

5<sup>th</sup> of September 2008

Senator McEwen Chair

Senate Standing Committee, on Environment, Communication and the Arts

Dear Senator McEwen,

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

I am married and a new father to my son Rohan Mendis who has just turned one in August. I work as an Assistant Queensland manager of Edwards Solar Hot Water. I believe that as I grew up on Coochiemudlo Island in Southern Moreton Bay and enjoyed and loved fishing and crabbing in such a wonderfully diverse and beautiful environment, so too should my son when he is old enough to make his first adventure onto the water in search of a life time of enjoyment fishing and enjoying the soul cleansing environment that is the "Bay".

For the last three years I and my wife have made the annual pilgrimage towing our boat to the Whitsundays to enjoy the fishing and beautiful surrounds that this wonderful area has to offer the recreational boatie. Of course as these laws that were brought in to protect the Great Barrier Reef now state there are many areas that we have not been able to access. These laws are not based on proper science but on the want of the Green movement and the subsequent Liberal Government and now the Labor Government that I have supported for all of my life, to simply lock away these areas so that we as recreational boaties and fisherman will never be able to venture into. Simply locking away certain parts of the Marine Park does not mean that they will be persevered. To preserve something means that it is being saved for future generations such as my son to be opened up in the future for them. I would bet on my life that the government will never want to open these areas up now that they are locked away. The first time that I set sail in the Whitsundays was a confusing and worrying time as I had equipped myself with a zoning map and a chart of the area to make sure that I didn't become one of the many boaties that now have a conviction because they were caught travelling or stopping in a so called "Green Zone".

Travelling around this wonderful place I soon realized that my wife and I would not get to visit some of the better areas in this beautiful place as I didn't want to become the next person to be convicted for simply wanting to enjoy my country. This is the whole point, who says that I can not access my country and why? Why has the government simply allowed a very small minority of people that don't go boating or fishing to stop the large majority of people that do for some unscientifically backed reason? To say that if no one goes to certain areas that the environment will be forever pristine is just a stupid and uninformed way of thinking.

I get away from what I started talking about at the start of my statement. My son will now never be able to see the whole Great Barrier Reef Marine Park because of some people who just simply don't want him to see and enjoy it. This will only get worse because of the proposed amendments to the Bill that you are now chairing. Even more still when my son is old enough to take his sons or daughters to the same places he will face the probability of being fined and convicted for doing this. What an utterly stupid and ill conceived idea this bill really is when a person is fined and convicted for taking part in a pastime that is uniquely Australian and has been for most of our history.

Please don't get me wrong and think that I am not about conserving and protecting the environment as this is absolutely not the case. I most certainly do care for the environment in which I spend my spare time. Fishing and Boating is my life away from work, and to have this taken away from me and of course the option of my son is to take my heart. I love nothing more than to hook the boat up and head of to my favourite fishing spot to wet a line. Now if I don't catch a fish that is not a problem because I enjoy just being out on the water and catching a fish is a bonus. Fishing and boating is a big part of a community that is based next to any expanse of water. A lot of people's livelihoods rely on people like myself and my fellow boaties doing what I have just described. Laws such as these being proposed will ruin all of these people's lives, is that what you and your fellow committee members want?

### **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.

The memorandum:

67. The proposed new offence provisions includes strict liability elements, such that a prosecutor will not have to show (where relevant to the offence in question) that the accused knew or was reckless as to the fact that an action is taken in the Marine Park or that an action is taken outside of the Marine Park but in the Australian jurisdiction. The use of strict liability in this way is proposed having considered the Senate Scrutiny of Bills Committee *Sixth*

*Report of 2002: Application of Absolute and Strict Liability Offences in Commonwealth Legislation*, as well as the *Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers*, issued by authority of the Minister for Justice and Customs. Having regard to these documents, strict liability is established as it:

- ensures the integrity of the regulatory regime applying to the Great Barrier Reef;
- overcomes problems of proof that would otherwise make the regulatory regime particularly difficult to enforce;
- overcomes a “knowledge of the law” problem; and
- goes, in part, to a jurisdictional element of the relevant offences.

This amendment 9 SubSection 3(1)23 is a very bad piece of legislation as it gives unprecedented powers to the people that enforce the laws. I cannot and will not ever support any of the proposed amendments and never voted for anyone to allow such laws to be passed.

Here is a prime example of what could happen to someone like myself. I and my wife and son are out on the waters of the Whitsundays we have been fishing in the correct zones and decide to stop at a secluded beach for lunch. Too get to such a spot safely as the weather has turned nasty, we need to cross a “green zone”. As we enter this so called zone which is never signed anything remotely like it should be, we are pulled over by the marine park authority. They look in the ice box and find legal size fish and automatically fine me and my wife and child for fishing and being in a “Green Zone” no matter how much I explain to them that the fish were caught in the correct zone they don’t listen. They also see that rods have rigs (sinkers and hooks) attached which is rods and reels are for and this reinforces this state of mind. I and my family have now had our holiday ruined and go to court and are convicted without the prosecutor having to prove that we were fishing in the green zone. We are now not able to access insurance and gain a visa to certain countries because of our individual convictions.

What do you think about this scenario? This is not a scenario this is what happens everyday in the Great Barrier Reef Marine Park. The people that live in the GBRMP in central and northern Queensland rely on families such as ours making our annual trip to such areas. If people are not going boating and fishing to the areas these communities will be severely affected as they depend on families such as ours.

The terms of Fishing mentioned might as well say that boats not go out at all as the meanings combined say that having a boat on the water just at the boat ramp means you will be fined and convicted. This is just another way of making it so difficult that the ordinary law abiding citizen of our country will just throw his hands up in the air and say that it is just not worth it for the consequences.

In closing my submission I would like to appeal to you and your fellow committee members conscience and duty as a senator in our democratic society to not allow this bill to proceed and strike it out. It is your duty as the senators of the relevant committee to listen to the real evidence and not the hearsay. You are elected to make the correct decisions based on the right evidence and I implore on all of you to do this. I can be contacted and would welcome a call from all or any of you in relation to this very important matter. My contact details are as

follows, Mobiles 0407 576 049 and 0421 097 025 or my home number of 07 3245 6633.  
Please call anytime to discuss the very, very important matter further.

Regards,

Karl Mendis