2.6 In the period from 1 July 2004 to December 2006, 116 individuals were convicted for recreational fishing-related offences from 403 detected contraventions. 280 of the 403 received only a warning from the Authority. During the same period there were 23 convictions for commercial fishing-related offences.<sup>6</sup> The 116 convictions between 2004 and 2006 contrasts with a lower level of convictions prior to this, when 'between June 2001 and 1 July 2004, around 40 recreational fishers were convicted of illegal fishing'.<sup>7</sup>

2.7 From December 2006, new regulations took effect, allowing enforcement agencies to issue infringement notices as an alternative to pursuing convictions, and the number of convictions dropped dramatically. Concerns about the enforcement regime appear to have been allayed by this change, and the committee also notes that the current bill provides for an increased range of enforcement options, with criminal prosecution being only the most serious. The Department described the proposals in the bill currently before the committee:

The GBRMPOLA Bill proposes changes that will provide further enforcement options for the future. This includes expanded availability of infringement notices, administrative enforcement approaches such as enforceable directions and undertakings, remediation orders, civil penalties, and differing categories of criminal offences carrying differing potential penalties. The approach taken to enforcement of the GBRMP Act (in terms of which enforcement mechanisms are used for particular types of offences) may again change in light of this expanded range of enforcement options. For example, contraventions which are currently dealt with by way of prosecution or a warning may instead be addressed through a civil penalty, administrative enforcement option or an infringement notice, depending on the circumstances.<sup>8</sup>

2.8 On 28 August 2008, Senators Macdonald and Boswell moved two amendments to the bill seeking to have criminal convictions overturned for those who

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5 DEWHA, *Submission 75*, Attachment B.

6 DEWHA, *Submission 75*, p. 11.

7 DEWHA, *Submission 75*, p. 10.

8 DEWHA, *Submission 75*, p. 10.

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incurred a commercial or recreational conviction for fishing-related offences between the period 1 July 2004 and 16 December 2006 under section 38CA of the Act. The first amendment allowed for a conviction for an offence to be treated as a spent conviction;<sup>9</sup> the alternative amendment purports to treat people with convictions as having been pardoned.<sup>10</sup>

2.9 The Committee received numerous submissions expressing concern about the criminal convictions incurred by recreational fishing people, particularly in the period from July 2004 to December 2006. The arguments ranged from suggesting that these convictions were unnecessarily draconian compared to the offences involved,<sup>11</sup> to insisting on a principle that no one should ever be convicted for recreational fishing, regardless of the circumstances.<sup>12</sup>

2.10 Two people who had incurred a criminal conviction wrote to, and gave evidence before, the Committee, describing their experiences. They expressed embarrassment at the conviction, and were worried about the effects it could have on job prospects and on applying for insurance and visas.<sup>13</sup> Mr Garlick stated:

I went on a one-off fishing trip. I did not catch a fish or harm the environment. I made a mistake and I have paid a fine for it. I have learnt from what I did, and I have fixed as much as I can. When Australians make mistakes we fix them because it is the right thing to do. I now hold a criminal conviction. The law has been corrected but there is still a mistake in it. This will severely affect my life, my fiancée's life and, most of all, my children's lives. I love the environment. I would never intentionally break the law to harm it.<sup>14</sup>

2.11 Mr Aston wrote:

I now find that I am unlikely to be able to obtain insurance for my boat, which is my home, and may be unable to obtain visas for other countries to continue my writing and travelling career. My lifestyle has been cruelly curtailed through a very minor transgression. I am an honest person endeavouring to do the right thing and have never received a conviction of any sort in all my 67 years. At this stage of my life to be carrying a criminal record is a shame I find difficult to bear.<sup>15</sup>

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9 *Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008*, amendment 5550.

10 *Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008*, amendment 5550 (version 2).

11 Eg. Queensland Game Fishing Association, *Submission 12*.

12 Mr Gary Fooks, Eco Friendly Fishing Association, *Proof Committee Hansard*, 12 September 2008, p. 21.

13 See Mr Barry Garlick, *Submission 14*; Mr Peter Aston, *Submission 15*.

14 *Proof Committee Hansard*, 12 September 2008, p. 28.

15 *Submission 15*.

2.12 These convictions for illegal fishing, unfortunate though they may appear, have to be kept in perspective. The Department drew the committee's attention to the fact that warning notices have always been (and remain) 'the primary means through which recreational fishing contraventions are dealt with'.<sup>16</sup> Prosecutions have been used only in the more serious of cases. The Department stated that:

The decision to prosecute was made only in cases where there was evidence that the person knew, or reasonably ought to have known, that they were breaching the zoning plan, and/or there were other circumstances suggesting prosecution was appropriate.<sup>17</sup>

2.13 There are also other laws under which it is not uncommon for people to receive convictions – for example for failing to lodge a tax return.<sup>18</sup>

2.14 The committee also notes that effective law enforcement is important to ensuring that the zoning of the Great Barrier Reef is respected and its values are maintained for future generations. Mr Millar from the Environmental Defenders Office (North Queensland), argued:

Part of the reason I suggested transitional arrangements, coupled with an education campaign, is that I think people are more open to appreciate, and indeed do appreciate, the values that the Great Barrier Reef has, not just for the local environment and the local economies but for those state based economies, our national environment and the international obligation that we have to look after the Great Barrier Reef. On balance I do not think that, with proper transitional provisions in place and a good and thorough education campaign to explain what the new laws are, any inconvenience suffered by the local community would outweigh the obligation that we have to protect the reef.<sup>19</sup>

2.15 There is also a further safety net, in that the Commonwealth Director of Public Prosecutions independently reviews the evidence to form a view about whether a prosecution would be likely to succeed and would be in the public interest.<sup>20</sup> As evidence of this review being independent, there were in fact a small number of cases where that review resulted in the issue of a warning instead of the pursuit of a prosecution.

2.16 The committee also understands that magistrates and recreational fishing people facing charges under the Act have been provided by the Commonwealth

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16 DEWHA, *Submission 75*, p. 9.

17 DEWHA, *Submission 75*, p. 11.

18 DEWHA, *Submission 75*, p. 13.

19 *Proof Committee Hansard*, 12 September 2008, p. 6.

