



Australian Government

Department of the Environment, Water, Heritage and the Arts

The Secretary
Senate Standing Committee on Environment, Communications and the Arts
Department of the Senate
Via email: eca.sen@aph.gov.au.

Inquiry into the provisions of the Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008 – additional information

The following forms an addendum to the submission to the above inquiry from the Department of the Environment, Water, Heritage and the Arts and the Great Barrier Reef Marine Park Authority.

The addendum provides further clarification regarding the definition of “fishing” proposed by the Bill and additional information on prosecutions for recreational fishing offences.

Definition of “Fishing”

To be charged for fishing in a prohibited area in the Great Barrier Reef Marine Park, a breach of the *Great Barrier Reef Marine Park Zoning Plan 2003* (Zoning Plan) must be established in the first instance. The definition of fishing in the *Great Barrier Reef Marine Park Act 1975* (GBRMP Act), as proposed to be amended, does not determine what is and is not a breach of the Zoning Plan and therefore an offence. This is determined exclusively by the definition of “fishing” in the Zoning Plan (which is not proposed to be amended) and through application of *Criminal Code* provisions relating to attempted offences.

The Zoning Plan regulates use of the various zones of the Marine Park. This includes restrictions on “fishing and collecting” in certain zones. The Zoning Plan defines “fishing and collecting” as “taking a plant, animal or marine product”.

The GBRMP Act in its current form, and also as proposed to be amended, makes it an offence to engage in conduct that is prohibited under the Zoning Plan.

The *Criminal Code* Part 2.4 provides that “attempting” to commit an offence can itself be an offence. In this respect, the *Criminal Code* notes that, for a person to be guilty of attempting to commit an offence, “the conduct must be more than merely preparatory to the commission of the offence”, and that whether or not this is the case is a matter of fact. It is for the prosecution to establish beyond reasonable doubt that a person attempted to commit an offence. At this point, the definition of fishing in the Act (as proposed to be amended) does not come into play. An offence will have been committed if:

- a person engages in conduct that is “fishing” (within the meaning of the Zoning Plan), in a zone where it is prohibited; or
- a person attempts (as provided for by Part 2.4 of the *Criminal Code*) to engage in “fishing” (within the meaning of the Zoning Plan) in zones closed to fishing.

In the case of only circumstantial evidence, the court is required to draw the inference most favourable to the accused.

This would be an offence of engaging (or attempting to engage) in “prohibited” conduct (Bill Schedule 6, Item 24, 38BA).

It is only once a breach of the Zoning Plan has been established, that the definition of fishing in the Act and Bill, as proposed, is used in the classification of offences for the purposes of determining potential penalties. That is, the prosecution can seek to classify the conduct constituting the offence as “fishing” using a “commercial fishing vessel”. Here, the definitions of “fishing” and “commercial fishing vessel” in the Bill are applied. If these additional elements are proven beyond reasonable doubt, a person can be convicted of an “aggravated offence” (Bill Schedule 6, Item 24, 38GA). If it is not proven, the person is convicted of the “base” offence of engaging (or attempting to engage) in “prohibited” conduct (Bill Schedule 6, Item 24, 38BA).

In other words, the purpose of defining “fishing” in the Act, and reason for its scope, is to classify an offence as “aggravated” only once a breach of the Zoning Plan has already been established.

The definition of “fishing” in the Act does not extend, modify or qualify what can be considered “fishing” for the purposes of determining whether a person has engaged in, or attempted to engage in, conduct that is prohibited under the Zoning Plan. Only the definition in the Zoning Plan and application of the *Criminal Code* are relevant in this context.

In summary, the Bill includes a definition of “fishing” carried over from the current GBRMP Act, with only one change - “processing, carrying or transshipping of fish that have been taken” has been removed from the definition. The definition in the Act and the Bill as proposed is used in the classification of offences for the purposes of determining potential penalties. The offence currently is, and under the Bill would continue to be, determined by the definition of fishing as described in the Zoning Plan and the application of the *Criminal Code*.

Recreational Fishing Convictions

Attached is a summary of the facts and sentencing remarks of all persons prosecuted for recreational fishing offences committed in the period 1 July 2004 to 16 December 2006. The summary is a “Comparative Sentencing Schedule” prepared and maintained by the Commonwealth Director of Public Prosecutions (CDPP). It is provided to Magistrates and defendants by the CDPP in the context of a prosecution. Its purpose is to facilitate consistent sentencing by providing Magistrates with information on the penalties imposed in cases of similar circumstance. It is also provided to defendants in the interests of procedural fairness.

Yours sincerely,

Mike Callaghan
Deputy Secretary

s38CA GREAT BARRIER REEF MARINE PARK ACT 1975 – RECREATIONAL FISHERMEN
Offences committed 1 July 2004 to Current

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Bowen MC Mr Proctor 15 July 2005	Guilty (All) (Exparte)	Marine National Park Zone Unnamed Reef 19-066, aka Kangaroo Reef	<p>Facts: The defendants were fishing within an area not permitted under the zoning plan. Each defendant was a part owner of the vessel Upon Coastwatch spotting the defendants' vessel defendants took turns in attempting to cover the registration symbols by holding large plastic containers over the sides of the vessel. Further, on the last overhead approach made by the Coastwatch plane, the vessel was manoeuvred head on to the plane further frustrating attempts to observe the registration symbols.</p> <p>Remarks: Magistrate noted: early plea, no priors, co-operation with authorities and participation in interview, conduct in covering boat's registration numbers, that the prohibited areas are well publicised, that the conduct is difficult to detect, and that the penalties imposed must act as a deterrent.</p> <p>The defendant did not appear as she was hospitalised. She wrote to the Court confirming her guilty plea. Magistrate noted: early plea, no priors, co-operation with authorities and participation in interview, conduct in covering boat's registration numbers, that the prohibited areas are well publicised, that the conduct is difficult to detect, and that the penalties imposed must act as a deterrent.</p> <p>Magistrate noted: early plea, no priors, co-operation with authorities and participation in interview, conduct in covering boats registration numbers, that the prohibited areas are well publicised, that the conduct is difficult to detect, and that the penalties imposed must act as a deterrent.</p> <p>Magistrate noted: early plea, no priors, co-operation with authorities and participation in interview, conduct in covering boats registration numbers, that the prohibited areas are well publicised, that the conduct is difficult to detect, and that the penalties imposed must act as a deterrent.</p>	<p>Convicted Fined \$1,500; court costs \$64.30</p> <p>Convicted Fined \$1,000; court costs \$64.30</p> <p>Convicted Fined \$1,500; court costs \$64.30</p> <p>Convicted Fined \$1,500; court costs \$64.30</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Dwyer 10 August 2005	Guilty	Marine National Park Zone Green Island	<p>Facts: On 30 December 2004, a QPWS officer observed a small vessel on the North Western side of Green Island approximately 2 km inside the Marine National Park zone. The officer observed the defendant using a hand reel with the fishing line from this running into the water. The defendant admitted that he was both the master and the owner of the vessel. The defendant confirmed 5 fish had been caught at that location.</p> <p>Remarks: The defendant submitted that he had only been a resident of Cairns for 9 months at the time of the offence. He had purchased the vessel in November and it was only the second time he had been on the vessel when he was apprehended. The defendant further submitted that he only had a depth sounder, he didn't read his zoning map and that he didn't try to evade the ranger because he did not think he was doing anything wrong. He submitted that it was a poor day and that he could not see Green Island - the Court rejected this submission on the basis that the ranger was able to sight the defendant from the Island. The Court stated that it is encumbered on any new vessel owner to make enquiries as to where it is permissible to fish. The Court agreed with Magistrate Bradshaw's opinion in the prosecution on 22 April 2003 that fines should begin at \$2,000.</p>	<p>Convicted</p> <p>Fined \$2000</p> <p>Court costs \$64.30</p>
Innisfail MC Mr McFadden 23 August 2005	Ex-parte	Marine National Park Zone Barnard Group of Islands	<p>Facts: On 4 October 2004, Marine Park Rangers were performing a patrol in the waters surrounding the Barnard Group of Islands. At approximately 10:54am, the Rangers detected a vessel at anchor between Stephens Island and Sisters Island, which is inside a Marine National Park zone, also referred to as a "green zone". The Great Barrier Reef Marine Park zoning plan does not permit fishing inside these zones. The Rangers observed three persons on board the vessel, two adults and one child, who all appeared to have fishing lines leading into the water. One of those persons was later identified as the defendant. As the Rangers approached the vessel, they observed the persons on board retrieve the fishing lines from the water, each of which had bait attached. A series of photographs of the fishing vessel and the persons on board in the process of fishing were taken by a Ranger on board the patrol vessel. The Marine Park Rangers tied the patrol vessel to the vessel and noted the vessel's registration number. The GPS co-ordinates of the vessel were recorded as 17°44.469' 146°09.524', placing the vessel approximately 1175m within the green zone.</p>	<p>Convicted</p> <p>Fined \$1,500</p> <p>Court costs \$64.30.</p>

Court Coram Date	Plea / Ex-parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Mr Black 7 September 2005	Ex parte	Marine National Park Zone Western side of Night Island	Facts: The prawn trawler X was observed anchored on the western side of Night Island 530 metres inside a National Park "Green" Zone. Defendant was tending fishing line in the water. The defendant had zoning charter sand GPS but was unaware he was in a green zone. At interview he admitted that he has been a fisherman for 18 years, holds a qualification of unrestricted coxswain, master fisherman's licence and radio operators certification, the vessel is jointly owned by himself and his wife, he has 2 x GPS units on board and he has operated in the Marine Park for 17 years and was trying to catch some Mackerel fish to take home for his sons. Remarks: Defendant did not appear and no correspondence on file. Complaint and facts served by post and matter proceeded ex-parte. No prior criminal history alleged.	Convicted Fined \$2,000, plus \$64.30 court costs
Townsville MC Mr Nunan 12 September 2005	Guilty Guilty	Marine National Park Zone Butterfly Bay	Facts: The defendants were observed by Queensland Boating and Fisheries Officers in the process of fishing in the Marine Park zone at Butterfly Bay. The defendant was observed to be sitting on the deck rigging up his fishing rod with a hook and sinker. Officers boarded the vessel and observed him to be baiting his rod. The defendant was observed by QB&FP Officers to be holding and casting a fishing rod in the Marine National Park at Butterfly Bay. Officers boarded the vessel and observed a handline on the deck with its line going into the water. The defendant stated that the handline was his. Officers also observed a copy of the '100 Magic Miles, seventh edition' and a Marine Park Zoning chart on board. A GPS reading was taken which indicated that the vessel was located at 20°04.521'S, 148°55.420'E. Remarks: Magistrate took into account comparative schedule and ordered a conviction to be recorded. Magistrate also took into account the defendant's early plea of guilty and his co-operation with authorities. Magistrate commented that an effort should be made to check if fishing in a correct zone and if unsure, do not fish.	Convicted Fined \$850 Convicted Fined \$850
Rockhampton MC Ms Springer 13 September 2005	Guilty Guilty	Marine National Park Zone Egg Rock	Facts: The defendants negligently used a Marine National Park (green) Zone located at Egg Rock within the Keppel Bay group of islands area for the purpose of fishing. Remarks Court took into account defendant's plea, co-operation, lack of previous criminal history, youthful offender who knew of the green zones but read the map incorrectly and the fact that he moved as soon as he knew he was in the wrong area. Reef is a precious resource and defendant had no dishonest intention. Remarks Trivial example of a serious offence. Fine appropriate. S.19B not appropriate - penalty increased recently by Parliament.	Convicted Fined \$700 Convicted Fined \$650

