

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

Dear Senator McEwen,

RE: Inquiry into the Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008 and Removal of convictions Amendment 5550 (version 1).

Please accept this submission on both matters.

I am a retired recreational angler, and I am concerned about some of the proposed amendments to the Great Barrier Reef Marine Park Act 1975. My deepest concern is the proposed amendment 9 subsection 3(1), which would move the definition of fishing into the offences and civil penalties section of the Act. My understanding of the explanatory memorandum is that it removes the burden of proof from officers and places it on the "offender". This means that people are declared guilty until proven innocent, which hardly seems to be in line with "Aussie Fair Go".

I suggest the following proposed changes are totally unnecessary, and only an extremely draconian legislative change which should not be allowed to pass approval.

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.

I also suggest that the wording should merely reflect the activity of taking fish, not the intention to take fish. To do otherwise is beyond any form of common sense, and only gives any Patrol Officers open slather to charge without actual proof of fishing. As one example of many other possible breaches, the proposed amendment suggests that a person could be fined just by passing through a green zone on their way to another place where fishing is allowed, on the assumption of fishing because fishing gear was on board, and an echo sounder or GPS was in operation. There would also seem to be many other options for persons who haven't actually committed any acts to be fined.

I also support amendment 5550 (version 1) proposed by Senators Boswell and Macdonald requiring for those previously convicted under Section 38CA to have their convictions over

turned or repealed. The previous legislation that led to those criminal convictions was totally unfair and out of proportion with reality, particularly when so many people in society aren't given criminal convictions for much more serious offences in the community, than just being in an area difficult to determine even with a GPS. Those people convicted under the draconian green zone legislation are not criminals, but they received criminal convictions that have ruined their lives in many ways, not the least of which includes stigma and inability to now gain a passport/visa and insurance, and probably many other unnecessary imposts.

I have always thought that the Australian Labor Party was the party for the battler and a fair go, but I will be more than disappointed if the ALP Members of Parliament and Senate do not live up to that standard. I therefore urge you give proper justice to those convicted anglers and vote to remove their convictions, and also to vote against the proposed amendments to the definition of fishing.

Most thinking anglers support responsible protection of the marine environment, however you may or may not be surprised to know, that most anglers have little respect for, or trust in the GBRMPA because of its past actions and behaviour, and any further out of proportion power given to the Authority would not be welcomed. The previous Federal Government boomed by giving so much power to the GBRMPA when the GBR RAP was instrumented, so please do not make the same mistake.

Yours faithfully
Donald Andrew Porter
7 September 2008