20 Mr Mick Bishop, Director, Operations, Great Barrier Reef Marine Park Authority, *Proof Committee Hansard*, 12 September 2008, p. 42.



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Director of Public Prosecutions with a schedule listing convictions under the legislation, to help ensure consistency in the administration of the law.

2.17 It is the responsibility of the Commonwealth Director of Public Prosecutions to make a decision to prosecute. Where a matter has been prosecuted and the charge has been proved, the *Crimes Act 1914* allows a court to dismiss the charge or charges or discharge the person, without proceeding to conviction<sup>21</sup> should it be deemed appropriate.

2.18 The committee notes that the previous government responsible for the Zoning Plan and the law at that time made changes in late 2006 that have resulted in a dramatic drop in criminal prosecutions, in favour of the use of infringement notices (similar in nature to speeding fines). During the current inquiry there was some acknowledgement that the operation of the law during the period 2004 to 2006 was less than ideal:

I think in a way it is a shame that the amendments in 2006 did not happen sooner. I certainly admit that... Since then there has been less of an issue in that people have behaved responsibly on the investigatory side as well. We are mainly hearing now about events in that 2004 to 2006 period when it seemed like the only legal avenue was a club not a warning. There was a problem that was identified and rectified through that infringement.<sup>22</sup>

2.19 However, using parliament to offer wholesale exoneration of over a hundred individuals convicted of offences under one piece of legislation appears fraught with difficulty. The committee explored this at length with witnesses and found no desirable way to address the matter.

2.20 The committee notes that individuals who have received convictions may apply for a pardon from the Governor-General, if other avenues for appeal have been exhausted. The Department outlined current policy in relation to pardons:

The current test applied to pardon applications requires an applicant to demonstrate that he or she:

- is morally and technically innocent of the offence, and
- has exhausted all avenues of appeal or there are exceptional circumstances as to why the person has not exhausted all avenues of appeal.

This would usually require an applicant to provide fresh evidence, not available to the court at first instance or on appeal, demonstrating his or her innocence of the offence.<sup>23</sup>

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21 *Crimes Act 1914*, s 19B.

22 Dr Russell Reichelt, Chairman, Great Barrier Reef Marine Park Authority, *Proof Committee Hansard*, 12 September 2008, p. 40.

23 DEWHA, *Submission 75*, p. 15.

2.21 The Attorney-General's Department processes pardon applications, but these are extremely unusual. The Attorney General's department was aware of only three pardons being granted in the last eighteen years,<sup>24</sup> and these were related to the bringing to light of new information after appeal options had been exhausted.<sup>25</sup> The committee also notes that this appears an inappropriate way to deal with any of these cases, as there is no suggestion that these people were 'technically innocent of the offence'. The issue is one of the seriousness of the penalty; the committee has not been confronted with cases where guilt or innocence was seriously in question.

2.22 The committee is extremely concerned at the precedents that the amendments proposed by opposition senators would be setting. The committee made some inquiries, and to its knowledge there is no other Commonwealth legislation of any sort applying to convictions such as these that grants pardons or requires them to be treated as spent. Indeed, a representative from the Attorney General's Department commented that he was 'not aware of any case in Australian law' where such an action had been taken.<sup>26</sup> The parliament would be making a spectacularly bold foray into the operations of the courts and criminal law were it to countenance any of the amendments proposed by opposition Senators.

2.23 The process for considering the pardoning of a conviction is also one that ends with a minister, not with the parliament:

The reason why a very restrictive approach has been taken to pardons historically is that a pardon is executive interference in the due process of the judiciary. The preference is No. 1, the court decision should stand; No. 2, if there is a legal appeal route, that should always be pursued before it comes to the executive; and No. 3, consideration given by the executive to a pardon.<sup>27</sup>

2.24 As Dr Alderson points out, when an action like a pardon is taken, it essentially represents executive interference with a judicial process. It cuts at the heart of the separation of powers, a cornerstone of the Australian constitution and nation. It should be undertaken only in the most extreme of circumstances. However unfortunate some of the convictions between 2004 and 2006 may appear, they may not warrant such a drastic response.

2.25 The committee also fears that, once the process is begun, no doubt others will then start lobbying for their convictions to be reconsidered:

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24 DEWHA, *Submission 75*, p. 15.

25 Dr Karl Alderson, Assistant Secretary, Criminal Law Branch, Attorney-General's Department, *Proof Committee Hansard*, 12 September 2008, p. 38.

26 Dr Karl Alderson, Assistant Secretary, Criminal Law Branch, Attorney-General's Department, *Proof Committee Hansard*, 12 September 2008, p. 36.

27 Dr Karl Alderson, Assistant Secretary, Criminal Law Branch, Attorney-General's Department, *Proof Committee Hansard*, 12 September 2008, p. 38.

Applying this precedent to drug offences, for example, many states have introduced the option of infringement notices for certain classes of marijuana possession. Is the opposition suggesting that governments pardon the many thousands of people convicted for drug possession prior to these changes? I note also that, over time, decriminalisation of drug offences has applied to a progressively smaller range of offences. Applying the precedent that the opposition is looking to set, governments would be expected to reinstate some of the convictions that it had previously pardoned. These are the sorts of consequences that flow from the opposition's proposed amendments, which demonstrate quite clearly that the proposed amendments are poor policy at best and dangerous at worst.<sup>28</sup>

2.26 Senator Macdonald, one of the movers of an amendment that would treat all of the convictions between 2004 and 2006 as spent convictions, himself acknowledged some of the problems that face any attempt to pardon or treat convictions as spent, when he recognised that 'there will obviously be areas where pardons should not be given'.<sup>29</sup>

2.27 The committee was given no credible proposal to create a meaningful threshold or test to isolate those cases that are deserving of reconsideration from other cases that are not. There was some discussion of using a dollar value of the fine imposed, with those fined less than a certain amount taken to be deserving of forgiveness. Yet Mr Aston, whose case caused committee members concern, received one of the highest fines of a recreational fisher: \$2000. Senators who think a dollar value could be used to set a test should carefully examine the information provided to the committee by the Department about the approximately 120 recreational fishing convictions since July 2004.<sup>30</sup> If a threshold above \$2500 were set, then all recreational fishing convictions would be set aside. This would include:

- A Bowen Magistrates Court case heard 15 July 2005 in which the offenders appeared to know they were fishing illegally, because when they were spotted by a coastwatch plane, they tried to hide their vessel's registration number;
- A Cairns Magistrates Court case heard 23 January 2006 in which one of the defendants admitted to knowing at the time they were fishing in an area that was 'out of bounds';
- A Townsville Magistrates Court case heard 10 April 2006 in which the skipper of a game fishing charter vessel took a friend and six co-contractors fishing over two kilometres inside a prohibited zone; and

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28 Senator the Hon Ursula Stephens, Parliamentary Secretary for Social Inclusion and the Voluntary Sector, *Senate Hansard*, 1 September 2008, p. 9.