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Ingham MC Mr Smith 16 September 2005	Ex-Parte Plea Guilty	Marine National Park Zone (green zone) Hinchinbrook Island	<p>Facts: Queensland Parks and Wildlife rangers observed a small inflatable anchored in a Marine National Park zone, approximately 400m north of Zoe Bay on Hinchinbrook Island. The defendant was the only person on board the vessel. The rangers observed 2 fishing lines extending into the water, with the defendant retrieving one of those lines whilst also holding the other. The rangers determined that the vessel was situated approximately 340m from the nearest edge of the Marine National Park zone. During a conversation with the rangers, the defendant stated that he was aware of the new zoning plan and of the restrictions in a green zone. The defendant had a zoning map which was located on the primary vessel however he stated that he thought it was ok to fish where he was anchored</p> <p>Remarks: The defendant wrote to the Court pleading guilty to the charge and stating that he did not realise he was in a green zone at the time and that his conduct was not intentional. He stated that he had only been fishing for a short time and had not caught any fish. The defendant also asked the Court to consider not recording a conviction in these circumstances. The Magistrate took into account the defendant's early plea of guilty and his co-operation with authorities. The Magistrate considered relevant comparative cases and stated that the offence is negligently based and therefore required no intentional element. He suggested that the defendant should have made a greater effort to ensure he was fishing in a permitted zone and that this offence is a serious one and there should be deterrence.</p>	Convicted Fined \$1000. Court costs \$64.30.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 19 September 2005	Guilty Guilty	Marine National Park Zone Whitsundays	<p>Facts: Queensland Boating and Fisheries Patrol officers were conducting a routine patrol of the Whitsunday Island group when they observed two persons on board a recreational fishing vessel at anchor within the Marine National Park at the northern end of Pine Island. Both persons were observed to be fishing with fishing rods. GPS readings indicated the vessel to be located approximately 250 meters within the Marine National Park zone. Defendant participated in two interviews and admitted that he was "definitely" aware of the Marine Park zoning in the Whitsunday area and that it was very clear that fishing could not be undertaken in that area. He stated that he had looked at the zoning map on board the vessel but had got the islands mixed up. He further confirmed that he had been working in the boating industry around the Great Barrier Reef Marine park for about 4 years.</p> <p>Remarks: Magistrate noted that the Great Barrier Reef was part of Australia's heritage and required protection. In considering the penalty to be imposed the Magistrate took into account that the defendant's actions were negligent rather than intentional.</p> <p>Remarks): Defendant noted he was currently the nominee for a license with respect to new premises. It was expected he would be required to make declarations in support of the licence which required disclosure of criminal convictions. Defence argued that being the subject of a conviction would prevent the defendant obtaining other similar licences in the future. Prosecution submitted that the Court in Abdi held that future consideration of the defendant's character should be for the relevant body to determine for themselves. Magistrate noted he had imposed a fine and conviction in dealing with the co-defendant and it would hardly seem fair not to impose the same here given the offending arose from the same circumstances.</p>	Both Convicted Both Fined \$850. Court Costs \$64.30 - Both.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 19 September 2005	Guilty Guilty	Marine National Park Zone Whitsundays	<p>Facts: Queensland Boating and Fisheries Patrol officers were conducting a routine patrol of the Whitsunday Island group when they observed three persons on board a recreational fishing vessel. Two of those persons were observed hauling in fishing lines. GPS readings indicated the vessel to be located approximately 810 meters within the Marine National Park zone.</p> <p>The defendant participated in two interviews and admitted that he was fishing, that he did not refer to the charts and a GPS was on board the boat and that he participated in the registration and input phase surrounding the legislative changes to the Great Barrier Reef Marine Park Authority which was recently implemented.</p> <p>Remarks: In mitigation the defendant claimed that while he was a recreational fisherman, he was not local to the Whitsunday Island area and in fact thought they were at a different location and not in a green zone. In considering the penalty to be imposed the Magistrate noted that the defendant confirmed that he had looked at the relevant zoning map the day before and that given he was out of the usual area where he would fish, he should have taken upon himself to be certain of where he was and what activities he could do there. The Magistrate also took into consideration that the defendant had not caught any fish and that he had not intentionally sought to fish at that location.</p> <p>Remarks: In mitigation the defendant claimed that the reason for his being in the location in question was as a result of him relying on the advice of the co-defendant. The Magistrate noted that as the master of the vessel it was his responsibility to be certain of the vessel's whereabouts and the conduct of those on board. Further, the defendant had recourse to the GPS and charts onboard the vessel at the time.</p>	Convicted - Both Fined \$1,000. - Both Court costs \$64.30 - Both.
Mackay MC Mr Risson 19 September 2005	Guilty	Marine National Park Zone Pine Island (green zone)	<p>Facts: Queensland Boating and Fisheries Patrol officers were patrolling the waters near the Whitsunday Island group when they observed the defendant onboard a recreational fishing vessel close to the shore off Pine Island. Officers also observed a fishing line leading into the water and later discovered two baited handlines on the deck of the vessel.</p> <p>The defendant participated in an interview and admitted that there was a handline in the water for the purpose of fishing, he had not checked the maps or GPS onboard the vessel and that he didn't think he was in a green zone.</p> <p>Remarks: The defendant claimed that despite stating in his Record of Interview with Queensland Boating and Fisheries Patrol officers that there were maps onboard the vessel he later discovered that there were in fact no maps onboard. The Magistrate noted that the defendant was responsible for ensuring he was not fishing in a green zone and he could have utilised the GPS onboard to do this.</p>	Convicted Fined \$1,000. Court costs \$64.30.
Townsville MC	Guilty	Marine Park Conservation	Facts: On 6 October 2004, the defendants were observed spear fishing within a Conservation Park zone, otherwise known as a yellow zone, at Double Cone Island, north east of Airlie beach. The zoning	Both sentenced pursuant to s19B. Released without

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Ms Tonkin 3 October 2005	Guilty	Zone Double Cone Island	<p>plan generally permits fishing including spear fishing in yellow zones. However, spear fishing is not permitted in yellow zones that are also designated as a part of the Whitsunday Public Appreciation Special Management Area. The yellow zone at Double Cone Island is within the Whitsunday Public Appreciation Special Management Area. The defendants were detected within the yellow zone by a charter vessel and were filmed using a hand held camera. The footage depicted both defendants' snorkelling and retrieving one speared fish (coral trout). The defendant made full admissions and stated among other things that he was aware that their location was in a yellow zone, that he owned the vessel observed in a yellow zone, that he thought spearing in a yellow zone was acceptable under the new zoning plan changes, that he was not aware of the existence of public appreciation areas before the incident and that it was his first time to Double Cone Island. The defendant made full admissions and stated among other things that he and co-defendant had obtained zoning maps for the area, that he believed they were permitted to spear in the yellow zones in the Whitsunday area, that he did not notice that there were differences between the yellow zones in the Whitsunday area and the yellow zones in the Townsville area where they usually spear fished and that he had never spear fished in the Whitsunday area of the Great Barrier Reef prior to this occasion.</p> <p>Remarks:The defendant made an application pursuant to s19B. The defendant held an environmental science degree and worked in the USA as a dive guide and underwater camera operator.</p> <p>Remarks: The defendant made an application pursuant to s19B that no conviction be recorded. The defendant held a Bachelor of Science degree and was an ergonomist working in vegetation management with Ergon. He had applied for a job with AUSTRADE overseas.</p> <p>The Magistrate stated that the Commonwealth sentencing regime is a strict one. Her Honour took into account references submitted by the defendants and the fact that they would suffer significant disadvantage if a conviction were recorded when working overseas. Her Honour referred to the request by defence Counsel to take judicial notice of the current political climate and the recent publicised cases of persons being refused entry to the USA for work purposes. The Magistrate noted that the penalty for these types of offences had increased to \$220,000 and that the legislation was designed to protect the Great Barrier Reef. Her Honour stated that the defendants were highly qualified in their fields and that they had significant experience and were familiar with the requirements of zoning in the Townsville region and to a lesser extent in the Whitsunday region. Her Honour referred to the fact that the defendants did equip themselves with a zoning map relating to the particular area. Her Honour noted that there was only 1 case on the comparatives schedule where a s19B Order had been made and stated that this shows that the Court takes a serious view of offending under this legislation. Her Honour stated</p>	proceeding to conviction upon Recog of \$2,000, to be of G/B for 3 years. Court costs \$64.30.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
			<p>that she had taken into account the deterrent effect of any sentence when assessing the matter. Her Honour stated that the apprehension of these particular defendants would have sufficient deterrent effect in their particular cases. Her Honour distinguished the case from the present facts and said that the defendant involved a significant dishonesty in a migration matter and should therefore not be applied. Her Honour stated that the Court will seldom be persuaded that offending of this nature should attract a s19B Order and that it was unusual for such factors as antecedents to warrant that consequence. Her Honour stated that the Court will seldom be persuaded that there are extenuating circumstances and not every case involving a mistake in relation to the interpretation of zoning maps will mean that a defendant will be given the benefit of a s19B discharge. Her Honour stated that in these unusual and rare circumstances she was satisfied that it was inexpedient to inflict anything other than nominal punishment.</p>	

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Townsville MC Ms Tonkin 3 October 2005	Guilty Guilty	Marine National Park Zone North Zoe Bay Headland	<p>Facts: On 15 May 2005 the defendants were detected by Queensland Parks and Wildlife officers at anchor near North Zoe Bay Headland inside a zone which does not permit fishing. The defendants were observed to be holding rods and in the process of retrieving lines from the water. The defendant was observed to place a rod in a rod holder and co-defendant place a rod on the floor of the vessel. The defendants were detected 230m inside the boundary of the zone. The defendants participated in an interview and admitted that they were at their location to have some lunch, that they had only stopped for two minutes before officers arrived, that it was his first time in the area, that he was a passenger on the vessel, that there was a rod in the rod holder, that the bait was touching the water, that he wasn't aware that he was in a marine national park zone, that there were no maps onboard the vessel as they had left them at home and that they had tried to obtain a zoning map the day before but the two places they went to did not have any available.</p> <p>Remarks: Her Honour took into account early pleas of guilty and fact that defendants travelled from Mackay to attend Court. Magistrate noted that the defendants were going on a 7 day fishing trip, that they had zoning maps at home but forgot to take them, that whilst they tried to obtain maps by visiting two stores they did not try very hard because after they were caught by authorities they took steps to obtain them, that they did not have a GPS installed on the vessel and that they were experienced fisherman. Magistrate therefore said that they went out fishing unprepared and did not care or concern themselves about zones. Magistrate noted that it is complex legislation and that only 5% of the reef is a green zone which is not a large area. Her Honour stated that the legislation underpins scientific research to ensure a world heritage asset is preserved. Magistrate noted that it takes up to 30 years for some fish to reach maturity and damage can be caused in 1 hour of fishing. Magistrate stated that it was almost irrelevant that the defendants had not caught a fish and that it was a good thing that the fish were left in peace. Her Honour stated that in many ways the number of fish caught doesn't make much of a difference to the behaviour involved in the offence. Magistrate took into account fact that defendants were normally law abiding citizens and that they had incurred the cost of taking time off work and the worry about what would happen to them. Her honour also had regard to the comparatives schedule.</p>	Convicted - both Fined \$1,000 - both Court costs \$64.30 - both

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Moranbah MC Mr Kennedy 6 October 2005	Guilty	Marine National Park Zone North Zoe Bay Headland	Facts: Queensland Park and Wildlife ranger located the defendant in Marine National Park near North Zoe Bay Headland. He was handline fishing but told them he was not aware it was a prohibited area. Did not catch any fish and had only been in the area a couple of minutes. Remarks: ---	Convicted Fined \$200
Mackay MC Mr Risson 17 October 2005	Guilty	Marine National Park Zone Armit Island, Whitsundays	Facts: Queensland Boating and Fisheries Patrol officers located the recreational vessel in Marine National Park Zone fishing. The vessel was 1100 metres inside zone. The defendant had handline fished and spear fished in the area. This defendant had caught three fish. They had forgotten to take their charts with them on day. Remarks: Took account of early plea but he was negligent as he had failed to take necessary charts.	Convicted Fined \$1000 Court costs \$64.30
Mackay MC Mr Risson 17 October 2005	Guilty	Marine National Park Zone Newry Islands	Facts: Queensland Boating and Fisheries Patrol officers located defendant in Marine National Park area near Newry islands. He was handline fishing but told them he was not aware it was a prohibited zone. Did not realise it was a prohibited area. Did not catch any fish and had only been in area for a couple of minutes. Remarks: Had children on board and stopped for lunch in calm area. Did not realise it was a Marine National Park zone. First time used boat and had not been in area before. Has now obtained all maps of area. Remorseful.	Convicted Fined \$900

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Mr Kluck 26 October 2005	Guilty	Marine National Park Zone Barnard Group of Islands	<p>Facts: At about 10.30am on 25 March 2005 Marine Park Rangers noticed a small boat moving between Sister and Stephens Islands in the Marine National Park. The Rangers observed the defendant as sole occupant onboard a small dinghy with a 9.9hp outboard. The defendant was tending to a fishing line leading into the water whilst trolling. Rangers noted GPS co-ordinates latitude 17° 44.554 S, longitude 146° 09.824 E, approximately 480 metres within the Zone. The Ranger then noticed the defendant retrieve his fishing line. He observed a fishing lure fitted to the end of the line.</p> <p>When asked by the Rangers to mark a Zoning Map where he believed he was, the defendant did so. He had not caught anything.</p> <p>Remarks: Defendant submitted he usually fishes around the creek area, but on this day went out to sea as it was clear and calm. The defendant was aware of such zones, but did not know the 'green zones' extended to coastal areas. Defence argued it was an honest mistake, and he had now taken steps to make sure he was informed of permitted zones. The defendant made an application to have no conviction recorded under section 19B, which was resisted by the prosecution.</p> <p>The Court noted the defendant had no GPS in his vessel, was found 480 metres inside the 'green' zone, and was able to plot his position on a map when asked by the Rangers. The Court took into account the early guilty plea, no criminal history, and the defendant's good character. However, the Court also noted the ten-fold increase in maximum fine for such offences and that in the present case a section 19B order would not be appropriate, and there was nothing to show that a conviction would effect the defendant's employment. The defendant should have taken maps with him on the day, and it is the public's duty to inform themselves of the relevant zones.</p>	Convicted Fined \$800; \$64.30 court costs

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Innisfail MC Mr Morgan 1 November 2005	Guilty	Marine National Park Zone Beaver Reef	<p>Facts: At about 3.37pm on 8 October 2005 Coastwatch observed a recreational vessel, in the area of Beaver Reef, east of Mission Beach in the Marine National Park. Coastwatch observed a number of fishing lines trailing in the water. Six persons were identified on the vessel, one of which was later identified as the defendant. Coastwatch recorded the GPS co-ordinates latitude 17° 50.22'S, longitude 146° 27.66'E, approximately 1750 metres within the Zone. When interviewed, the defendant admitted he had been using vessels in the area for 20 years, he had tagged and returned a fish to the water earlier, and the passengers present on the day took turns fishing.</p> <p>Remarks: In mitigation defence submitted the offence occurred around 3 months after the new zones had been introduced to the Reef and that an 'amnesty' was in place during this period. The defence tendered a letter from GBRMPA (Exhibit 2) and a Transcript from ABC Townsville containing comments from Senator Ian Campbell (Exhibit 3) in support of the 'amnesty' period. The defendant had not had time to update the software on his GPS tracker nor had received maps about the new zoning requirements. The defendant was an upstanding member of the community through business and social ties, and had previously rescued two people from drowning. He had co-operated with Fisheries in the past and would assist with their scientific studies through tagging fish he had caught. The circumstances were such that he had accidentally strayed into the 'green zone', and the purpose of the trip was not predominantly fishing. Defence further submitted that a conviction would be unduly harsh in the circumstances, yet a fine would be appropriate. Prosecution resisted both a section 19B application and rejected suggestions that an 'amnesty' was in place when the offence occurred. The Court found it hard to comprehend why the maximum fine had increased ten-fold in 2001, yet most fines imposed were only approximately 1% of the maximum fine. Having considered the comparatives, His Honour found that previous decisions in the Magistrates Court had failed to take into account the legislative intention of the increase in the maximum fine. The Court noted the defendant should be given credit for his good character, no criminal history, co-operation with authorities, and an early guilty plea. The Court took into account the Comparative Schedule (Exhibit 1) range of \$800- \$2000, yet suggested an appropriate starting point should be \$5,000. Were it not for the sake of parity with earlier decisions the Court would have imposed a greater penalty. The Court started the fine at \$2,500 then applied a discount for mitigation. The circumstances of the offence to not militate against recording a conviction.</p>	Convicted Fined \$2,000. Costs \$64.30.

