

5 September 2008

Senator McEwen, Chair
Senate Standing Committee on Environment, Communications and the Arts
by email to eca.sen@aph.gov.au

Dear Senator McEwen,

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

My name is Brett Levinge, I am the Secretary for the RAAF Townsville Fishing Club, I have been fishing the waters off the Queensland coast most of my life. I was taught the ethics of fishing and sustainability by my father (Professional Fisherman). Taking only what we needed for a feed and leaving the species in a state of consistent growth. I have 3 sons who also enjoy recreational fishing and I have passed on the same ethics to them.

I am a recreational fisherperson and I am 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 I have read in 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. I 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 I ask, if the changes aren't significant, why make them? I 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.

If this amendment is voted in, a person could be transiting 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 for the "intent" to fish. All the officer has to do to "prove" intent is to show that the offender had fishing equipment rigged on board – which in the eyes and under the officers definition to the rule, could prove intent. The options for officers to catch offenders who haven't actually committed any acts are endless.

It seems to generate to option of revenue raising for reasons that are ambiguous at best as opposed to maintaining the sustainability of fish stocks. Some common sense needs to prevail in this instance to make any submission clear. Recreational fisherman should at all times have the ability to transit a "Green Zone" with the intent to fish an area not designated as a Green Zone, whilst carrying fishing equipment onboard.

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 does not seem fair that because the courts hands were tied under the previous provisions and a criminal conviction as well as a fine was the standard result in ALL cases, where a recreational fisherperson was designated by a supposedly accurate recording of their position in relation to a green zone, to have infringed on that green zone and thus being fined and a conviction recorded.

Many recreational fisherpersons do not carry electronic equipment onboard that would, at a glance, have alerted them to the fact that they had strayed into a green zone. I am sure that if they had the equipment onboard, they would have move away from the green zone and continued to monitor and fish responsibly. Unfortunately the courts having been strangled by poor policy, had no choice but to record these stupid convictions. The end result of this has been the continued hardship in living with the stigma of a criminal conviction and the struggle to get insurance, bank loans, licences and travel documentation.

Hopefully commonsense will prevail and see this for what is it, utterly stupid and serving no purpose in relation to the people convicted under a law that was altered once it was found to be draconian, please give these people back their lives and dignity by expunging these convictions.

Thank you,
Brett Levinge