29 *Proof Committee Hansard*, 12 September 2008, p. 13.

30 DEWHA, *Submission 75A*.

- Numerous cases where defendants owned both a global position system (GPS) and current charts, and were aware of the prohibited zones, yet still fished illegally.

The committee cannot accept the proposition that these cases are all worthy of extraordinary parliamentary intervention in the operation of the law, to prevent the offenders from having convictions recorded against them.

### *Committee View*

2.28 Given the fact that each person who has been convicted for illegal fishing in the Marine Park has been prosecuted in accordance with the requirements of law, and their offence proven in that court, the Committee is of the view that it would be irresponsible to accept the proposed amendments on this subject.

2.29 The committee recognises, however, that some fishing people convicted under the legislation between July 2004 and December 2006 have concerns about the severity of their punishment under the Act. The committee is also unsure of the extent and soundness of legal advice some of them may have sought and received at the time they were charged.

2.30 While the committee acknowledges that some individuals may feel aggrieved by the outcome, the committee sees no appropriate mechanism to address their concerns that does not fall foul of the many objections and problems that would face attempts to grant pardons (or treat convictions as spent) on a broad scale. If anyone is able to develop a proposal that meets these challenges, it should be put to the government for consideration. However, amendment of the Great Barrier Reef Marine Park Act is not an appropriate approach.

### **Recommendation 1**

**2.31 The committee recommends that, while there may be concerns with some convictions recorded during the period 1 July 2004 to 16 December 2006, it is the committee's view that it is not appropriate for parliament to address these concerns through amendments to the Act.**

### **Definition of 'fishing'**

2.32 A large number of submitters to this inquiry, as well as some Senators, have expressed concern about the definition of 'fishing' in the bill. Currently, fishing is defined in two locations in the laws that underpin Commonwealth management of the Marine Park. There is a definition of fishing in the Zoning Plan. This defines 'fishing or collecting' as:

taking a plant, animal or marine product in accordance with any limitations prescribed in the Regulations.

Under the *Criminal Code 1995* Part 2.4, this includes having 'attempted to take a plant, animal or product in a zone where fishing is not allowed'.<sup>31</sup>

2.33 The Department explained that it is this definition which is used to determine an offence has been committed by someone breaching the Zoning Plan. All the convictions of recreational fisher people under the Act for fishing in zones closed to fishing have been tested using this definition.

2.34 There is a second definition of fishing currently in the Act, in section 38CA, which defines fishing thus:

fishing means any of the following:

- (a) searching for, or taking, fish;
- (b) attempting to search for, or take, fish;
- (c) engaging in any other activities that can reasonably be expected to result in the locating, or taking, of fish;
- (d) placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;
- (e) any operations at sea directly in support of, or in preparation for, any activity described in this definition;
- (f) aircraft use relating to any activity described in this definition except flights in emergencies involving the health or safety of crew members or the safety of a boat;
- (g) the processing, carrying or transshipping of fish that have been taken.

2.35 The Department explained to the committee that this definition is *not* used to determine whether an offence has been committed. Its use is confined to particular circumstances related to the classification of an offence that has already been proven. The Department sought to explain this:

It is only once a breach of the Zoning Plan has been established, that the definition of fishing in the Act and Bill, as proposed, is used in the classification of offences for the purposes of determining potential penalties. That is, the prosecution can seek to classify the conduct constituting the offence as “fishing” using a “commercial fishing vessel”. Here, the definitions of “fishing” and “commercial fishing vessel” in the Bill are applied. If these additional elements are proven beyond reasonable doubt, a person can be convicted of an “aggravated offence” (Bill Schedule 6, Item 24, 38GA).<sup>32</sup>

2.36 The committee wishes to emphasise to everyone involved in this debate that the current bill leaves all these definitions of fishing largely unchanged.<sup>33</sup> The only

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31 DEWHA, *Submission 75*, p. 6. See also DEWHA, *Submission 75A*.

32 DEWHA, *Submission 75A*.

33 See DEWHA, *Submission 75*, p. 6.

minor change is in fact to remove one element of the second definition of fishing. The current bill, if passed, will omit 'the processing, carrying or transshipping of fish that have been taken' from that second definition.<sup>34</sup>

2.37 The longstanding and seemingly uncontroversial nature of the definition is consistent with the fact that, at least until now, it has not been an issue amongst stakeholders. Marine Queensland were asked about the history of their concerns:

CHAIR—But you did not raise that in 2007 when there was legislation before the parliament?

Mr Bayne—No, we did not raise it at that specific time.

CHAIR—Did you raise it at all with the previous government?

Mr Bayne—I do not think we raised the actual descriptions at that time, no.

The Department confirmed that these concerns were not raised by anyone during stakeholder consultations in 2006.<sup>35</sup>

2.38 Nevertheless, these varying definitions appear to be creating some confusion. Many submissions drew attention to the definition in the bill (and current Act) and claimed problems could arise from it. The committee received submissions suggesting that the definition may allow for a person to be guilty of an offence if they:

- traverse a forbidden fishing zone with fishing equipment on board;<sup>36</sup>
- are anchored in a forbidden fishing zone with fishing equipment on board;<sup>37</sup>
- enjoying fish spotting or looking at marine bird activity while in a forbidden fishing zone;<sup>38</sup>
- having baitfish on the boat that were caught in a fishing area while traversing a restricted zone;<sup>39</sup> or
- using an echo sounder when traversing a forbidden fishing zone.<sup>40</sup>

2.39 This final point has particularly concerned submitters, as they worried that the mere use of a depth sounder in a forbidden area could be interpreted as being a

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34 *Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008*, Schedule 6 Part 1 Item 9 Subsection 3(1), pp 118-119.