Court Coram Date	Plea / Ex-parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 21 November 2005	Guilty	Marine National Park Zone Acacia Island	Facts: On 26 March 2005 Queensland Water Police officers were conducting a routine patrol in the waters near Mackay. At about 11:20am they observed a recreational fishing vessel, at anchor within the Marine National Park zone in the vicinity of Acacia Island. The officers observed three people on board the vessel, two of these people were observed to be fishing using fishing rods. One of these people was later identified as the defendant. The Queensland Water Police officers boarded the vessel and took a GPS of 20°51.624'S, 148°55.896'E, approximately 340 metres within the Marine National Park zone. The defendant participated in an interview with the officers and made the following statements and admissions: It was only the second time that he had been fishing; He knew that there were zoning charts relating to fishing zones but had not looked at one because he did not consider himself a fisherman. Remarks: In mitigation defence stated that it was the second time the defendant had ever been fishing in his life; he was not local to the area; he was going along with a friend who was the navigator and who he believed knew what he was doing. The magistrate took into account the defendant's early plea. The magistrate also noted that while the importance of green zones is clearly acknowledged, this case is different in that the defendant was not an experienced fisherman and relied on the advice of another who was navigating the vessel.	Convicted Fined \$600 Court Costs \$64.30.
Mackay MC Mr Risson 21 November 2005	Guilty	Marine National Park Zone Acacia Island	Facts: On 26 March 2005 Queensland Water Police (QWPS) officers were conducting a routine patrol in the waters near Mackay. At about 11:20am they observed a recreational fishing vessel, at anchor within the Marine National Park zone in the vicinity of Acacia Island. The officers observed three people on board the vessel, two of these people were observed to be fishing. One of these people was later identified as the defendant. The QPWS officers boarded the vessel and took a GPS reading of 20°51.624'S, 148°55.896'E, approximately 340 metres within the Marine National Park zone. The defendant participated in an interview with the officers and made admissions. Remarks: The magistrate noted that the Great Barrier Reef is a valuable natural resource. Whilst the defendant's conduct may not have been deliberate, as master of the vessel he was required to satisfy himself that the information he relies on is reliable and correct.	Convicted Fined \$1,000 Court Costs \$64.30.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 21 November 2005	Guilty	Marine National Park Zone Feather Reef	<p>Facts: On 3 February 2005 Queensland Boating and Fisheries Patrol officers were conducting a routine patrol in the vicinity of Feather Reef. At approximately 1:20pm they observed a recreational fishing vessel, at anchor within the Marine National Park zone at the southern end of Feather Reef. The officers observed two persons on board the vessel. One of those persons was later identified as the defendant. An officer boarded the vessel and took a GPS reading of 17°33.234'S, 146°22.346'E, approximately 610 metres within the Marine National Park zone. The defendant participated in an interview with the officers and made admissions.</p> <p>Remarks: In mitigation, the defendant tendered a statement which included comments: "that as a visitor to the area, since the Marine Park Authority had taken the trouble to erect signage showing the restricted areas, I could reasonably assume that all restricted zones, which were reasonably accessible from the boat ramp, would be shown on that sign". The defendant further stated that there is ample room on the sign to redesign the map and show all proximal reefs, and that there was no warning on the sign that one should refer to another source for a complete plan. Colour photos of the signs were submitted by the defendant. The defendant also put forward that a conviction should not be recorded as he had to travel 1500km's and take 3 days off work in order to attend at Court for sentence and that this was punishment enough. Prosecution submitted that as the defendant intended to fish in an area not covered by the map, and the fact that the maps advise readers to contact QPWS for further information, he should have taken further steps to assure himself that he was allowed to fish in that area. Despite arguments to the contrary by the Prosecution, the Magistrate took into account the defendants efforts in attending Court and commented that there may be cause to update the maps currently on display. As such a more lenient penalty would be imposed.</p>	Convicted Fined \$300 Court costs \$64.30.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 21 November 2005	Guilty	Marine National Park Zone Armit Island, Whitsundays	<p>Facts: On 3 January 2005 Queensland Boating and Fisheries Patrol officers were conducting a routine patrol in the waters near the Whitsunday Island Group. At about 9:30am they observed a recreational fishing vessel, underway within the Marine National Park zone at the southern end of Armit Island. The officers observed two people on board the vessel. These people were later identified as the defendant and the co-defendant. Queensland Boating and Fisheries Patrol officers boarded the vessel and took a GPS reading of 20°06.467'S, 148°38.807'E, approximately 1,100 metres within the Marine National Park zone. Officers observed six fish onboard the vessel. The defendant participated in an interview and made the admissions.</p> <p>Remarks: The defendant's mother attended on his behalf and explained that the defendant now resides in Darwin in the Northern Territory and was unable to appear. The defendant's mother explained that at the time of the offending the defendant was visiting her in Mackay and was not familiar with the zoning. The magistrate took into account the defendant having held a Northern Territory Coxswains certificate for approximately five years.</p>	<p>Convicted</p> <p>Fined \$1000 In default 18 days imprisonment</p> <p>Court costs \$64.30</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Tully MC Mr Morgan 12 January 2006	Ex-parte plea Guilty Ex-parte plea Guilty Ex-parte plea Guilty Ex-parte plea Guilty	Marine National Park Zone Beaver Reef	<p>Facts: On 21 August 2005 Coastwatch officers conducting aerial surveillance observed a recreational vessel anchored within the vicinity of Beaver Reef. Coastwatch officers observed four persons on board. Coastwatch officers took photographs and determined the position of the vessel which was approximately 1800m inside the "green zone". The defendants participated in a formal record of interview and made full admissions. They stated that the defendant was the registered owner of the vessel, that they were aware that there were Marine Park Zones, that the vessel was fitted with a GPS, that they were not aware that they were in a "green zone" on the day in question, that they did not have any current maps or charts of the area, that they were on holidays and did not know the reef well, that they had not caught any fish in the area and were about to move on, that all 4 occupants were fishing, that when informed that they were in a green zone they left immediately and that they had fished in the area two years ago when they believed fishing in that area was permitted. Co-dendendants did not participate in an interview but when a Marine Park Inspector attended on them on 26 August 2005 they admitted that they were fishing at Beaver Reef on the day in question.</p> <p>Remarks: The defendant did not appear but a letter was received by the Court from one of the defendants, on behalf of all four defendants entering a plea of guilty. The matter proceeded ex parte and the Magistrate took into account the matters set out in the defendant's letter. In relation to sentence, the Magistrate took into account the question of deterrence and the difficulty in detection and enforcement of these types of offences and the nature and importance of the reef. He took into account the fact that the defendant was not the owner/ operator of the vessel on the day in question. He took into account the fact that the defendants had no maps but did have a GPS which it was not asserted was used on the day in question.</p>	Convicted and fined \$950 Convicted and fined \$950. Convicted and fined \$950 Convicted and fined \$1,100

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Mr Spencer 23 January 2006	Guilty Guilty	Marine National Park Zone Hastings Reef	<p>Facts: On 16 September 2005, two persons were sighted transiting through the Marine National Park identified as MNP - 16 - 1050, south-east of Hastings Reef, trolling two fishing lines. The vessel they were aboard was identified, white in colour.. The defendants were detected by a (GBRMPA) Field Operations Vessel which was in the area at the time. A passenger upon the vessel took photographs of the defendants on board vessel and the fishing gear in use. Both defendants were fishing with rods and reels. The defendants participated in formal interviews with a Great Barrier Reef Marine Park Investigator on the same day, during which they made statements and admissions, including:</p> <p>Defendant: he was aware that there is zoning within the Great Barrier Reef Marine Park; he believed that they were leaving Pixie Reef and going to Jorgensen Patches but "a little lack of navigational skills probably left us going a little too far"; and, he goes fishing about once a month together with co-defendant;</p> <p>Co-defendant: He is aware of the Great Barrier Reef zones and he owns maps including zoning charts, however these were not aboard the vessel on that day; his vessel is fitted with a GPS unit (Magellan GPS 310); he has owned vessel for approximately two and a half years and is a regular fisherman, doing so about once a month; on the day of the incident he had intended to fish at Jorgensen Patches and he stated that he usually doesn't "fish down this end"; he admitted that he had made an error and that he knew that this area was out of bounds.</p> <p>Remarks: The co-defendant made full admissions and took full responsibility for navigation on the day of the offence. In the defendants' defence, the defendant stated that the offending occurred due to being mistaken as to where they were at the time. The Magistrate took into account the defendants' early pleas, co-defendant taking full responsibility and defendant's minor responsibility for navigation, and co-defendants comments that the offending was a result of an error in his judgement of the location where they were fishing.</p>	<p>Convicted</p> <p>Fined \$400</p> <p>Convicted</p> <p>Fined \$850</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 23 January 2006	Guilty Guilty	Marine National Park Zone Edgell Rock offshore from Carlisle Island	<p>Facts: On Saturday 3 September 2005, officers from Queensland Boating and Fisheries Patrol Mackay were performing a vessel patrol of the waters in the area of Carlisle Island, north, north east of Mackay, off the coast of Queensland. At approximately 9:55am, the officers observed a recreational vessel anchored within the vicinity of Edgell Rock situated offshore from Carlisle Island. Queensland Boating and Fisheries officers observed a number of fishing lines in the water. The officers observed two people onboard the vessel. The Queensland Boating and Fisheries Patrol officers took a number of photographs and determined the position of the vessel to be it approximately 340m inside the Marine National Park zone, also referred to as a green zone. This zone is defined under the Great Barrier Reef Marine Park zoning plan and does not permit fishing. The defendants participated in formal interviews with the officers and made full admissions. Board stated that he was the registered owner of the vessel and the vessel was not fitted with a GPS unit, he was aware of the Great Barrier Reef zones, on the day of the incident he was not aware that he was in a green zone, it was his first time fishing offshore, after consulting their maps and charts they were mistaken as to their position and he had caught 3 fish within the area.</p> <p>Remarks (Defendant): Took into account early plea of guilty which is a continuation of the defendant's cooperation with the authority. Great Barrier Reef is an area of prime importance and is world heritage listed. Protection is extremely important and green zones are nominated within the Marine Park so that fish and other animal species and the environment are protected and not subject to the pressures of fishing. Accept that the defendant previously visited the area but that was 10 years ago and the situation has changed. Considerable importance of the area as proved by maximum fine \$220,000. Accept defendant was negligent and did not precisely determine where he was. Took into account that the defendant has no prior criminal history.</p> <p>Remarks (co-defendant): Took into account early plea of guilty which shows his continuing co-operation with authorities as he also by participated in an interview. The Great Barrier Reef is an area of great value which needs protection. Defendant was negligently fishing in a prohibited area. Took into account the fact that the defendant has no prior criminal history and is otherwise of good character.</p>	<p>Convicted</p> <p>Fined \$1,000, Costs \$64.30.</p> <p>Convicted</p> <p>Fined \$1000, costs \$64.30.</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 23 January 2006	Guilty Guilty	Marine National Park Zone Luncheon Bay, north of Hook Island	<p>Facts: On Thursday 4 August 2005, officers from Queensland Parks and Wildlife Services were performing a vessel patrol of the waters in the area of Hook Island, east of Bowen, off the coast of Queensland. At approximately 1:33pm, the officers observed a recreational, travelling slowly within the vicinity of Luncheon Bay, north of Hook Island. Queensland Parks and Wildlife Services officers observed a number of fishing lines in the water. The officers observed two people on board. Queensland Parks and Wildlife Services officers took photographs and determined the position of the vessel which was approximately 490m inside the "green zone." This zone is defined under the Great Barrier Reef Marine Park zoning plan and does not permit fishing. The defendant participated in a formal interview with the officers where he made full admission. He stated that he was aware of the Great Barrier Reef zones however on the day of the incident he was not aware he was within a green zone, he had relied upon the co-defendants navigation, it is the second time he has visited the area and he would not have been fishing in that location had he known it was a green zone. No fish were caught.</p> <p>Remarks: Take into account pleas of guilty at early opportunity which continues co-operation with authorities. This type of offence is serious when considering the maximum penalty of \$220,000. The Great Barrier Reef is a prime heritage area. It has an important environmental plan which includes zoning for protection of the reef and the creatures which inhabit the area. The defendant as master of the vessel and having the means at his disposal to ensure he did not fish in prohibited area was more culpable than co-defendant who was not as frequent a fisher person.</p>	<p>Convicted and fined \$1,500, Costs \$64.30.</p> <p>Convicted and fined \$1,000, costs \$64.30.</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Townsville MC Mr Smith 30 January 2006	Ex-parte plea Guilty	Marine National Park Zone Geoffrey Bay, Magnetic Island	<p>Facts: The defendant was observed by a Marine Park Officer fishing with his child off the rocks in the area of Geoffrey Bay, Magnetic Island. The Officer also observed a sign indicating the zoning around Magnetic Island located just behind where the defendant and his child were fishing. The defendant participated in an interview with the Officer and stated that he did see the sign however he could not distinguish which area was non-fishing and which was not. This was his second time on Magnetic Island and he was from Rockhampton. He also stated that he was not aware of the change in zoning in the Great Barrier Reef Marine Park from July 2004.</p> <p>Remarks: The defendant wrote to the Court pleading guilty to the charge and stating that he recalled the sign located at Geoffrey Bay that indicated the fishing zones surrounding Magnetic Island. He stated that he studied the sign with his in-laws and a friend and that they had all thought that fishing was allowed in the area. He asked that the following be taken into account with regards to penalty the Court would impose:</p> <ol style="list-style-type: none"> 1. He entered into an early plea of guilty; 2. He has no prior criminal history; 3. He was remorseful and embarrassed for his actions; and 4. That he co-operated fully with authorities. <p>He submitted that a criminal conviction not be recorded against him and that he had learnt his lesson. The Magistrate took into account his early plea; however he noted that in this circumstance the availability of the sign indicating the zones for fishing was actually an aggravating circumstance.</p>	Convicted (ex parte) Fined \$1,200

