

6 September 2008

The Secretary  
Senate Standing Committee on Environment, Communications and the Arts  
by email to [eca.sen@aph.gov.au](mailto:eca.sen@aph.gov.au)

Dear Senator McEwen,

**RE: GREAT BARRIER REEF MARINE PARK AND OTHER LEGISLATION  
AMENDMENT**

I refer to the inquiry into the above matter.

I am a young professional man who has grown up enjoying a wide range of water based activities from sailing to snorkelling and diving, but mostly fishing, and working in the fishing industry right along the south east coast of Queensland up to Far North Queensland and the Great Barrier Reef.

Like many others who have and do use these waterways I am concerned for its future, particularly the GBRMP and future access to the park for fisher people.

As a fisherman who regularly takes part in recreational fishing in the GBRMP I think it is important to express my views towards the proposed amendments as I feel many of the proposals are simply unworkable and most unpracticable.

Please find following my submission, and I would be most grateful if you could please present it to the Committee on my behalf.

Should you or the Committee wish to contact me to discuss any of the contents, please feel free to do so on 0418 758 416.

Yours faithfully  
James Thaddeus Byrne

## Convictions

It is understood that in today's society there must be some sort of deterrent for breaking the law in terms of fishing in restricted areas. The current situation with a fine in place is a most adequate deterrent. Whilst there is currently a fine in place, prior to this there was an 18 month period in which any person who was caught fishing in a restricted area would be criminally convicted.

It was identified that the law had to be changed, as the punishment of a criminal conviction for fishing in a restricted area would seem to be most inappropriate. The law has changed however there are over 300 people who were convicted under the old laws who are still considered criminals, and in a number of cases that I am aware of they were simply fishing in an area that they had no idea was a restricted fishing area, as they didn't own updated detailed maps or an expensive GPS Chart plotter.

Given that that the legislation has been amended to reflect a fine as suitable punishment for this offence, I believe that it is appropriate that those given criminal convictions under the old legislation should have those convictions dropped, and if necessary give them a fine. In the very least each case should be reviewed on its merits, as for an innocent once a year fisherman (which I understand a few where) not to be given a warning and end up with a criminal conviction for fishing in the wrong place, and be considered a criminal in the same light as an armed robber, rapist, or murderer and have ongoing problems obtaining visas, insurance and employment would seem to be a terrible mistake.

**I ask that you overturn these convictions forthwith so that these non criminals can get back on with their lives.**

## Direction & Use of Marine Park

Having grown up regularly using the reef, I have been aware of the rules relating to its use. These rules have been put in place to ensure that it remains a clean and safe environment for people partaking in all different manner of activities in the GBRMPA.

These rules have been effective in maintaining the quality and ensuring the long term health and sustainability of the Marine Park

It is very concerning to see that despite the heavy restrictive rules already in place, the fisherperson is being further pushed out of their park. No other group is being affected by the proposed changes more than the fisherperson.

**Don't ban the fisherperson, better manage the MP so that all users can enjoy it now and into the future.**

## Powers to Inspect

My understanding of this amendment is that fishing inspectors will have the “authority” to physically search a person, similar to those powers reserved for the police. How well trained are the fishing inspectors? What are they going to be physically searching for? Fish strapped to a person? Or shoved in their pants? I appreciate that an inspector may have to search a vessel or possibly possessions and have no objection to this if required as I have nothing to hide.

My concern is that such authority being granted to an underqualified person (read not trained in all aspects of the law) or a fisheries inspector could potentially lead to a breach of ones civil rights. This is a job for the police and should be left to them.

You do not see National Parks officers physically searching people? Why should Fisheries inspectors need to physically search you?

**This simply cannot proceed.**

## Scientific Backing

Some time ago a large portion of the fishing community was asked to partake in surveys to ensure the spots we fished weren't taken as “Green Zones”. These surveys asked the locations where we fished and the species we caught.

Since completion of the survey, fisherpeople have had the information provided by them in responding to this survey, used against them, with many of their regular fishing areas being closed to fishing, in the form of “Green Zones”.

This has been the case from Tweed Heads to Cape York.

The modern day fisherperson is always wary of the environment, what’s good for it, and how to maintain it in good condition.

If the closures could be scientifically backed up fisherpeople could better understand why they are to be closed, however when the exact locations we have nominated as the places we frequently fish are closed and no credible scientific backing can be provided, it would appear to be a distinct move to close fishing as opposed to protect the environment, which is what this should be about.

Further to the above, GBRMPA have been told to provide transparent science in 2006 reviews, however GBRMPA do not wish to comply and are instead requesting a law be passed stating that they do not have to have scientific backing in order to close a particular area.

Now where on earth is this heading? An association that is clearly out of control, objecting to transparency, and requesting laws be passed allowing them to act without credible scientific proof?

**This simply cannot be allowed in this day and age of complete transparency. Why should we all have to be transparent when GBRMPA is not?**

## Fishing – What defines it?

The proposed amendment seeks to alter the definition of the term fishing, to include even looking at/for fish. In doing so, they are complicating the operation of a vessel and in some cases suggesting unsafe practice.

The amendment in its suggested form would appear to be banning viewing of the reef through a glass bottom boat, snorkelling, and even the operation of a fish finder/depth sounder, which if not operated could have the potential to cause a grounding, far more damaging to the environment and reef structure than fishing.

This has obviously not been adequately thought out in a practical sense. Sure if someone is fishing in a restricted area, they should be fined, but if someone is merely looking for fish, surely they cannot be convicted of this, as looking does not imply taking.

**This aspect of the amendment is out of order and cannot proceed.**

## Three strikes

As stated earlier in my submission I believe it is necessary to have some deterrent to stop fishing in restricted areas. However to propose that anyone who receives 3 convictions in 10 years be banned for life sounds more like a swimming club, or public bar rule as opposed to the careful Management and Administration that should be in place for one of the wonders of the world.

Surely a fine system is far more rewarding for the Administering Body and maybe a 6 or 12 month ban as a final, but not a lifetime.

Life is something reserved for criminals, and these days many of those convicted for life do not even serve that length sentence. This rule needs to be realistic, and a life ban for fishing in the wrong location would seem to be way over the top.

**Put a fine in place, no three strikes and your out, leave those rules for the local public bar.**

## Legal Defence

The only person who has challenged a conviction for fishing has had it overturned by a Magistrate who confirmed he could not be expected to have known he was in a Green Zone.

The Legislation now proposes to counter this by an amendment to exclude “I did not know I was in a Green Zone” as an excuse, as they consider that if you enter into the GBRMP you are thoroughly aware of the boundaries of all Green Zones and other restrictive areas. Some may not have up to date maps and or expensive GPS Chart plotting units. Which puts identifying where you are in relation to these areas out of reach of many fisherpeople as they simply cannot afford a GPS.

This in my opinion breaches our civil rights, and is simply unacceptable and must not proceed in its current form.

**Please leave this aspect of the Legislation alone! Why on earth would anyone in their right mind adopt such a law. It is out of order.**