35 Mr Gerard Early, Deputy Secretary, DEWHA, *Proof Committee Hansard*, 12 September 2008, p. 32.

36 See for example, Sunfish Queensland Inc., *Submission 1*, p. 1.

37 Sunfish Queensland Inc., *Submission 1*, p. 1.

38 Queensland Game Fishing Association, *Submission 12*, p. 2.

39 Queensland Game Fishing Association, *Submission 12*, p. 2.

40 See for example Mr Tony van Dalen, *Submission 10*, p. 2.

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criminal offence. While sounders can be used to locate underwater objects, including schools of fish:

This function is a basic safety requirement to avoid running aground for the safety of the vessel and the crew and passengers. To enact any legislation that would possibly preclude the vessel's skipper from using a basic safety and navigation device will undoubtedly endanger lives as well as potentially put pristine environments in danger.<sup>41</sup>

2.40 Marine Queensland / AMIF also claimed that failing to use a depth sounder 'contravenes either the requirements or intent of the legislation contained in the following regulations:

- USL code;
- Transport Operations (Marine Safety Act) 1994;
- The Convention on the International Regulations for preventing collisions at sea, 1972 (COLREGS) and others'.<sup>42</sup>

2.41 There were some suggestions that the definition of fishing, and other provisions of the Act and the bill, were part of an 'anti-fishing' stance being taken by the Authority.<sup>43</sup> The head of the Authority, Dr Reichelt, responded saying:

the Great Barrier Reef Marine Park Authority sees fishing in the marine park as a legitimate and welcome use in a multiple use marine park—within the regulations, of course. But there is no suggestion that fishing by recreationals, by commercials and by Indigenous people is anything other than a legitimate use of a multiple use marine park. I would like to put that on the public record.<sup>44</sup>

2.42 The existing approach to defining 'fishing' did also receive support. The Association of Marine Park Tourism Operators, which represents industry groups such as snorkelling and dive operators, tourism organisations, cruise operators, boat charters and resorts, claimed that 'we consider that the current definition is adequate and feel confident that the law will be administered sensibly'.<sup>45</sup>

2.43 The committee also notes information provided by DEWHA, compiled by the Commonwealth Director of Public Prosecutions, on convictions of recreational fisher people that have occurred since 1 July 2004. None of these appear to have involved the kinds of activities outlined at paragraph 2.38 above. This is consistent with

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41 Marine Queensland / AMIF, *Submission 47*, p. 8.

42 Marine Queensland / AMIF, *Submission 47*, p. 9.

43 See, eg, Digfish Services, *Submission 43*; Honda Australia Motorcycle & Power Equipment Pty Ltd, *Submission 45*.

44 Dr Russell Reichelt, Chairman, Great Barrier Reef Marine Park Authority, *Proof Committee Hansard*, 12 September 2008, p. 32.

45 Association of Marine Park Tourism Operators, *Submission 59*, p. 2.

DEWHA's advice that the definition in the Act is not used to determine whether an offence has been committed.

2.44 The committee wishes to emphasise that the definition of fishing in the bill is essentially the same one that is in the current Act. The committee also reiterates its understanding that those who have received convictions for illegal fishing understood that their actions were contrary to the law and the definition of fishing was not an issue in any of these cases.

### ***The committee's view***

2.45 Despite the fact that the current bill does not significantly alter the definition of fishing in the Act, and does not alter the Zoning Plan at all, the committee has significant concerns. The committee believes that the way in which the definition of fishing operates in the legislation is unsatisfactory. Attempts to gain from Commonwealth agencies a clear understanding of why it is necessary for fishing to be defined in the manner proposed met with no success. During hearings one of the officials remarked that the definitions were 'a little bit convoluted'.<sup>46</sup> The committee can only agree.

2.46 The committee was presented with no evidence on why the definition of fishing in the Act should be placed anywhere other than in the section relating to aggravated offences. Even then, it remains unclear whether a definition different to that in the Zoning Plan is in fact necessary at all. It is not clear, for example, why the definition of 'fishing or collecting' currently in the Zoning Plan could not be the definition used in the Act when dealing with the question of aggravated offences.

2.47 Laws should be clear as possible to citizens, particularly laws that might affect a large number of individuals in the course of their everyday activities. Having, in the Interpretation section of an act, a definition of fishing that is not in fact the definition that determines whether an offence has been committed by someone who is fishing appears to foster confusion. Actually moving it to that location, as the present bill proposes to do, when it appears to serve a purpose in only one section of the Act seems potentially misleading. The great difficulty experienced by DEWHA officials who attempted to explain the law, in both submissions and at the hearing, simply underlined the problem.

2.48 The committee accepts the Department's position that the definition in the Zoning Plan is the one that underpins prosecutions. It discourages stakeholders from encouraging a different, and incorrect, view. However, a DEWHA review of the way fishing is defined through the bill should improve clarity and certainty, and address the sentiment that the bill is somehow intended to prevent any recreational fishing in the Park.

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46 Mr Travis Bover, Acting Director, Great Barrier Reef Policy Team, Marine Division, DEWHA, *Proof Committee Hansard*, 12 September 2008, p. 33.



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## Recommendation 2

**2.49 The committee recommends the government review the manner in which fishing is defined in the Act.**

### Representation on the Authority

2.50 The current bill before the Senate proposes the inclusion of an Indigenous person on the Great Barrier Reef Marine Park Authority 'with knowledge of, or experience concerning, indigenous issues relating to the Marine Park'. This is consistent with current arrangements whereby 'all members of the Authority must have qualifications or extensive experience in a field related to the functions of the Authority'<sup>47</sup>. As noted in the dissenting reports on the 2007 inquiry by the Senate Environment, Communications, Information Technology and the Arts committee into the provisions of the Great Barrier Reef Marine Park Amendment Bill 2007, there is strong evidence for having Indigenous membership of the Authority.<sup>48</sup> This committee believes this position will help ensure appropriate skills are available to the Authority, as well as acknowledging the role of indigenous people in managing country. It does not see this provision as providing 'representation'.