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Townsville MC Ms Tonkin 13 February 2006	Ex-parte plea Guilty	Marine National Park Zone between Cape Richards, Hinchinbrook Island and the Brooks Islands	<p>Facts: On Sunday 9 October 2005, the Ranger in Charge employed by Queensland Parks and Wildlife Service (QPWS) at Cardwell and his colleague approached a vessel that was underway between Cape Richards, Hinchinbrook Island and the Brooks Islands. This area is zoned a Marine National Park under the Great Barrier Reef Marine Park Act 1975. The rangers were onboard a Marine Park Vessel, Q.G. Tukula and observed a line extending from the stern of the yacht into the water. The rangers approached the yacht and further observed a male person identified as the defendant aboard. At this point the rangers introduced themselves to the defendant. The defendant was then asked a series of informal questions to which he made statements and admissions. That he was aware of the Marine Park zoning areas relevant to the area his vessel was situated. That he had zoning maps on board the vessel. That he had a GPS unit on board the vessel. That on the day he was not aware that he was fishing in a Green zone. He was aware of what you can do in Green and Yellow zones and supports the idea, but was travelling and did not look at the map. On Tuesday 8 November 2005, the defendant participated in a formal interview with QPWS Officers in which he made additional statements and admissions. He is the master of the vessel. On the day in question, he and his wife (a passenger on the vessel) had left from Dunk Island and were heading towards Cardwell. Both he and his wife were reading in the cockpit and forgot they had a line out the back. He did not know they were in a Green Zone until they were met by QPWS. The map he had on board the vessel was purchased when they had sailed to Townsville in 1996, and that map did not show the Green Zone.</p> <p>He stated that it was a lazy day and he was not thinking. He had not made efforts to get the new zoning map for the area prior to leaving. That on the day in question, he was in control of a hand line that was trolling and had not caught any fish. He was aware of the restrictions within a Marine National Park Zone or Green Zone. He had been sailing for 55 years and had sailed around the world one and a half times. He had not sailed around the Great Barrier Reef very much and that Sydney was his homeport. He had no excuse or problem that caused him to be at that location on that day. He stated that it was pure "forgetfulness".</p> <p>Remarks: The Magistrate had regard to the letter from the defendant. She stated that the fine should act as a deterrent to the defendant and others. She took into account Magistrate comments in the matter of Contempree (comparatives schedule) and said that there is a need for an increase in the penalties imposed for these types of offences. However, she said that unfortunately any penalty she imposes must have some parity with other sentences imposed. She stated that it was remarkable, given the increase in the maximum penalty in 2001, that the fines have stayed relatively the same. She said that whilst these types have offences have been described as a victimless crime, the reef is a precious resource and the reason for such legislation and zoning is to maintain the reef and ensure that it is not lost as it can never be restored.</p>	Convicted (ex parte) Fined \$2,000, costs \$65.40.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Townsville MC Ms Tonkin 13 February 2006	Ex-parte plea Guilty Ex-parte plea Guilty Ex-parte plea Guilty	Marine National Park Zone	<p>Facts: On Tuesday, 11 August 2005, Queensland Boating and Fishing Patrol (QBFP) officers located a vessel, at anchor within the Marine National Park zone in the vicinity of Wilson Shoal, west of Old Reef, off the coast of Queensland. QBFP officers observed four occupants onboard. Three of these persons were observed to be fishing, with two males holding handlines and a female holding a fishing rod. The GPS reading indicated that the vessel was located at 19°21.937'S, 147°57.024'E, approximately 3 kilometres within the Marine National Park zone. The defendant participated in a formal interview with a Great Barrier Reef Marine Park investigator on 3 October 2005, during which he made statements and admissions. He is a joint registered owner of the vessel and is a person depicted in the photographs holding a handline. He was the skipper of the vessel and it was his responsibility to navigate. There were fish on board but they were caught near Bowling Green Bay. He had a chart plotter and GPS unit on board the vessel, but didn't actually know where he was at the time QBFP officers came along. They only happened to be in the area as they were floating nearby a pod of whales, observing them and taking photos, before dropping anchor. He didn't think at the time that he was going into a green zone. He was aware of there being a green zone in the area, but wasn't aware that he was fishing in it. He is aware of the Great Barrier Reef zones and was carrying zoning charts on board his vessel. He has been using vessels for approximately 38 years.</p> <p>Remarks: Her Honour had regard to the letter from the defendant and took into account the matters raised in that letter. She stated that this type of offending is often committed by people of good character. She took into account the defendant's significant maritime experience and stated that having regard to the legislation and the fact that he was the master of the vessel she doubted that he would be able to avail himself of s.19B of the Crimes Act. She stated that the fine should act as a deterrent to the defendant and others. She took into account the comments made by Magistrate in the matter of Contempree (comparatives schedule) and said that there is a need for an increase in the penalties imposed. However, she stated that unfortunately any penalty she imposes must have some parity with other sentences.</p> <p>The Magistrate also had regard to the letters from the co-defendants and the pleas of guilty. She stated that as passengers they also have an obligation to ensure that they do not fish in a marine national park and they can not rely on the master alone. She stated that there was nothing placed before the court which warranted the use of the provisions of s.19B of the Crimes Act. She stated that the fine should act as a deterrent to the defendant and others. The Magistrate took into account the matters of the defendant (decision of SM 21/11/05) and Hubbard (decision of SM 09/11/05) and said that there was little on the facts that could distinguish this case.</p>	<p>Convicted</p> <p>Fined \$2,000, Costs \$65.40.</p> <p>Convicted</p> <p>Fined \$800, costs \$65.40.</p> <p>Convicted</p> <p>Fined \$800. Costs \$65.40.</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Proserpine MC Mr Muirhead 13 February 2006	Ex-parte plea Guilty	Marine National Park Zone Airlie Beach	<p>Facts: On 9 October 2005 Queensland Parks and Wildlife Service officers were conducting a routine patrol in the waters near Airlie Beach. At about 9:20am they observed a recreational fishing vessel, at anchor within the Marine National Park zone in the vicinity of South Molle Island. The officers observed three people on board the vessel, two of these people were observed to be fishing, using fishing rods. One of these people was later identified as the defendant. The Queensland Parks and Wildlife Service officers took a GPS reading whilst onboard the defendant's vessel. The reading indicated that the vessel was located at 20°16.894'S, 148°50.306'E, approximately 450 metres within the Marine National Park zone. The defendant participated in an interview with the officers and made the following statements and admissions: He had never been to the Whitsunday area before; He did not see any signs at the Shute Harbour boat ramp where they launched the boat that morning; He had heard of the Great Barrier Reef Marine Park before; They did not have any maps on board the vessel; He had not caught any fish at the location; He did not know that it was a "no go zone" and that he wished he had known.</p> <p>Remarks: The defendant provided a written statement to the Court. In his defence, the defendant claimed that he did not see the signage advising of zoning areas; he is not an experienced boating or fishing person; he was not aware that the Whitsunday's were a part of the Great Barrier Reef; he has never fished in or around the Whitsunday area before this occasion; their intention in fishing in that spot was due to it being the only calm water in the area. Prosecution submitted that most boat ramps feature the relevant zoning signage and that very little weight should be afforded to the defendant's claims that he was not aware of the signage. If this matter was raised with the Prosecution earlier advice would have been sought from GBRMPA as to whether or not there was signage in the location where the defendant entered his boat into the water. The Magistrate took into account the mitigating factors provided in the defendant's written statement to the Court.</p>	Convicted Fined \$1,200. Costs \$65.40.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Proserpine MC Mr Muirhead 13 February 2006	Ex-parte plea Guilty	Marine National Park Zone Hook Island	<p>Facts: On 20 September 2005 Queensland Parks and Wildlife officers were conducting a routine patrol in the waters near Hook Island. At about 11:25am they observed a recreational fishing vessel, attached to a Great Barrier Reef Mooring Buoy within the Marine National Park zone at Butterfly Bay at the northern end of Hook Island. The officers observed two people on board the vessel. One of these people was later identified as the defendant. The defendant was observed to be fishing with a hand line. Queensland Parks and Wildlife service officers and took a GPS reading whilst next to the vessel. The reading indicated that the vessel was located at 20°04.482'S, 148°55.452'E, approximately 1,400 metres within the Marine National Park zone. When questioned, the defendant stated that he had relied upon the navigational book titled 100 Magic Miles to show him where he was allowed to fish. This book showed a "no-fishing" symbol to the north west of the defendant's location when he was intercepted. The defendant stated that as there was no "no-fishing" symbol at his location he thought he was allowed to fish there. The defendant was provided with a zoning pack and shown that he was in fact in a Marine National Park.</p> <p>Remarks: The Magistrate noted that the defendant's non appearance and failure to contact the Court and put forward any mitigating factors called for a fine in accordance with the average fines imposed in comparative offending.</p>	Convicted (ex parte) Fined \$1,500. Costs \$65.40.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Innisfail MC Ms Cull 14 February 2006	Guilty Guilty	Marine National Park Zone Feather Reef	<p>Facts: On Sunday, 19 June 2005, officers from QB&FP were performing a vessel patrol of the waters in the area of Feather Reef and observed a recreational vessel within this vicinity. QB&FP observed three people on board the vessel with lines in the water. QB&FP boarded the vessel and the position was recorded as 17o30.942's; 146o21.731'E, placing it approximately 900m inside the green zone. During a record of interview the defendant stated: he was the registered owner, he is aware of the zones, he was fishing using a handline, he caught 2 fish and released 1, the vessel is not fitted with a GPS unit, he was the navigator, and he had charts of the area but did not refer to them.</p> <p>Remarks: The defendant sought to take primary responsibility for the offending as he was the Master of the vessel and stated his GPS had been stolen the week previous, the weather was bad on the day and they had drifted as a result and the thought he was on Pert Reef.</p> <p>The Court noted the defendant is 48 years old, supports 3 children and has no relevant prior history. The defendant was fishing with two of his friends and the offending was at the inexperienced end of the scale of recreational fishing. They were using a boat with navigation aids for 8 months and therefore accept the error of navigation and the defendant did turn his mind to the location of where he was fishing and made an error, therefore he was negligent but did not wilfully use the green zone. The Court stated he was negligent as Master of the vessel as it was his job to check charts and be sure he was outside of the Green Zone. Co-defendant stated he loves fishing but does not go fishing in the ocean very often, mainly river fishing and stated that the day they were caught it was very rough. The Court stated the co-defendant was less experienced than the Master and had not caught any fish, but needed to take care to comply with the rigorous fishing zones and make sure that he complies with the rules.</p>	<p>Convicted</p> <p>Fined \$1400; \$65.40 court costs</p> <p>Convicted</p> <p>Fined \$950; \$65.40 court costs</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Mr Spencer 27 February 2006	Guilty Guilty	Marine National Park Zone Green Island	<p>Facts: On 8 August 2005 the Ranger in charge of Green Island National Park approached a stationary vessel, on the eastern side of the Island. The Ranger observed two persons on board each with a fishing rod and noted the vessels location was 16°45.782 south and 145°59.900 east placing the vessel inside the Green Zone. The defendant participated in an interview during which he stated – he was fishing in that location and had caught 1 Mangrove Jack; he estimated the vessel was approximately 200 to 300 metres from the reef flat.</p> <p>Remarks: The defendants tendered a one page submission to the Court in which they stated the following – the defendant had recently acquired his licence; this was their first trip to the reef and the first time they had used GPS and navigational charts; the main reason they fished near Green Island was because this area had been recommended to them and they believed it to be a safe location in the event they found themselves in difficulty; and they co-operated fully with the authorities. The Court took into account the defendants' submissions that this was their first time fishing, using the navigational equipment, the recommendation by friends to fish in that location and that they had taken the time to study the navigational charts. The Court stated, however, that the defendants' calculations must have been clearly out as they were located 1.5km inside the zone. The defendant admitted he was the master of the boat as part-owner and the holder of the licence. The Court indicated Morales penalty would be higher than that of co-defendant, the passenger. The Court noted that the increase in penalty and previous indications by the Courts signify that Parliament considers this to be a most serious offence and as such the defendants in this matter should be dealt with on that basis. The Court specifically referred to the decisions of Magistrates, Stating those decisions were appropriate and should be followed.</p>	<p>Convicted</p> <p>Fined \$2,000, \$64.30 court costs</p> <p>Convicted</p> <p>Fined \$1,200, \$64.30 court costs</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Innisfail MC Mr Morgan 7 March 2006	Ex-parte plea Guilty Ex-parte plea Guilty	Marine National Park Zone Feather Reef	<p>Facts: On 15 July 2005 at approximately 3:05pm, Qld Police and GBRMP Officers were conducting a joint patrol in the vicinity of Feather Reef, when the observed the recreational fishing vessel at anchor with three people on board. An officer boarded the vessel and noted the position as 17°30.372'S, 146°21.733'E approximately 1,420m within the Zone. During an interview the defendant stated: he was a passenger; he was using a handline; knows that Feather Reef was closed; they caught about half a dozen fish and knew there was a GPS on board but was unable to read it due to its age.</p> <p>Remarks: The defendants did not appear but a letter signed by both had been forwarded to the Court file. In it the defendants asked that the matter be dealt with in their absence as they now reside in Brisbane and are looking for employment and can't afford to travel to Cairns. Court determined to proceed pursuant to s.142A of the Justices Act. The defendants requested that no convictions be recorded against them and the Court take into account that they are currently unemployed, it was their first time on the reef and they did not know it was a green zone. The Court accepted they were first-time fishers and only passengers reliant on the Master of the vessel; also that they appeared to have clean backgrounds apart for a few very minor matters in The defendants history</p>	<p>Convicted</p> <p>Fined \$900, \$64.30 Court costs.</p> <p>Convicted</p> <p>Fined \$900, \$64.30 Court costs.</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Innisfail MC Mr Morgan 7 March 2006	Guilty	Marine National Park Zone Feather Reef	<p>Facts: On Sunday, 19 June 2005, officers from QB&FP were performing a vessel patrol of the waters in the area of Feather Reef and observed a recreational vessel within this vicinity. QB&FP observed three people on board the vessel fishing. QB&FP boarded the vessel and the position was recorded as 17°30.942's; 146°21.731'E, placing it approximately 900m inside the green zone. The Master of the vessel and the defendant was a passenger. During a record of interview the defendant stated he was using a handline; he was not aware he was in Feather Reef, he was aware that fishing was prohibited in Feather Reef and he had caught one fish.</p> <p>Remarks: The defendant was a passenger, along with co-defendant, in the vessel mastered by the defendant and co-defendant appeared and were sentenced before Magistrate on 14 February 2006. The Magistrate was also dealt with ex-parte, pursuant to s.142A of the Justices Act. Later on that day his Solicitor appeared on his behalf and sought to have the conviction and sentence vacated and enters a plea of not guilty.</p> <p>On 7 March 2006, the defendant's solicitor appeared on his behalf and asked that the plea be changed to Guilty on the basis that the Solicitor had misunderstood his instructions. Leave was granted and the matter proceeded in the absence of the defendant.</p> <p>Defence submitted the defendant, who is a pensioner caring for his disabled brother, was only a passenger, did not own the vessel, was invited by a mate to go fishing, is not an experienced fisherman and only caught one fish whilst on the reef and it was too small so he threw it back. It was submitted the defendant should receive a lesser penalty than the defendant owner of the vessel and co-defendant the other passenger who caught more fish.</p> <p>The Court took into account the defendants' early plea of guilty and stated there is a significant distinction between owners/operators and passengers as can be seen from the comparatives and that the owner is generally penalised roughly double that of the passengers. A fine of \$1,000 in this case is appropriate.</p>	Convicted Fined \$1,000, \$65.40 Court costs.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Ms Previtara 13 March 2006	Ex-parte Guilty	Marine National Park Zone Unity Reef	<p>Facts: On 18 June 2005 Queensland Boating and Fisheries Patrol (QBFP) officers were conducting a patrol in the waters near Unity Reef. Sometime prior to 9:55am they observed a recreational fishing vessel, within the Marine National Park zone at Unity Reef. The occupants of the vessel, the defendant and a woman, were seated at the front and stern respectively. A fishing rod with a line attached was extended over the port side of the boat at mid-ships. The defendant held a recreational boat licence and the woman held no boat licence. The defendant stated the following: he had owned the vessel for three (3) years and held a boat drivers licence; he lived at Holloways Beach and was a carpenter; he was at Unity Reef, the defendant stated he was trolling a lure; he knew there were No Fishing Zones - but he thought they were out along the reef not along the coast line; he had not caught any fish; there was neither a GPS nor GBRMPA maps on board the vessel. QBFP officers took a GPS reading whilst next to the defendant vessel. The reading indicated that the vessel was located at 16°39.322'S, 145°34.857'E, approximately 440 metres within the Marine National Park zone.</p> <p>Remarks: The defendant did not appear and there was no correspondence on file. The matter proceeded ex-parte. The prosecution referred to the recent trend for the increase in fines and that the starting point should be around \$2,000. Prosecution submitted \$1,700. The Court stated the defendant had no similar prior convictions but there was little else in mitigation given the defendant did not appear. The Court noted the defendant was the owner and master of the vessel, a local and knew of the "no fishing zones" but had made no attempt to find were the zones where and he had no GPS or GBRMPA maps. The Court stated prevalence was indicated by numerous comparatives from April 2002 to present and Her Honour referred to the matter of Contempree by Magistrate on 1 November 2005 which referenced the legislative intent to increase fines in 2001 with little increase since then. This was endorsed by Magistrate in Townsville in the matters in February 2006. There is a need for deterrence.</p>	Convicted (ex parte) Fined \$1,700. \$64.30 Costs.
Gladstone MC Ms White 15 March 2006	Guilty	Marine National Park Zone Erskine Island Reef	<p>Facts: The offence arises out of the defendant negligently using a Marine National Park (green) Zone located at Erskine Island Reef, within the Mackay/Capricorn Management Area of the Great Barrier Reef Marine Park, for the purpose of fishing.</p> <p>Remarks: The Magistrate said she took into account the defendant's plea and the submissions made on your behalf. However, she said, confusion of the zones was no defence. Her Honour went on to say that these types of offences rely on the honesty of people fishing on the Great Barrier Reef and that these offences are difficult to detect.</p>	Convicted Fined \$500. \$65.40 Costs.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 20 March 2006	Guilty	Marine National Park Zone Northumberland Islands	<p>Facts: On 7 June 2005 Coastwatch officers conducting aerial surveillance in the waters near Northumberland Islands area, North West of Duke Islands identified a recreational vessel underway. Officers observed a male person (later identified as the defendant) standing at the rear of the vessel with a fishing rod in his hands which appeared to be bending sufficiently to indicate a load in the water. Photographs were taken and the position of the vessel determined using a GPS unit. The vessel was located approximately 5.1km within a Green Zone. The defendant participated in a record of interview and made admissions in relation to the offending. The defendant stated that he was the owner of the vessel and responsible for navigation, that they had not caught any fish, that he was aware of the zones and was carrying maps and charts on board, that the vessel was fitted with a GPS unit, a radar and a chart plotter, that he had been trolling for 5 to 10 minutes before the photographs were taken and that he was not aware he was in a Green Zone and was sorry it had occurred.</p> <p>Remarks: His Honour took into account the early plea of guilty and that the defendant was a mature person with no prior convictions. He stated that the Great Barrier reef is a valuable natural resource which needs to be protected which is reflected in the high maximum penalty for these types of offences. He stated that he was dealing with the defendant for "negligently" using a Marine Park for fishing and accepted defendant may not have actually been fishing, this type of activity is covered by the wide definition of fishing in the Act. Defendant had at his disposal all resources necessary to correctly ascertain his position but he failed to do so. He accepted that the defendant strongly supports the concept of green zones, however, stated that the defendant was aware of the green zones and in that sense, the offending was more serious compared to someone who blissfully ignorant goes off and fishes anywhere they see fit. He accepted that the defendant caught no fish and may have been twisting his line for a short period but he was in the green zone a considerable distance (5.1km). His Honour stated that there was some debate as to the amount of a fine and he was told that the defendant's financial means were relatively modest, also acknowledged that the defendant had major health problems (psoriasis of the liver). However, he noted the need for personal and general deterrence and stated that given the recent process of increasing the fines for these types of offences to reflect the relatively recent increase in the maximum penalty, a fine of \$2,000 was appropriate in all the circumstances.</p>	Convicted Fined \$2,000, \$65.40 Costs.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Prosperpine MC Mr Muirhead 10 April 2006	Guilty Guilty	Marine National Park Zone Pentecost Island	<p>Facts: On 28 October 2005 a recreational vessel was located by Queensland Boating and Fisheries Patrol Officers near Pentecost Island. Officers observed 2 persons, fishing using fishing lines in the water. The location of the vessel was determined using a GPS unit and was found to be 330m inside the green zone. Both defendants participated in an interview and made admissions in relation to the offending. The co-defendant stated that he was the registered owner of the vessel, was aware of the zones, had not fished in the area before, was fishing using a rod, had no charts on board and was not aware he was fishing in a green zone on the day in question. The defendant stated that he was the navigator of the vessel, he is competent in the use of the navigation system, he does not fish in the area very often, he was fishing using a rod, they had not caught any fish, they had no charts on board, he had previously referred to charts but was unaware of this area and on the day of the incident he was not aware he was in a green zone.</p> <p>Remarks: His Honour took into account that the co-defendant was the registered owner of the vessel and that the defendant was responsible for navigation on the day in question. He reduced the penalty from \$2,000 submitted by the prosecution because the defendant were only some 330m inside the zone and the comparatives referred to by the prosecution involved persons located further within the restricted zone. He also took into account the fact that the defendants have now made themselves aware of the legislation and zoning in the particular area and did not catch any fish. He noted that the offence won't be repeated. He noted the heavy onus on fisherman and the heavy penalties imposed and the need for deterrence.</p>	Both convicted Both fined \$1,500, costs \$65.40.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Prosperpine MC Mr Muirhead 10 April 2006	Ex-parte plea Guilty Ex-parte plea Guilty	Marine National Park Zone Armit Island	<p>Facts: On 11 September 2005 Queensland Boating and Fisheries Patrol Officers located a vessel near Armit Island. Four persons were observed on board the vessel and were fishing. Three of these people were later identified. The position of the vessel was determined using a GPS unit and found to be 520m within the green zone. All 3 defendants participated in an interview. The defendant stated that he was in control of the vessel, this is the first time in ages that they had been out fishing together, that he used to know the previous zones but was not certain of the new zoning and was aware there were some changes, that he knows you cannot take fish or take anything in a green zone, the vessel did not have GPS unit and they did not have any charts, that he and the co-defendant decided to fish at the location as he had believed it was not in a green zone, they had caught approx 10 reef fish and only one of those were kept because the others were undersized, he has lived in the region all of his life and had been fishing since age 4 or 5.</p> <p>Remarks: His Honour noted the offences were not intentional and that the general range is now about \$2,000. He took into account that only 1 fish was caught, that there was no GPS or charts on board the vessel and that the defendant who was the owner of the vessel knew exactly where he was. He noted that now has current maps. He noted that the defendant played some part in navigation but the defendant was a passenger only and played no part in navigation. He took into account the fact that all three defendants were normally responsible well behaved young persons but that the offence occurred because care was not taken. He noted that the defendants has some experience in fishing and that he could fully appreciate how these offences occur but care should have been taken. His Honour specifically referred to penalties imposed by him on the same day for similar offences and that essentially a conviction was automotive upon imposing a penalty. He noted that there are heavy penalties for these offences and the need for consistency in sentencing.</p>	<p>Convicted</p> <p>Fined \$1,500, costs \$65.40.</p> <p>Convicted</p> <p>Fined \$1,500, costs \$65.40.</p> <p>Convicted</p> <p>Fined \$1,200, costs \$65.40.</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Prosperpine MC Mr Muirhead 10 April 2006	Ex-parte plea Guilty Ex-parte plea Guilty	Marine National Park Zone Whitehaven Beach	<p>Facts: On 8 December 2005 Queensland Parks and Wildlife Services officers observed a recreational vessel in the vicinity of Whitehaven Beach. Officers observed two fishing lines in the water and a number of persons fishing. Two of these people were later identified. The location of the vessel was determined using a GPS unit and it was found to be 550m inside the green zone. The defendant participated in an interview and stated that he was the registered owner of the vessel, he was the navigator, he is aware that there are zones, he was fishing using a handline, he had not caught any fish, he had charts of the area and had a quick look and thought it was alright to fish and he had fished in this area some 11 years ago. The defendant showed the officers the location he thought the vessel was in on a zoning map and pointed to an area inside the green zone.</p> <p>Remarks (The defendant): The defendant sent a letter to the Court. The defendant did not specifically state that he entered a plea of guilty but it was implied by the mitigating circumstances set out in the letter. In any event, matter proceeded ex parte and His Honour took into account the matters referred to in the defendant's letter, the comparatives and the maximum penalty. He also took into account the fact that the defendant was a passenger and was not responsible for navigation.</p> <p>Remarks (co-defendant): The defendant did not appear and the matter proceeded ex parte under s142A of the Justices Act. His Honour took into account the comparatives and the maximum penalty and the fact that the defendant was responsible for navigation.</p>	<p>Convicted</p> <p>Fined \$1,500, costs \$65.40.</p> <p>Convicted</p> <p>Fined \$2,000, Costs \$65.40.</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Mr Dwyer 10 April 2006	Guilty Guilty Guilty Guilty	Marine National Park Zone Mill Reef	<p>Facts: At about 10.56am on 17 September 2005 Marine Park Rangers sighted four persons including the defendant, in the act of fishing with hand-lines onboard vessel, in the area of Mill Reef. Rangers noted GPS co-ordinates latitude 16° 47.7807'S, longitude 146° 15.6015'E, approximately 200 metres inside the green zone. No fish were caught.</p> <p>Remarks: The Court agreed with the previous decisions of Tonkin and Morgan that there is a need for fines to increase in accordance with the ten-fold increase in 2001. The Court recognised the defendant's co-operation, admissions, early guilty plea, but had no sympathy for such offences. The Court noted it was incumbent on masters and passengers to obey the rules when fishing on the reef, especially given the defendants were aware of such zones existing.</p> <p>The defendant indicated he was remorseful, was aware of green zones, was not responsible for navigation, and was a very infrequent fisherman.</p> <p>The co-defendant indicated he was remorseful, was aware of the Mill Reef green zone but had inadvertently drifted into the green zone on the day in question, had attempted to fix the boat's GPS system prior to departure but to no avail, and did not have any charts or maps onboard. The fish caught were not caught in the green zone.</p> <p>The co-defendant indicated she was remorseful, was not aware of green zones, was not responsible for navigation, denied any fish were caught in the green zone, and fished very rarely.</p> <p>The co-defendant indicated he was remorseful, was not aware of green zones, was not responsible for navigation, and fished very rarely. It was the first time he had fished on the Reef.</p>	<p>Convicted Fined \$1,500, costs \$65.40.</p> <p>Convicted Fined \$2,000. Costs \$65.40.</p> <p>Convicted Fined \$1,500, costs \$65.40.</p> <p>Convicted Fined \$1,500, costs \$65.40</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Townsville MC Mr Smith 10 April 2006	Guilty Ex-parte plea Guilty	Marine National Park Zone Faraday Reef	<p>Facts: On 26 September 2005 Coastwatch officers conducting an aerial patrol of the Great Barrier Reef Marine Park observed 8 people onboard the Game Fishing Charter Vessel known as approximately 2.2km inside the Green Zone at Faraday Reef. Each of the 8 people were observed to be fishing. In a subsequent interview and statement the defendant admitted that he was the skipper and responsible for the navigation of the vessel. The vessel was not being used in a commercial manner on the day and was on route from Brisbane to Port Douglas after a refit. 6 of the 7 co-accused were contractors who were completing work on the vessel and the 7th was a friend of the skipper. All 7 of the co-defendants were charged with strict liability offences contrary to s.38A of the Great Barrier Reef Marine Park Act.</p> <p>Remarks (The defendant): His Honour took into account that the offender's normal occupation is the Skipper of a Charter Vessel involved in Fishing but he was fishing on a recreational basis when the offence occurred. He had no relevant criminal history. His Honour took into account the fact that the 7 co-accused had all relied upon the defendant's expertise as the skipper in determining a location in which to fish and his negligence had resulted in them all committing strict liability offences. His Honour noted the seriousness of the offence, the severity of the maximum penalty of a fine of 2000 penalty units, and referred to the comparative of Kerr, in which the District Court on appeal considered that an appropriate fine for a commercial skipper committing a recreational fishing offence was \$2,500. His Honour noted that there is a much higher duty upon the skipper than on the 7 co-defendants, and that a fine representing less than 2% of the maximum fine that could not be considered to be excessive.</p> <p>Remarks (co-defendant): The defendant's solicitor provided a written plea to the court. His Honour had regard to the fact that the defendant and the 6 co-defendants charged with the strict liability offences had placed great reliance upon the skipper in fishing at their location. He also had regard to the financial situation of the defendant and his co-operation with GBRMPA as outlined in his letter. The defendant's name on the complaint was amended.</p>	<p>Convicted Fined \$2,500. Costs \$65.40.</p> <p>Convicted Fined \$350, costs \$65.40.</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Innisfail MC Mr Morgan 18 April 2006	Guilty	Marine National Park Zone Feather Reef	<p>Facts: On 15 July 2005 at approximately 3.05pm Qld Police and GBRMP Officers observed a recreational fishing vessel, at anchor within the Marine National Park zone at the north western end of Feather Reef. They observed three persons on board all were fishing and noted the vessels location was 17o30.372 south and 146o21.733 east approximately 1,420 metres within the Marine National Park zone. The defendant participated in an interview during which he stated - he is the owner of the vessel and has owned the vessel approximately 15 years; he was fishing at his location; he was using a handline; he had a GPS unit, Marine Park charts and a colour sounder and hand radar onboard the vessel.</p> <p>Remarks: Defence tendered three character references and submitted that the defendant was 67 years of age with low literacy, poor eyesight and was waiting to have his toe amputated after an accident associated with Cyclone Larry. Defence further submitted that the defendant was a pensioner with a sole income of \$180 per week who has decided to give up fishing completely since this offence occurred. This was the defendant's first trip on his boat since falling overboard in January 2004 and the defendant was not able to use his GPS or other navigation equipment. The Court noted that the defendant was the owner and operator of the vessel for 15 years and did not accept that a man of the defendant's fishing experience (described as a "man of the sea" in his character reference) did not use the GPS and other equipment found onboard his vessel or that the defendant would purchase such equipment without the knowledge of how to use it. The Court considered its decision in case X (1/12/2005), adopted the general remarks therein and noted that there were no mitigating circumstances, such as the imposition of new zones, in this case. The defendant's early plea and exemplary character were taken into account, but the Court was of the view that for a considerable time the penalties for this type of offending had been considerably lower than they should be.</p>	<p>Convicted</p> <p>Fined \$2,200. Costs \$64.30.</p> <p>Application for fine option order granted & in lieu of the fine he was ordered to perform 146 hours CSO.</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Townsville MC Mr Verra 24 April 2006	Ex-parte plea Guilty	Marine National Park Zone Esk Island	<p>Facts: On 31 October 2005, the defendant's vessel was intercepted by the Field Operations Team of the Great Barrier Reef Marine Park Authority. Officers noticed two fishing lines deployed from the stern of the defendant's vessel which were trailing behind. A GPS reading was taken at the time and it was determined that the vessel was approximately 400 metres within the Marine National Park zone. The defendant participated in an interview at the time where he made the following statements and admissions: he was responsible for deploying the two lines from the stern of the vessel; he was aware the Whitsunday Islands were a part of the Great Barrier Reef Marine Park and he was aware of the different zoning rules including the Green zones; he had looked at the MPZ10 earlier in the trip but had not consulted the plan prior to deploying the lines that day.</p> <p>Remarks: Magistrate noted a letter received by the defendant's solicitors and their request that this matter proceed ex parte. Submissions sent to the court were tendered as exhibit 1. The court noted the defence's written submissions that a fine was appropriate and seeking no conviction be recorded. The Magistrate noted that he did not have that discretion and heard the prosecution submissions on 19B. The Magistrate noted that the defendant admitted his degree of negligence in his letter to the Court and in his electronically recorded interview with Great Barrier Reef Marine Park Officers.</p>	Convicted Fined \$1,000, Costs \$65.40.
Cairns MC Mr Black 10 May 2006	Guilty Guilty	Marine National Park Zone Green Island	<p>Facts: At about 9.40am on 23 October 2005 Great Barrier Reef Marine Park Authority officers observed a recreational vessel at anchor in the vicinity of Green Island Marine National Park Zone 16-1055. The officers recorded the defendants' vessel at position 16°47.7111S, 146° 02.1606E, approximately 400 metres within the Green Zone. The officers observed the co-defendants on board, with the co-defendant adjusting the anchor rope and deploying a hand-reel over the side and defendant was sitting behind the console holding a line extending into the water. When interviewed, the defendant admitted he was master and owner of the vessel, he possessed a GPS Unit but did not know how to read it, he also possessed a compass and depth sounder, but no admiralty or Zoning charts, he had followed the advice of a friend fishing nearby regarding the vessel's location, he is a local from Cairns, this was the first time he had used the vessel, he had caught seven coral trout with the co-defendant, and he had been fishing for about two hours. The co-defendant declined a formal interview.</p> <p>Remarks (Defendant): Submissions were originally heard on 27 March 2006 with both defendants' unrepresented, with sentence adjourned until 9 May 2006 for s.19B submissions to be heard. The matter</p>	Non conviction s.19B bond; recognisance \$2,500; G/B 2 years; \$65.40 costs Non conviction s.19B bond; recognisance \$1,000; G/B 2 years; \$65.40 costs

