

**Submission to the Inquiry into the Great Barrier Reef
Marine Park and Other Legislation Amendment Bill 2008**

4 September 2008

Dear Committee

Please accept my submission to the inquiry into the Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008.

I am a retired Hospital Microbiologist with a passionate interest in all things boating and fishing. I had to retire in 2001 due to familial dilated cardiomyopathy and conduction disorder of the heart. In the past year I have had a cardiac defibrillator inserted into my chest to prevent sudden cardiac death. I turned 50 years of age in March 2008.

This is relevant to my submission because a large part of my enjoyment now is fishing and boating, things I can accomplish and enjoy with my family, husband and two daughters. We are in the process of moving to Tea Gardens, Port Stephens to facilitate this wonderful hobby.

I am sorry to let you know that one of my daughters, Elizabeth aged 21 years, has been found to have inherited this disorder and is under treatment for this genetic aberration, which has caused the sudden premature death of too many of my family. Needless to say, the time we spend together is paramount.

Recently Port Stephens has had large areas of previous fishing grounds zoned into Marine Parks. This has caused many of the local population to rethink the destination of a day out fishing. Maps are readily available, but they are not always exactly clear. Many people do not have GPS systems on their boats and at times other things can occur to cause confusion and the possibility of dropping a line innocently into an off-limit area.

I heard of some recreational fishermen who accidentally drifted into the Sanctuary Zone off Little Beach, Nelson Bay. (This Marine Park was the first one declared in Australia, I believe.) When questioned by the authorities it was unclear as to where the borders existed. No leeway was given and an on-the-spot fine was issued. BUT they did not receive a criminal conviction for their misdeed. Many thousands of tourists visit this area every year and may not apprise themselves properly of the regulations, for myriad reasons.

This is where I believe the below amendments should be implemented to quash the mandatory criminal record of

fishermen caught infringing green zones in the Great Barrier Reef between 2004 - 2006

“Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008

(Amendments to be moved by Senator Macdonald and Senator Boswell in committee of the whole)

(1) Schedule 6, item 24, page 126 (after line 13), after Division 3, insert:

Division 3A—Convictions under former section 38CA

38CC Convictions under former section 38CA

(1) Despite any other Commonwealth law or any State law or Territory law, a person convicted of an offence that occurred during the period 1 July 2004 to 14 December 2006 under section 38CA of the Great Barrier Reef Marine Park Act 1975 is for all purposes to be treated as a having received a free and absolute pardon by the Governor-General in the exercise of the royal prerogative of mercy.

(2) For the avoidance of doubt, a person referred to in subsection (1) is to be taken for all purposes never to have been convicted of the offence.

[convictions for green zone infringements]”

It is a gross miscarriage of justice for those convicted to have a criminal record (unless there are other factors which entered into the deliberation) and it is not in keeping with the Australian ethos of a 'fair go'. It is not disputed that a fine was issued, nor that they were guilty. I do believe people can be innocently ignorant of the law in regards to where they place their boat.

The burden of carrying that terrible label of 'criminal conviction' has wide-ranging repercussions for those individuals that they do not deserve e.g. applying for travel visas, credit, application for employment etc. It would also cause otherwise law-abiding individuals to endure acute embarrassment and long-term stress. Personally, I know it could even trigger dangerous physical symptoms and I feel it could for those convicted also.

Please address this unfair anomaly under law.

Also I wish to express my dismay to the Committee at the proposed changes to 9 Subsection 3(1) of the **Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008**.

Marine parks around Australia are known to copy the policies, rules and procedures of the Great Barrier Reef Authority.

This section of the Bill is flawed and reminds me of totalitarian authority in that it provides for no margin of error for people who may innocently be in a green zone not breaking any laws. It gives the power to inspectors to board your vessel and charge on the mere suggestion that illegal activity has occurred. Many scenarios exist whereby inspectors wrongly issue fines because it is based

upon their discretion and they are not truly apprised of the real situation. E.g. someone having their fish finder switched to "On", genuine cases of dislocation, cases where fish caught in a legal area are wrongly thought to have been taken in an illegal zone.

In court, the prosecutor will not have to provide evidence that the accused was knowingly or recklessly breaking the law. That is wrong - innocent until proven guilty and benefit of the doubt is the Australian way.

In my mind, a culture of fear is promoted in the Bill as it stands. Recreational fishing is meant to be an enjoyable and valid activity for all Australians to enjoy if they so choose. I, for one, do not want to have the added pressure this Bill places upon any individual's shoulders.

Am I in the right place?
Have we drifted too far?
Where are we?
Is the GPS correct?
Why is my GPS not working?
Oh heck! Does this inspector think we have done something wrong?
No sir. We just stopped here in this cove to have our lunch.
Etc.

Any number of scenarios exist, I am sure the Committee can think of at least one.

I ask the Committee to carefully examine the GBRMP Amendment Bill 2008, to use common sense and decency in their deliberation, with due consideration of its implications for Australian citizens and to instigate appropriate changes before passing the Bill into Australian Law.

Yours sincerely
Mrs) Jennifer Winney