2.51 An amendment proposed by Senator Macdonald, and supported by industry submissions to the inquiry,<sup>49</sup> states that:

At least one member must have knowledge of or experience in the tourism industry or another industry associated with the Marine Park.<sup>50</sup>

2.52 The Committee acknowledges the strong interest of industries in how the Marine Park is managed. The broad range of industries represented in submissions to this inquiry is a testament to the effect of the Marine Park on the livelihoods of thousands of Australian. The Committee, therefore, affirms the necessity for industry to be engaged in the management process.

2.53 However, the Government's commitment to this has been demonstrated through the comprehensive range of consultation mechanisms already in place. The Authority has four reef advisory committees covering: water quality and coastal development; tourism and recreation; fisheries; and conservation and heritage. Each of these committees provides a direct mechanism for working in partnership with key

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47 *Explanatory Memorandum*, p. 7.

48 Senate Committee on Environment, Communications, Information Technology and the Arts, *Report on the Great Barrier Reef Marine Park Amendment Bill 2007*, 15 June 2007.

49 Queensland Game Fishing Association, *Submission 12*, p. 4; Association of Marine Park Tourism Operators, *Submission 59*, p. 2.

50 *Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008*, amendment 5510.

stakeholder groups.<sup>51</sup> The Committee is also aware that 11 Local Marine Advisory Committees have been established to advise the Authority on management issues about the Marine Park at a local level, with a range of industry representation required by their terms of reference.<sup>52</sup>

2.54 In addition, the Government has committed to implement a recommendation of the 2006 review of the GBRMP Act by establishing an advisory body. Minister for the Environment, Heritage and the Arts, the Hon. Mr Peter Garrett MP has confirmed that:

...this body will comprise representatives from key stakeholder peak bodies and industries associated with the Marine Park. It will provide advice directly to the minister on specific matters affecting the Great Barrier Reef.<sup>53</sup>

2.55 The committee also notes the view expressed little more than a year ago by the then Coalition government, that there should not be positions on the authority that represent particular sectors.<sup>54</sup> The committee is not sure why the coalition has reversed its position on this.

### **Committee view**

2.56 In light of the extensive consultation mechanisms already in place which provide numerous opportunities for engagement with industry, the Committee believes that the amendment proposed by Senator Macdonald is not only unnecessary, but risks undermining the thorough consultation process undertaken during the 2006 review of the GBRMP Act.

### **Recommendation 3**

**2.57 That the proposed amendment relating to the membership of the Authority be rejected.**

### **Recommendation 4**

**2.58 The committee recommends that the bill be passed.**

**Senator Anne McEwen  
Chair**

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51 Great Barrier Reef Marine Park Authority, *'About Us'*, [http://www.gbrmpa.gov.au/corp\\_site/about\\_us](http://www.gbrmpa.gov.au/corp_site/about_us) (accessed 12 September 2008).

52 Great Barrier Reef Marine Park Authority, *Local Marine Advisory Committees*, [http://www.gbrmpa.gov.au/corp\\_site/management/who\\_participates/lmac](http://www.gbrmpa.gov.au/corp_site/management/who_participates/lmac) (accessed 12 September 2008).

53 The Hon. Mr Peter Garrett, Minister for the Environment, Heritage and the Arts, *House of Representatives Hansard*, 26 August 2008, p. 39.

54 Senator Eric Abetz, *Senate Debates*, 21 June 2007.

# Coalition Dissenting Report

## Introduction

1.1 The Coalition believes that, overall, the amendment bill is appropriate and will lead to better more modern administration of one of the world's natural icons, the Great Barrier Reef and the surrounding marine park.

1.2 The Committee read submissions from more than 140 submitters, and generally speaking, in relation to the appropriateness of the overall bill, Coalition Senators support the majority Committee report.

## Past criminal convictions

1.3 Coalition Senators have longstanding concerns with convictions that occurred under section 38CA of the GBRMP Act in the period 1 July 2004 (when the new Zoning Plan for the reef took effect) to 16 December 2006 (when the regulations were amended to create a more efficient enforcement regime).

1.4 Many of the submissions received by the Committee raised the issue of the unintended consequences of convictions that occurred during this period. The Committee particularly noted submissions from Mr Barry Garlick and Mr Peter Aston, who were both charged with fishing in a green zone.<sup>1</sup> Both were unaware that their behaviour constituted illegal fishing, and both have suffered as a result of their conviction.

1.5 Mr Garlick described his shame at his conviction:

How would you feel if you had to tell someone that you are a convicted criminal? I had to walk in the police station the other day to get my convicted criminal list and I felt ashamed. I like Australia. I do not want to have a criminal conviction. I try to hold myself as much to the law as possible. All I did was go fishing. I enjoyed the environment. I enjoyed being out fishing.<sup>2</sup>

1.6 Mr Aston also told the Committee that:

Every day I think being a criminal is the most appalling shame I have ever had in my life. I worked for the Public Service essentially through Telecom, as it was called in those days. With everything I have done, I have never even had a traffic fine—though I have two parking fines. I am nearly 70 and I am proud of the fact that I am a citizen of this country. On having a criminal conviction, it is all very well to say, ‘Oh, it’s okay; it’s not really affecting you,’ but it is. It has changed my life very much. I have tried very

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1 Mr Barry Garlick, *Submission 14*; Mr Peter Aston, *Submission 15*.

2 Mr Barry Garlick, *Committee Hansard*, 12 September 2008, p. 28.

hard to find ways around this. The fact is that, all through the process, I was not really believing it was happening—that it could happen here in Australia, that it could go this far without somebody saying, ‘This is silly. Let’s just give the man a fine and send him home,’ or something. For it to go on and on and then find that it is locked in—that you are a criminal forever...<sup>3</sup>

1.7 In addition, the Committee heard of some practical difficulties that have arisen as a result of convictions and potential difficulties that may arise in the future. The Committee heard that insurance companies, for example, require disclosure of criminal convictions. This does not exclude those with convictions from receiving insurance, but ‘they charge us more for our excess’.<sup>4</sup> Mr Garlick also described to the Committee how his conviction affects his employment both now and into the future:

I work in pest control, so I am in the domestic market—I am going into people’s homes. Would you like someone with a criminal conviction walking through your home, going through your bedroom?