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
			<p>was adjourned to 10 May 2006 for Magistrate to consider the material and submissions. Defence tendered the Second Reading Speech, Explanatory Memorandum, Outline of Defendant's Submissions, Review of s.19B cases, and three References. It was argued that the defendant's good character and antecedents alone would carry sufficient weight to support an application of s.19B, when having regard to the nature of the increase in fines in 2001 and the triviality of this offending. Defence referred to the parliamentary papers submitting the Court must be careful not to be led into error by reference in comparative cases to the recent increase in fines in 2001 for such offences because the increase in maximum penalty was aimed solely at commercial fishermen, the maximum penalty being reserved for intentional breaches by commercial fishermen. The seriousness of the offence was trivialised by this point, the act of negligent fishing as opposed to intentional acts and the circumstances of the offence (misjudgement of defendant based on reliance of friend's co-ordinates on companion vessel, first visit to reef on vessel and very infrequent recreational fisherman). Defence further argued the defendant's standing as prominent member of community (Justice of Peace) and Real Estate industry would 'take battering' if conviction was to be recorded and his honest reputation and integrity would be tarnished given the nature of the profession and the prejudice that a criminal conviction may attract when taken out of context. Further submitted that defendant would undertake short-course on sea navigation and have updated equipment fitted to his boat, was remorseful and was very reluctant to take his boat out again, and was willing to pay compensation for his actions. Prosecution argued the exercise of s.19B discretion is exceptional and tendered a summary of case law applications of s.19B, a GBRMPA zoning map depicting position of defendant's vessel within the Green Zone, Comparative Sentences since February 2006, 40-page Comparative Sentences (tendered to Magistrate Black on 27 March 2006) and selected s.19B authorities Prosecution resisted the defendant's interpretation of the maximum increase in fines relating solely to commercial fisherman and referred to previous rare instances where s.19B had been applied Further submitted the defendant's proposed use of s.19B was 'artificial' in trying to change a fine into compensation as a condition of a s19B recognisance. The Court was guided by the comments of French J insofar as the application of s.19B discretion is exceptional, noting such offences were difficult and costly to detect and the community demanded appropriate action. The Court noted conjecture over the position of the seven trout found on the defendant's vessel when apprehended, and commented that in any event this fact would be immaterial in the context. The defendant's proposed application of s.19B to allow compensation was artificial insofar as the damage caused by the offending was not quantified. The Court found the offence was not trivial (due to the environmental importance of the reef and the need for protection) yet allowed a s.19B application taking into account the defendant's</p>	

