

4th September 2008

Senator McEwen, Chair
Senate Standing Committee on Environment, Communications and the
Arts

Dear Senator McEwen,

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

We are recreational fisherpersons and are concerned about some of the proposed amendments to the Great Barrier Reef Marine Park Act 1975.

Of particular concern is amendment 9 subsection 3(1) which endeavours to move the definition of fishing into the offences and civil penalties section of the Act. From what we have heard about the explanatory memorandum, this removes the burden of proof from officers and places it on the “offender”. This means that people are declared guilty until proven innocent. This is not fair. We have heard the Greens Senator argue that there are no significant changes to the wording but just the position of the wording in the Act.

So we ask, if the changes aren’t significant, why make them? We submit that the wording should be left where it is or altered to reflect the activity of taking fish – not the intention to take fish – which an officer could not prove unless he/she is a mind reader. As it stands if the amendment goes through, a person could be heading through a green zone on their way to another place to go fishing and they could be pulled over and fined – not for actually fishing but the “intent” to fish and all the officer has to do to “prove” intent is to show that the offender had fishing equipment on board – which could prove intent. The options for officers to catch offenders who haven’t actually committed any acts are endless.

We 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 does not seem fair that because the court had no choice other than to issue a criminal conviction that a grandfather taking his grandkids out in the tinny for a days fishing with no GPS and no way of knowing they had drifted into a green zone could end up with a criminal conviction and now struggling to get visa or insurance.

Thank you for your time,
Melanie and Colin Napier