...

From this point on, if I wanted to leave the industry to try to better myself so I can have a better place for my family and my baby daughter, nine times out of ten they ask you if you have a criminal conviction.<sup>5</sup>

1.8 Mr Aston, a writer who lives aboard his boat, described to the Committee his apprehension in applying for a visa now that he has a criminal conviction:

I have been through the whole process of looking up and seeing what is required to apply for this visa and the papers that I would need from the police department to have this record. I have been through that and got copies of the criminal record being held in Australia. I know the process that it would take, but it looks so daunting...<sup>6</sup>

1.9 Evidence given to the Committee showed that 116 recreational fishermen had been convicted of offences occurring in this period<sup>7</sup> and, from the table helpfully provided by the Department, it is clear that the maximum fines imposed for ‘green zone’ offences did not exceed \$3000.<sup>8</sup>

1.10 Information provided to the Committee by the Department showed that in the same period, 23 commercial and other fishermen were also convicted of offences relating to Zoning Plan. Fines imposed on these fishers ranged from \$1500 to

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3 Mr Peter Aston, *Committee Hansard*, 12 September 2008, p. 29.

4 Mr Barry Garlick, *Committee Hansard*, 12 September 2008, p. 28.

5 Mr Barry Garlick, *Committee Hansard*, 12 September 2008, p. 28.

6 Mr Peter Aston, *Committee Hansard*, 12 September 2008, p. 30.

7 DEWHA, *Submission 75*, p. 10.

8 DEWHA, *Submission 75A*.

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\$40 000.<sup>9</sup> Courts assess penalties on the basis of the court's view of the seriousness or otherwise of the offence. The range in penalties applied indicates that in some cases the courts were not treating the offences as being at the top end of the scale of seriousness, but more in line with the circumstances surrounding cases involving recreational fishers.

1.11 Coalition Senators believe that broadly speaking those offenders charged between 1 July 2004 and 16 December 2006 who, had their offences been committed after the 16 December 2006, would have more than likely been issued with an Infringement Notice rather than a criminal charge, should be dealt with as if Infringement Notices were issued.

1.12 The Coalition Senators therefore support an amendment to the Bill which would legislatively treat as spent convictions under section 85ZV of the Crimes Act, those convictions recorded against people charged with committing offences between 1 July 2004 and 16 December 2006, where the fine imposed indicates the offence was of a less serious nature. Additionally, Coalition Senators support those offences being treated as spent convictions under Division 3 of Part VIIC of the Crimes Act, without the exclusions provided by Division 6 of Part VIIC of the Crimes Act.

1.13 Evidence from many witnesses urged this course of action.<sup>10</sup> For example, Mr Phillip Kliese informed the Committee that:

I also support the amendment 5550 (version 1) proposed by Senator MacDonald and Senator Boswell where they ask that people who were convicted under Section 38CA have their convictions treated as spent convictions. It is not fair that a court had no choice other to issue a criminal conviction to granddads and fathers who took their kids and grandkids fishing for the day with no GPS or no way of knowing if they had drifted into a Green Zone. The repercussions that a criminal conviction carries is simply unfair to place upon innocent fishermen.<sup>11</sup>

1.14 The Coalition Senators considered the alternate amendment submitted by the Opposition which provided for the offences to be treated as having received a Royal pardon as an alternative to the spent convictions proposal. This 'Royal prerogative of mercy' should however only be used in the most extreme cases. The Attorney General's Department representative outlined concerns with this approach:

I can describe how pardon processes have worked in the past and why they do not necessarily sit comfortably with this category of cases. Traditionally the criteria the relevant Commonwealth ministers have applied to pardons is

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9 DEWHA, *Submission 75*, p. 10.

10 See, for example, Mr Kevin Charteris, *Submission 3*; Mr David Saville, *Submission 93*; Mr Andrew R Poulsen, *Submission 98*; Mr Rodney Hannemann, *Submission 120*; Ms Carolyn Brooke, *Submission 127*; Mrs Pamela and Mr Jeffrey Matthews, *Submission 134*; Mr Scott Hay, *Submission 135*.

11 Mr Phillip Kliese, *Submission 6*, p. 1.

whether the person is both morally and technically innocent. Possibly the complexion of some of these cases is this: there is a view that the law should have been different at the relevant time, but, if the law was as it was and in fact the person did those things that came within the law as it was framed and enforcement action was taken, it might be difficult to make out the morally and technically innocent grounds.<sup>12</sup>

1.15 On balance, Coalition Senators believe that the interests of justice, and the overall administration of justice, are better served if the convictions in the relevant period are treated as spent convictions.

1.16 The Coalition Senators believe that there is a justifiable case for addressing the issue of convictions recorded against recreational and other fishermen between the time when the amendments to the Marine Park Zoning Plan were introduced on 1 July 2004 and the 16 December 2006 the time when amendments were made to the Act to allow the imposition of an infringement notice in lieu of a criminal conviction.

### **Representation on the Authority**

1.17 The Coalition believes that the administration of the Act would be better served by ensuring that at least one of the Board members is a person who has a close hands-on experience with all aspects of the Marine Park.

1.18 The Coalition Senators also accepted evidence the Association of Marine Park Tourism Operators that there was a good case for defining one of the five Board positions as being filled by a person with knowledge of or experience in the tourism industry or another industry associated with the Marine Park.<sup>13</sup>

1.19 The Committee noted the tremendous importance of tourism to the region and to management of the Park itself:

...marine tourism in the Great Barrier Reef region is worth \$5.1 billion and employs 54,000 people. It is a major export earner and dwarfs other industries in the area (for example commercial fishing contributed \$120m and employed 640 people.)...

Through the payment of the EMC, industry contributes \$8 million per year to the GBRMPA budget of which \$1.2 million was paid to the CRC Reef for applied research.<sup>14</sup>

1.20 The Coalition therefore recommends that the Senate agree to amendments circulated by the opposition which reads:

"Schedule 2, item 1, page 12, after subsection 10(6A) insert:

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12 Dr Karl Alderson, Assistant Secretary, Criminal Law Branch, Attorney-General's Department, *Committee Hansard*, 12 September 2008, p. 38.