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
			<p>co-operation, the circumstances of the offending concluding the offending was an aberration, the need for general deterrence, the offending was not of an insidious nature, an early plea of guilty, the defendant's remorse through an offer to pay compensation for damage and undergo short-courses on navigation, considerations under s.16A(1) and s.16A(2), his good character and lack of criminal history, his standing in community both commercially and socially stating that any conviction would have disastrous commercial and social consequences, and his offending as an aberration.</p> <p>Remarks (co-defendant): Submissions were originally heard on 27 March 2006 with both defendant's unrepresented, with sentence adjourned until 9 May 2006 for s.19B submissions to be heard. The matter was adjourned to 10 May 2006 for Magistrate to consider the material and submissions. The co-accused (Defendant), who was the master of the vessel, was represented and the defendant's submissions followed lengthy submissions from Pirie's counsel regarding the application of s.19B. The defendant tendered a reference and argued that any conviction would have a detrimental effect on his reputation and business through 'word of mouth' and any monetary penalty would impact heavily of the defendant owing to a recent child and purchase of family house. Prosecution relied on earlier responses to co-accused, resisting the application of s.19B arguing that s.19B should only be applied in exceptional cases. The Court noted that although this defendant did not have the antecedents and character that enabled the co-accused to successfully argue a s.19B application, for the sake of parity any sentence should follow the co-accused non-conviction.</p>	

