

Sunday 7th September 2008

Andrew Tunney

The Secretary

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

Dear Senator McEwan,

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

As stated above, my name is Andrew Tunney; I am an Information technology professional with more than 10 years of experience. I am interested in this bill as I am also a keen amateur fisherman who weather permitting, enjoys fishing on the inshore reefs and wrecks here in far north Queensland in my 4.2m tinnie.

My interest in this bill stems for my concern over section 9 subsection 3 of the proposed bill whereby a person may be found guilty of fishing in a green zone by definition as quoted below from the relevant legislation:

9 Subsection 3(1) 23

Insert: 24

fishing means any of the following: 25

(a) searching for, or taking, fish; 26

(b) attempting to search for, or take, fish; 27

*(c) engaging in any other activities that can reasonably be 28
expected to result in the locating of, or taking of, fish; 29*

*(d) placing, searching for or recovering fish aggregating devices 30
or associated electronic equipment such as radio beacons; 31*

*(e) any operations at sea directly in support of, or in preparation 32
for, any activity described in this definition; 33*

*(f) aircraft use relating to any activity described in this definition 1
except flights in emergencies involving the health or safety of 2
crew members or the safety of a launch, vessel or floating 3
craft of any description.*

My main concern is that under this legislation, I could be found guilty of fishing in a green zone by simply using my sounder to detect depths thereby avoiding a grounding on the reef, or any other structure.

It is also well known that GPS is not 100% accurate and has a margin for error of between 3m and 5m. This claim is validated by the Federal Government's own Rural Industries and Development Corporation website which states in an article (at the URL: <http://www.rirdc.gov.au/precisionfarming/course/differential.html>) "Accuracy of GPS and DGPS"; that GPS even after then President Clinton of the United States of America reduced what is known as Selective Availability (or SA) to 0 as of midnight on the 1st May 2000.

Selective Availability is explained in detail as reproduced below from the previously advised URL:

“This is an intentional random error added to the system so that hostile forces cannot use it to guide ballistic missiles with this sort of accuracy. Of course, the error is not truly random, and military receivers have codes which allow them to compensate for this error. Since it was implemented in 1990, selective availability (SA) has been a continuing nuisance to GPS users, adding another 100m uncertainty to the position measured. “

It also goes on to advise that on President Clinton's decision to reduce SA to 0: *“You can see what effect this had on position errors by clicking on the small diagram at right. The uncertainty reduced from about 100 m to around 5 m”.*

What is important to note here is that there is a Federal Government website clearly stating that GPS is accurate to 5m at best. With this in mind Senators; how can a recreational fisherman or any other navigator for that matter spending a day on the Great Barrier Reef feel confident they are not crossing or fishing in a green zone?

The answer Senators is that they can't.

I also draw the Senate's attention to another specific sentence on this web page which reads:

“For a start, the exact path of the signal moves around in the atmosphere, and so does the velocity of light due to changes in the density of the atmosphere. The best practical accuracy is about 5 m with the current system, of which about 1 m is due to the satellite clock and uncertainty in the orbit, but the majority comes from the variation in path through the upper atmosphere - the ionosphere.”

This brings to mind another possible flaw in the proposed legislation.

What if Senators, I decided to go fishing on the Green Island Wreck one day which is designated a general use zone by the latest GBRMPA zoning map (MPZ06). I fish this wreck for say 1 to 2 hours and I catch some fish but I do not catch any coral trout. I have a taste for some coral trout that night for dinner, so I decide to move on to say just west of Thetford Reef in Grafton Passage to try my luck there.

In the process of my journey and due to the margin for error noted previously; I accidentally stray into the green zone surrounding Green Island travelling south east to south west. In my boat, I have my rods in their holders at the rear of the boat, all of a sudden; I am pulled up by a fisheries patrol on the south west side of the island who advise me that I am in a green zone. The officers also perform routine checks that I have all my safety gear and that I have sufficient water for the day on board; they then see the fish in my esky and decide to charge me with fishing in a green zone after also seeing that I have my sounder on.

Now I did not catch these fish in the green zone; but how do these officers know that?

They pulled me up moving through the green zone; for all they knew, I could have been fishing on the south eastern side of the island.

Under the proposed legislation; I will be charged for violation of Section 9, subsection 3, points a, c, d and e of the legislation. From their perspective, this is correct because:

- I had my sounder on (apparent violation of points a, c, d)
- I had my rods rigged (but not deployed) in rod holders (apparent violation of points c, e)
- I had fish in my esky (apparent violation of point a)

This Senators, would amount to a rather large fine if not a criminal record. I have two step-daughters and one son; with the current prices of the basics in life (fuel, groceries, school etc); I cannot afford this fine and my family would endure untold hardship as a result. Let's say that I was fined \$2500.00; not a large amount of money but it's a lot of money for us and the majority of families these days.

Can you imagine Senators, trying to explain to children aged between 4 and 16 why you cannot afford to let them go to the school excursion, or why they cannot have that one special thing in their lunchbox that makes their day at school or kindy (which may be as simple as a packet of Tiny Teddies); simply because your GPS was out by 5m (through no fault of your own) and that a Fisheries officer didn't believe that you caught those few fish in a general use zone?

That's what I will be faced with if this happens to me Senators; and this is a very real possibility for others if this amended legislation is passed without change.

How can any Fisheries officer determine 'intent to take fish' if the person concerned is not caught in the act of fishing? Is it fair to have someone fined or worse simply because they had a sounder on in their boat attempting to gauge depth and avoid running aground?

Unless the Marine Park Authority is going to equip Fisheries with a crystal ball, they simply can't determine this. It's like saying that someone with a green house in their back yard has intent to conceal and cultivate marijuana or other illegal drugs. If I have shed in my backyard which has a few bags of fertiliser in it, does that make me a terrorist with intent to make a bomb?

These proposed changes are unfair, unworkable and unreasonable; in fact I believe that anyone navigating the Great Barrier Reef Marine park without a sounder on is at risk of causing more damage to the reef through possibly running aground than through any other activity.

I also support Senator MacDonald and Senator Boswell's proposed amendment 5550 (version 1) where people convicted under section 38CA have their convictions recorded as spent convictions.

Sincerely,

Andrew Tunney.