13 AMPTO, *Submission 59*.

14 AMPTO, *Submission 59*.

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(6B) At least one member must have knowledge of or experience in the tourism industry or another industry associated with the Marine Park."

### **Definition of 'fishing'**

1.21 Coalition Senators also carefully considered the definition of 'fishing' contained within the amending bill. Coalition Senators accept that charges for offences relating to green zone in the zoning plan do not rely on the definition of fishing contained in the amending bill.

1.22 Coalition Senators note that the offences are committed when:

- a) the person engages in conduct, and
- b) the conduct is engaged in a zone, and
- c) under the zoning plan for that zone, the conduct is
  - (i) prohibited or
  - (ii) requires permission.

1.23 The conduct prohibited under the zoning plan is described as being 'fishing' in an area of the marine park closed to fishing, the relevant definition being that in the Great Barrier Reef Marine Park Zoning Plan 2003, where it is provided (section 1.5 and dictionary) that fishing for the purposes of the zoning plan is 'taking a plant, animal or marine product'

1.24 It therefore follows that the offence under section 38BA happens where an offender takes a plant, animal or marine product, or attempts to do so, and so merely passing through a green zone or having electronic equipment is not a grounds for a charge under section 38BA. The definition of 'fishing' in the bill is according to departmental witnesses at the hearing, only relevant where the taking of a plant, animal or marine product is 'aggravated' pursuant to section 38GA.

1.25 Coalition Senators agree with the majority report under the headings 'Definition of fishing' and 'The committee's views' (paras 2.32-2.48) and support recommendation 2.

**Senator Simon Birmingham**  
**Deputy Chair, LP, South Australia**

**Senator John Williams**  
**NATS, New South Wales**

**Senator Stephen Parry**  
**LP, Tasmania**

**Senator the Hon. Ian Macdonald**  
**LP, Queensland**

**Senator Ron Boswell**  
**LNP, Queensland**

**Senator Barnaby Joyce**  
**NATS, QLD**



## **Additional comments from Senator Barnaby Joyce, Leader of the Nationals in the Senate, on behalf of the National Party.**

In brief, the caveats this legislation places on fishing are excessive and onerous and the development in the applications of the terms of fishing and the precautionary principle have become, as such, unacceptable to many that live in the North Queensland area. We are now defining not only the act of fishing as an offence but also the consideration of the act as an offence. This step in law is a dangerous one in all facets, but is particularly peculiar when applied to something as generally minor as fishing.

I believe the definition of fishing proposed in Schedule 6 item 9 of the bill creates a dangerous precedent, and warrants the pursuit of mitigating amendments.

Furthermore, I believe there are issues with the definition and application of the precautionary principle as stated in Schedule 1 item 12 of the bill. Although in other areas of conservation this may be custom and practice, it has proved an unnecessary vagary in the recreational and commercial fishing community. The precautionary principle should not take precedence over valid environmental studies and socioeconomic impact studies. Noting that the Great Barrier Reef Marine Park is one of the most studied areas of ocean in the world it would be reasonable to expect that there should not be an excessive requirement for a precautionary principle in an area where so much has already been tabulated.

I share the concerns of many submitters, such as the Queensland Game Fishing Association, who wrote:

As an organisation committed to the collection, dissemination and analysis of scientific information as the basis of sound marine resource conservation and management we are distressed by what appears to be a disturbing trend by organisations and governments to institute management and zoning arrangements based more on political pressure, lobbying and public perception rather than science. Unfortunately the precautionary principle is often used in place of committing sufficient resources, without scientific bias, to obtaining the required information to enable proper management.

The Great Barrier Reef must be acknowledged to have multiple usages as a conservation area, a resource and a recreational venue.

The process over time is that this is becoming more of a conservation area. The lifestyles and livelihoods of those who live adjacent to the park have been unduly curtailed.

This remains an ongoing concern for the National party and our advocacy for a more balanced approach will continue.

**Senator Barnaby Joyce**  
**NATS, Queensland**

# Appendix 1

## Submissions and tabled documents

### Submissions

1	Sunfish Queensland Inc
2	Mr T Saunders
3	Mr Kevin Charteris
4	Mr Paddy Byrne
5	Ms Susan Kelly
6	Mr Phill Kliese
7	Mr Tim Whittle
8	Mr Mike Connolly
9	Mr Dominic Fry
10	Mr Tony van Dalen
11	Mr Terry Hayden
12	Queensland Game Fishing Association Inc
13	Ms Jennifer Winney
14	Mr Barry Garlick
15	Mr Peter Aston
16	Mr David Kain
17	Mr Steve Evans
18	Mr Kevin Collins
19	Mr Scott Thompson
20	Mr Drew Gammon
21	Mr Neil Dunstan
22	Mr Steven Thompson
23	Mr Kyle Raymond
24	Mr Warren Hughes
25	Mr Colin & Ms Melanie Napier
26	Mr Rick Huckstepp
27	Mr Robert J Eddy
28	Mr David Magner
29	Mr Jason Jones
30	Mr Ken Berry
31	Mr Ross Hodgman
32	Mr Daryl Gammon
33	Mr Mick Harris
34	Mr Stephen Booth, Fishing Monthly Group
35	Mr Ken Stien
36	Mr Ken Evans
37	Mr Brett Levinge
38	Cairns Bluewater Game Fishing Club Inc
39	Mr Chris Ryan
40	Mr Jim Harmon