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 15 May 2006	Guilty	Marine National Park Zone Acacia Island	<p>Facts: On 30 January 2006 QPW officers conducting a routine patrol in the Newry Island Complex near Mackay observed a recreational vessel in the vicinity of Acacia Island. Officers observed one person (later identified as the defendant) on board the vessel using a hand line. Officers drew along side the vessel and took GPS coordinates. The vessel was located 310 metres within a green zone. The defendant participated in an interview and stated: he had been fishing for approximately 5-10 minutes filling in time before checking his crab pots, he was fishing using a fishing rod and a hand line, he understands marine park zoning is "places you are not allowed to fish", when shown a map he recognised that he was fishing within the zone, he did not have a GPS unit or zoning map on board, he was aware that there were green zones within the area and when asked why he was fishing in a green zone, he stated "it was just a silly mistake. Didn't realise that there's no fishing allowed here. Should have checked before I come out. I will next time." In a statement prior to the interview, the defendant stated he worked for "Reef Marine" and gives out zoning maps every day.</p> <p>Remarks: The defendant appeared in person. His Honour stated that these are serious matters and a deterrent penalty is important. He took into account the fact that the defendant was employed in a business which would be aware of the zones and stated that the defendant should made himself aware of the zones.</p>	Convicted Fined \$1,750; \$65.40 court costs

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 15 May 2006 Ex parte (x 3)	Ex-parte plea Guilty Ex-parte plea Guilty Ex-parte plea Guilty	Marine National Park Zone Cape Hillsborough	<p>Facts: On 5 October 2005 QBF Patrol and GBRMPA Inspectors conducting a routine patrol in the region off Cape Hillsborough observed a small aluminium runabout with three male persons on board trolling fishing lines through a green zone. Officers boarded the vessel and took photographs. GPS coordinates were also taken and the vessel was located 310 metres inside the zone. The defendant participated in an interview and stated he was fishing using a handline, he was aware of the marine park zones in the area, he knew that there was a green zone in the area and that he was not aware of the conditions of visiting a green zone. The co-defendant participated in an interview and stated he was fishing using a handline, he is familiar with the green zones, though he thought that it only extended out to 200m from the coast, he had no charts aboard the vessel and he had not caught any fish. The co-defendant participated in an interview and stated that he was the owner of the vessel, he was fishing using a handline, he is familiar with the zones, he had no charts aboard the vessel, the boat was fitted with a depth sounder, he had not caught any fish and on the day he was not aware he was inside the green zone.</p> <p>Remarks (The defendant): His Honour took into account the written plea of guilty and the fact the defendant and his co-defendant both claim (in their written pleas) to have owned or have been in charge of the vessel (in the interview co-defendant admitted to owning the vessel). His Honour took into account the facts, the comparatives and the prosecution's submissions regarding deterrence.</p> <p>Remarks (Co-defendant): His Honour took into account the written plea of guilty and the fact the defendant and his co-defendant both claim (in their written pleas) to have owned or have been in charge of the vessel (the defendant admitted to owning the vessel in the interview). His Honour took into account the facts, the comparatives and the prosecution's submissions regarding deterrence.</p> <p>Remarks (C0-defendant): His Honour took into account the written plea of guilty. The defendant stated that he accepted that he was in the wrong area. His Honour took into account the facts, the comparatives and general submissions regarding deterrence.</p>	Each convicted Each fined \$2,000; \$65.40 court costs

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Ms McGinness 15 May 2006	Guilty	Marine National Park Zone Euston Reef	<p>Facts: On 14 December 2005 GBRMPA Officers observed a the vessel, inside the Marine National Park north of the navigation beacon on Euston Reef. The vessel commenced travelling at between 4 to 6 knots heading directly towards the patrol vessel. Three male passengers were observed in the vessel,. Co-defendant was holding a fishing rod with the line extending into the water and a second rod with a line attached was extended over the right side of the vessel both of which had lures attached. Three Tuna were contained in an esky. The vessel was located at 16°40.7941's, 146°14.3215'E, approximately 220 metres within the zone. The defendant participated in an interview during which he stated - he is the owner of the vessel; he had been estimating the distances as he did not have any GPS or instruments to gauge them; he had a compass, Admiralty Map, Cairns Zoning map and depth sounder but did not look at the Cairns Zoning map to check where he could fish around Euston Reef.</p> <p>Remarks: Prosecution submitted a ten fold increase in maximum penalty for s38CA in 2001 justified increased fins for recreational fishers despite the second reading speech and explanatory memorandum only mentions commercial fishers, which prosecution provided to the Court and noted Magistrate had commented that it was open to interpret increases in fines were not applicable to recreational fishers as argued by defence on 9 May 2006.</p> <p>Defendant: the defendant stated he did not have a GPS system, was only 200 metres inside the Green Zone, was not anchored and admitted it was difficult to locate the zones without a GPS system and only drawing the zones on an admiralty chart, as he had done. He had only been in Cairns since 2005, would not normally go that far out on the reef and would buy a GPS system in the future. The Court noted that the defendant was the owner, operator and master of the vessel, when the vessel was approached there were two lines in the water and they appeared to be trolling. The Court took into account the defendant's co-operation, early plea, his inexperience and the cost of a GPS system but stated that it was a World Heritage listed area and it is vital to protect the species in the oceans. The Court stated it is the responsibility of all who travel on the reef to know the zones. The prevalence of these offences requires that the penalty deter others.</p> <p>Co-defendant: The defendant stated he has spent the last 3 years in Cairns, but now resides in Victoria and won't be on the reef again. At the time of the offence he had only been out twice to the Great Barrier Reef.</p> <p>The Court took into account the defendant's co-operation, early plea, his inexperience on the reef and the fact he was located just inside the zone, but stated that it was a World Heritage listed area and it is vital to protect the species in the oceans. The Court stated it is the responsibility of all who travel on the reef to know the zones. The prevalence of these offences requires that the penalty deter others.</p> <p>Co-defendant: The defendant stated that he had a good day on the reef, went to fish and asked the defendant, co-defendant, if he could fish. He stated it was his first time at that reef and that he did not often fish on the Great Barrier Reef. The Court took into account the defendant's co-operation, early plea, his inexperience on the reef and the fact he was located just inside the zone, but stated that it was a World Heritage listed area and it is vital to protect the species in the oceans. The Court stated it is the responsibility of all who travel on the reef to know the zones. The prevalence of these offences requires that the penalty deter others.</p>	<p>- Convicted</p> <p>Fined \$1600; \$65.40 court costs</p> <p>- Convicted</p> <p>Fined \$1,200; \$65.40 court costs</p> <p>- Convicted</p> <p>Fined \$1,200; \$65.40 court costs</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Bowen MC Mr Muirhead 26 May 2006	Guilty	Marine National Park Zone Airlie Beach	<p>Facts: The defendant's vessel, was intercepted by officers from the Queensland Boating and Fisheries Patrol Airlie Beach on 6 September 2005. The Officers observed 2 persons on board the vessel and three fishing lines trailing from the stern of the vessel. The vessel was moving in a southwardly direction. Officers took the vessel's coordinates using a GPS. One each occasion the vessel was located within a green zone. At one GPS reading the vessel was located 1.6km inside the green zone. The defendant was the owner of the vessel and in charge of navigation and the fishing equipment on the day in question. The defendant had both an old and a current zoning charts on board. However, he stated that on the day in question he was relying on the older version as he forgotten to use the new version. The vessel was equipped with a navigation system. The defendant stated that he did not believe there were any green zones in the area but that he should have checked. The defendant had lived in the Whitsunday area for about 20 years and had been actively fishing in the area for that time. He had previously been employed with the Maritime Service Board in Newcastle in the role of Abel Seaman.</p> <p>Remarks: The defendant had previously applied for and was granted a re-opening and the original order made on 20 March 2006 was vacated. His Honour stated that fines were in the range of \$2,000 but taking into account submissions made on behalf of the defendant (that he was travelling to Laguna Quays to help a person with a broken rudder, that he discovered that his new zoning map had been chewed by cockroaches and that his boat was being dragged by a current), the plea of guilty, the defendant's cooperation with authorities and the fact that the maximum penalty is \$220,000, he would impose the same fine as previously imposed. He stated that there must be some penalty to reflect the seriousness of the offence. He noted that the defendant was an experienced fisherman who had been in the Whitsunday area for 20 years and had previously worked as an Abel Seaman in New South Wales. His Honour stated that the penalty could have been a lot higher.</p>	Convicted Fined \$1,200

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 19 June 2006	Guilty Ex-parte plea Guilty Guilty	Marine National Park Yellow Zone Long Island	<p>Facts: On 1 October 2005 at 9:45pm Queensland Boating and Fisheries Patrol officers saw a spotlight and located an aluminium vessel in the Whitsunday region near Long Island. The vessel was within a Yellow Zone and that particular Yellow Zone was designated a Special Management Area or Public Appreciation Zone. Three persons were on board the vessel. the defendant was holding a spotlight, co-defendant was holding a long hand-spear and co-defendant was operating the outboard motor. A large esky with four fish that appeared to have been speared was located on the floor of the vessel. The defendants did not participate in interviews.</p> <p>Remarks: His Honour took into account the maximum penalty, the need for deterrence and the fact that the offences are difficult and costly to detect. He also took into account the defendant had no previous convictions and that it was a mistake on his part because he thought spearfishing was allowed in a yellow zone and was not aware of the public appreciation area despite having a current map on board. He referred to the matters of X, Y and Z on p.44 of the comparatives schedule. His Honour took into account the fact that the defendant was holding the spotlight but stated that all 3 defendants were equally involved. Co-defendant submitted that spearfishing was ticked on the guide to the chart which had confused the people who were spearfishing.</p> <p>Co-defendant did not appear. His wife appeared and explained to the Court that her husband had been called away for work at the mines but that he had sent a letter to the Court and wanted to plead guilty. His Honour took into account the matters referred to in the defendant's letter. He took into account the maximum penalty, the need for deterrence and the fact that the offences are difficult and costly to detect. He also took into account that it was a mistake on the defendant's part and that he had a current map on board but found that map confusing and thought spearfishing was allowed in a yellow zone. He referred to the fact that a Magistrate up North had indicated that the starting point for fines should be \$5,000 and said that the fine in this case could be as high as that. He took into account the fact the co-defendant had never been spearfishing before.</p>	<p>– Convicted</p> <p>Fined \$1,500. Costs \$65.40.</p> <p>- Convicted</p> <p>Fined \$800, costs \$65.40.</p> <p>Convicted</p> <p>Fined \$1,500. Costs \$65.40.</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Mr McFadden 26 June 2006	Guilty	Marine National Park Zone Michaelmas Cay	<p>Facts: On Thursday 26 January 2006, officers from Great Barrier Reef Marine Park Authority were performing a vessel patrol of the waters in the area of Michaelmas Cay, east of Port Douglas, off the coast of Queensland. At approximately 7:55am, the officers observed a recreational, within the vicinity of Michaelmas Cay. The officers observed fishing lines in the water. Three people were observed to be on board the vessel and fishing. One of those persons was later identified as the defendant . The officers boarded the vessel, during which time a number of photographs were taken of the vessel, the fish and the position of the vessel was determined using a GPS unit. The position of the vessel was recorded as 16°35.2309'S, 145°59.2247'E, placing it approximately 2.43km inside the green zone. The defendant participated in a formal interview with an officer, during which he admitted he was the registered owner of the vessel; he was aware of the marine park zones and was aware that he could not fish in a green zone; he was fishing using a rod; he had an admiralty chart onboard the vessel but no zoning charts; he thought that he was at Upolu Cay; he had caught two fish; he was not aware that he was inside the green zone.</p> <p>Remarks: Defence submitted the defendant is 49 and is married with two teenage children. Defence further submitted the defendant owned the boat for 4 years and fished, on average, once a year relying on local knowledge, visual bearings and a trip meter to calculate his destination positions. Defence advised the defendant was devastated by the charge and sold his boat the weekend after his apprehension vowing not to fish again. The Court stated that the onus is on the master of the vessel to ensure compliance with the GBRMP Act and to fish without a GPS and to plead human error is no excuse. The Court noted that a GPS is the only thing which would have assisted the defendant. The Court stated that 2.43 kilometres within the Green Zone indicated the defendant did not miss his mark but had no idea where he was at the time. The Court took into account the defendant nil prior convictions and the matters put forward his by legal representative.</p>	Convicted Fined \$1,000, costs \$65.40.