- 41 Mr Karl Mendis
- 42 Mr Alan Hall
- 43 DigsFish Services Pty Ltd
- 44 Mr David Granville
- 45 Honda Australia Motorcycle & Power Equipment Pty Ltd
- 46 New South Wales Council of Freshwater Anglers
- 47 Marine Queensland & Australian Marine Industries Federation (AMIF)
- 48 Ms Alison Jones
- 49 Mr John Haines Snr
- 50 Queensland Seafood Industry Association
- 51 Recfish Australia
- 52 Australian Fishing Tackle Association
- 53 Great Barrier Reef Foundation
- 54 Recreational Fishing Alliance of NSW
- 55 Australian Fishing and Lifestyle Party
- 56 eco friendly fishing association
- 57 Environmental Defenders Office (Qld) Inc. and Environmental Defenders  
Office of Northern Queensland Inc
- 58 Cairns and Far North Environment Centre Inc
- 59 Association of Marine Park Tourism Operators
- 60 Mr Cain Dixon
- 61 Ms Helen Byrne
- 62 Mr Shane Flynn
- 63 Mr Bruce Cunningham, Cunningham's Marine
- 64 Mr Andrew Tunney
- 65 Mr Michael Gregory
- 66 Mr Adam Young
- 67 Surfers Paradise Game & Sport Fishing Club Inc
- 68 Mr Craig Potter
- 69 Mr Keith Castorina
- 70 Mr Ray Hoon
- 71 Mr Brent Royle
- 72 Mr Grant Hughes
- 73 Mr Greg Haines, The Haines Group
- 74 Mr Jim and Ms Anne Williams
- 75 Department of the Environment, Water, Heritage and the Arts
- 75A Department of the Environment, Water, Heritage and the Arts  
(Supplementary Submission)
- 76 Australian Institute of Marine Science
- 77 Queensland Council of Civil Liberties
- 78 Mr Mike Forfar
- 79 Mr Benn Hardie
- 80 Mr Arthur Dobe
- 81 Mr Bruce Alvey, Alvey Reels Australia
- 82 Mr Desley J Wood
- 83 Mr Lyle Wakeling

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84	Mr Cameron Molloy
85	Mr Edwin Gammon
86	Mr Duncan Blakley, Formosa Aluminium Boats
87	Mr Selwyn Ogorne
88	Mr Monty Mahoney
89	Mr Scott Mitchell
90	Mr Don Porter
91	Mr Bob Avery
92	Mr Noel Jacobsen
93	Mr David Saville
94	Mr Ward Nicholas
95	Mr Mitchell Bierge
96	Ms Jan Mitchell
97	Mr Mark Bargaquast
98	Mr Andrew R Poulsen
99	Mr Paul Dolan
100	Ms Louise Antoniou
101	Ms Melissa Royle
102	Mr Adam Royle
103	Mr Glenn Cox
104	Mr Pat Dass, Fishing Warehouse, Townsville
105	Mr Troy Jones
106	Mr Nigel Spork
107	Mr Graeme Frakes
108	Mr Michael Delisser
109	Mr David Donald
110	Mr Chris Schulz
111	Mr Glenn Winsen
112	Ms Trisha Forman and Mr Dion Forman
113	Mr Gavin Dobson
114	Mr Paul Dawson
115	Mr Ryan Moody
116	Mr David Lovell
117	Ms Nicole Cooney
118	Mr Doug Burt, Doug Burts Tackle World Gold Coast
119	Mr James Thaddeus Byrne
120	Mr Rodney Hannemann
121	International Game Fish Association
122	Boating Industry Association of Victoria
123	Mr David Heyes, BRP Australia Pty Ltd (Bombardier Recreational Products Australia Pty Ltd)
124	Mr Robert Erskine
125	Mr Greg Vary
126	Mr Arthur Brooke
127	Ms Carolyn Brooke
128	Mr Bryan Sait

129	Mr Warren van Dalen
130	Mr David Penfold
131	Mr Robert Bentley
132	Mr Bob Harris
133	Mr Bill Gibbings
134	Ms Pamela and Mr Jeffrey Matthews
135	Mr Scott Hay
136	WWF Australia
137	Mr Spencer Jacob
138	Mr John Schilling
139	Mr Glenn Allen
140	Mr Shane Boese, Water Tower Bait & Tackle
141	Mr Michael Chapman
142	Mr Daniel Jones

### **Tabled documents**

Long-term trends in reef fish abundance in the Great Barrier Reef World Heritage Area, tabled by Mr Gary Fooks, 12 September 2008.

14 questions regarding GBRMPA, tabled by Mr Gary Fooks, 12 September 2008.

2005 correspondence relating to R.A.P. Zoning on GBRMPA, tabled by Mr Gary Fooks, 12 September 2008.

Media Release by ARC Centre of Excellence for Coral Reef Studies: Scientists call for world's largest marine park in Coral Sea, tabled by Mr Gary Fooks, 12 September 2008.

The Commonwealth Director of Public Prosecutions sentencing guide: S.38CA of the Great Barrier Reef Marine Park Act 1975 – recreational fisherman, tabled by Mr Gary Fooks, 12 September 2008.

Media article from Townsville Bulletin, Friday, 19 October 2007: Held to ransom Convicted fishermen must await poll outcome, tabled by Senator the Hon. Ron Boswell, 12 September 2008.

# **Appendix 2**

## **Public Hearings**

*Friday, 12 September 2008 – Canberra*

### **Environmental Defenders Office (North Queensland) and Environmental Defenders Office Queensland**

Mr Adam Millar, Principal Solicitor & Coordinator, North Queensland

### **Association of Marine Park Tourism Operators**

Mr Laurie Stroud, Senior Advisor, Government Relations

### **Marine Queensland and Australian Marine Industries Federation**

Mr Don Jones, General Manager, Marine Queensland

Mr Wayne Bayne, Proprietor, Mitchells Marine Cairns

### **Queensland Seafood Industry Association**

Mr Martin Hicks, Chief Executive Officer

### **Eco Friendly Fishing Association**

Mr Gary Fooks, Chairman

### **Mr Barry Garlick (Private Capacity)**

### **Mr Peter Aston (Private Capacity)**

### **Department of the Environment, Water, Heritage and the Arts**

Mr Gerard Early, Deputy Secretary

Ms Tania Rishniw, Assistant Secretary, Tropical Marine Conservation Branch

Mr Travis Bover, Director, Great Barrier Reef Policy Team, Marine Division

**Great Barrier Reef Marine Park Authority**

Dr Russell Reichelt, Chairperson

Mr Mick Bishop, Director, Operations

**Attorney General's Department**

Mr Karl Alderson, Assistant Secretary, Criminal Law Branch