Court Coram Date	Plea / Ex-parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Mr McFadden 26 June 2006	Guilty Guilty	Marine National Park Zone Euston Reef	<p>Facts: On Tuesday 31 January 2006 a Great Barrier Reef Marine Park Authority officer and a Queensland Parks and Wildlife officer were conducting a routine patrol in the waters near Cairns. At about 10:35am they observed a recreational fishing vessel, within the Marine National Park zone in the vicinity of Euston Reef. At its core, Euston Reef is protected by a Preservation zone which does not permit access by the general public without special permission. The officers observed two people on board the vessel. One of these people, later identified as the defendant, was seen with a fishing rod in his hands with the fishing line deployed in the water and appeared to be trolling. The second person, who was later identified as the co-defendant, was operating the vessel. The vessel was located at 16°40.502'S, 146°14.280'E, approximately 240 metres from the Northern border and 140 meters from the Eastern border within the Marine National Park zone.</p> <p>The defendant participated in an interview with the officers and made the following statements and admissions: he is the owner of the vessel; he had launched the boat from Baron River ramp; he was responsible for the navigation of the vessel; he had Great Barrier Reef Marine Park zoning plan maps for the Cairns area on board; there was a working GPS on board at the time; he was aware that fishing was not permitted in green zones; he had fished in the area before; he never intended to fish in the green zone; he was using two troll lines at the time and had caught and released a barracuda in the area; he was retrieving the line from a rod when the GBRMPA vessel intercepted them.</p> <p>The co-defendant participated in an interview with the officers and made the following statements and admissions: he doesn't usually fish from the Euston Reef area; he was aware that there was a green zone and preservation zone around Euston Reef; there was some confusion as to the co-ordinates of the outer extremity of the green zone; he thought they were still outside the green zone; he did steer the boat for a brief period however the defendant was in charge of operation of the vessel and navigation; they had caught a barracuda while in the area.</p> <p>Remarks: Defence submitted that the reason for the defendants' location within the green zone was attributable to the defendant misreading the coordinates of the green zone on the map. Defence also submitted that the defendants were fishing for pelagic and Mackerel, which are not protected fish. Defence submitted that the Court should have regard to s.19B and pressed that no conviction should be recorded. In the alternative, having regard to earlier comparatives, a menial fine would be appropriate. Prosecution submitted that given the defendants role as owner and navigator of the vessel he bore a greater responsibility than co-defendant; that the location of the vessel within the green zone and so close to an adjoining Preservation zone heightened the seriousness of the defendants conduct; that the defendant was witnessed to have been pulling in a line at the time they were spotted by GBRMPA, however it could not be confirmed that the fish was caught within the green zone; that the defendant was familiar with the area and was aware of the green zone. Prosecution referred to the remarks in Contempree and the significant increase in fines and submitted that a s.19B order was strongly opposed and further submissions would be put forward if the Magistrate considered that course. The Magistrate made particular mention of the location of the vessel and the protective purpose of the zoning; that the defendant had prior knowledge of the area; that there were GPS, maps and charts onboard the vessel. The Magistrate further noted that as master of the vessel Meric bore the onus of ensuring their whereabouts before proceeding to fish and that ignorance of their actual position was no excuse. The</p>	<p>- Convicted</p> <p>Fined \$2,000, costs \$65.40.</p> <p>– Convicted</p> <p>Fined \$1,000, costs \$65.40.</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Proserpine MC Mr Muirhead 10 July 2006	Guilty	Marine National Park Zone Clam Bay	<p>Facts: On 3 December 2005 Marine Park Rangers conducting a routine patrol observed a vessel at anchor at Clam Bay. They observed 2 persons on board one of which was later identified as the defendant. The defendant was observed retrieving two fishing lines from the water which had hooks, sinkers and bait attached. The vessel's position was taken using a GPS unit and the vessel was located 640m inside the Green Zone. At an interview the defendant stated that he had no idea he was in a Green Zone, that it wasn't his intention to fish in a Green Zone, that he did not have zoning maps for the particular area as he had not intended to go there, that he had asked a worker at a resort on Keppel Island about fishing in the area and was told that he could fish there as long as he did not use more than one line per person, that they had anchored to have lunch and had put two lines in, that they didn't catch any fish, that he had been a commercial operator in the Whitsunday's area for ten years, that he didn't realise what he was doing was illegal, that he went back to the resort and noticed a map displayed in the window but he hadn't seen the map on the day in question.</p> <p>Remarks: His Honour took into account the heavy penalties available, the early plea and the fact that the defendant was 640m within the zone. He said that some Magistrates had indicated that the starting point for these types of offences should be \$5,000 and that it is up to the Court to impose heavy fines to act as a deterrent. He took into account defence submissions (that the defendant had asked a person at local resort for a map and was told he could fish in the area provided he only used one line, that no fish were caught, that he had been a commercial operator in the area for over 10 years and that he was embarrassed). Defence also asked that no conviction be recorded but such application was rejected.</p>	Convicted Fined \$1,500, costs \$65.40.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Proserpine MC Mr Muirhead 10 July 2006	Guilty	Marine National Park Zone Goldsmith Island	<p>Facts: On 7 January 2006, Queensland Boating and Fisheries Patrol officers observed a recreational vessel in the vicinity of Goldsmith Island. Officers observed a fishing line in the water. Three persons were on board. The defendant and his two children The defendant's daughter was responsible for the line in the water. The vessel was located 600m inside the Green Zone. In an interview the defendant stated that he was the registered owner of the vessel and was responsible for navigation. He stated that his daughter was fishing using a line and that they thought they were at Linne Island as that was where they were earlier that day. He stated that the vessel was fitted with a GPS and that he had zoning maps on board but that he did not bother to check them as he believed they were at Linne Island. He stated that they had caught some fish earlier that day but not within the zone.</p> <p>Remarks: His Honour took into account the heavy penalties available and stated that quite often fines of around \$2,000 are imposed. He took into account the defendant's submissions that he was mistaken as to his location, that he had only just bought the boat and that it was his first time to the particular area. He took into account that the defendant himself was not fishing (his daughter was) but that he was responsible for navigation on the day. He noted that the defendant had a GPS and zoning maps on board and was 600m inside the zone.</p>	Convicted Fined \$1,500. Costs \$65.40.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Beaudesert MC Ms White 12 July 2006	Guilty Guilty	Marine National Park Zone Esrkine Island Reef	<p>Facts: On 13 September 2005 at about 12.55pm Qld Parks and Wildlife Service officers were conducting a routine vessel patrol of the Great Barrier Reef Marine Park. At this time the crew observed a recreation fishing vessel within the Marine National Park Zone, which is commonly referred to as Green Zone in the Keppel Bay waters. The Queensland Parks and Wildlife Service officers confirmed the registration number of the vessel. The patrol boat vessel was brought close to the recreational vessel. There were two male persons on this vessel and when first observed and they had fishing rods in the water and appeared to be fishing. On approaching the vessel digital photographs were taken. A GPS reading was taken which indicated that the recreational vessel was located 23 degrees 30.275 minutes South and 151 degrees 45.386 minutes East. The water depth measured to about 30 metres. They were spoken to and later interviewed. During his interview co-defendant said that he was just a passenger; that he had never been fishing on the Great Barrier Reef before; did not know anything about navigational charts; was not aware of the Marine Park Zoning before that day but admitted to fishing at that location when intercepted by QPWS Rangers. During his interview the defendant said that he was the master of the vessel and admitted to fishing in the Green zone area at Esrkine Island Reef. He said that he had 7 years experience camping and fishing in the Capricorn Bunker Group and that he was a good navigator and was aware of the Marine Park Zoning. He said it was a “big mistake” on his part to be there as he was “aware that there was radar tracking device in all Green area”. He said that he did not have the zoning map with him at the time and did not realise that he was going to go there. He said “in the future I just got to take more care”.</p> <p>Remarks (Defendant): The Magistrate took into consideration the defendant's early plea and remorse, and accepted the offending occurred due to carelessness and stupidity.</p> <p>Remarks (co-defendant): The Magistrate took into consideration the defendant's early plea and his remorse.</p>	<p>– Convicted</p> <p>Fined \$1,000</p> <p>– Convicted</p> <p>Fined \$500</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Mr Hodgins 23 August 2006	Guilty Guilty	Marine National Park Zone Scott Reef	<p>Facts: On 18 October 2005 QB&FP officers observed a stationery vessel in the south-western area of Scott Reef - a zone in which does not permit fishing under the GBRMP Zoning plan. QBFP officers observed the vessel was anchored with two males onboard, later. Two rods were located in rod holders situated on each side of the vessel and each rod had a line extended into the water with hooks and sinkers attached to each line and both were baited when pulled out of the water. Three large mouth nannygai were lying on the back deck of the vessel - they appeared to be freshly caught and one was still moving. A further five large mouth nannygai and one trevally were located in an esky onboard with one nannygai still moving and the other fish warm when touched by QBPF Officers. The vessel was located approximately 6.5 kilometres within the Marine National Park Zone. Both men participated in recorded interviews.</p> <p>Remarks: Defence unsuccessfully argued no conviction under s19B on grounds similar to case B and C which they relied upon. Whist both defendants had owned several boats in the past and had extensive boating experience elsewhere in Australia; they were amateur anglers in North Queensland. Defence argued that the defendant's good character and antecedents alone would warrant a s.19B order and were it known to the general public that the defendants were convicted of this offence, it would affect their local and flourishing business in the Swimming Pool Building trade and would hinder possible overseas business ventures in USA. Prosecution resisted s19B with written submissions emphasising that the defendants were not dissimilar from other offenders referred to in the comparative schedule. Court stated that this particular offending cannot be described as trivial in nature (despite being as a result of a navigational error and relying upon GPS position provided by another); that both had shown contrition and have since taken steps to install a further GPS unit and that the defendants were upstanding citizens of good character. Court noted the need for adequate punishment and deterrence would dominate his decision and found that it was not inexpedient to impose punishment. They were equally culpable being joint owners and both being involved in determining where they would fish. Court stated that the increase in maximum penalties in 2001 did not justify a substantial increase in penalties for recreational fishermen but there were a sufficient number of cases before the Courts, the range was now well settled, it was usually necessary to impose a penalty and \$2,000 was appropriate. Court stated that the offer to make a donation to a charity/nature organisation was not of significance in his determination. Court considered the defendants had incorrectly plotted their intended position provided by another, were apprehended 7.9 kilometres from their intended position due to a navigational error, they arrived in Cairns in 2003, their knowledge of the area is not extensive having been out in their boat only 3 - 4 times and the damage or loss involved by 9 fish being caught. Both men were 43 years of age, each with 3 children, without relevant criminal histories and fully cooperated. It was difficult to estimate the effect of a conviction upon their business and prospect of travelling to USA for business. It is highly unlikely that they would reoffend. There may be some initial embarrassment. The circumstances of these cases were not other than "run-of-the-mill" for this type of offence.</p>	<p>CRITELLI: Convicted Fined \$2,000</p> <p>ROWE: Convicted Fined \$2,000</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Mr Comans 23 August 2006	Guilty Guilty	Marine National Park Zone Green Island	<p>Facts: On 23 October 2005 at approximately 9.10am, officers from the GBRMPA were patrolling the waters near Green Island when they observed a recreational vessel within the Marine National Park zone at Green Island. Four persons were observed onboard the vessel, two of whom were fishing these two were identified. The officers boarded the vessel and conducted interviews with the defendants and a GPS reading was taken indicating the vessel was located at 16o48.018S, 146o00.656E. This reading placed the vessel more than 1km inside the Marine National Park zone. During the interview the co-defendant stated: he was using a Shimano rod and Penn reel with gar bait at the time of interception; he is aware of and has a reasonably good understanding of the zoning within the Great Barrier Marine Park; He does not own a chart but has seen one; There was no chart on board the vessel on the day and the GPS unit was not working; He did not consult a zoning chart on the day, however from his previous experience, he believed they were outside the barriers of the Marine National Park zone; He fishes (in the park) once every 3 months and has not fished in this area for approximately 14 months. During the interview the defendant stated: she was using a rod with a lure; she is aware of the zoning within the Park and had looked at a map that morning but failed to put the map back into the boat; she believed that they were outside the zone and she fishes about once a month and has not fished in this area before.</p> <p>Remarks (Co-defendant): Prosecution provided written submissions addressing defence application for s.19B order. It was submitted that for parity a fine similar to that imposed for the co-defendant was warranted. Defence stated the defendant was a passenger and is less culpable than if he had been a master; he had fully cooperated with authorities and participated in an interview; and he entered a plea of guilty at the earliest opportunity. Defence also indicated that should the defendant be convicted, he and his security company would suffer financial hardship due to the prospect of losing contracts and the possibility of his being removed from his role as a director of two of the relevant security companies. The Magistrate stated the impact of public ridicule the defendant may suffer as a result of a conviction would be limited. He also noted he could not satisfactorily link the financial wellbeing of the defendant and any companies he may have ties with to the ridicule which may be suffered as a result of a conviction being imposed. The Magistrate could not distinguish the circumstances of the defendant from that of the co-defendant, and determined for parity's sake a fine of the same amount was appropriate.</p> <p>Remarks (Defendant): Both Defence and Prosecution tendered written submissions addressing the issue of s19B bond. The Court stated that this matter turned on the antecedents of the defendant, with the broken GPS and inability to sight landmarks somewhat aggravating in the circumstances rather than extenuating. The Court noted the defendant's guilty plea and remorse, noted that she was a regular angler, employed in the tourism industry and would suffer embarrassment and some detriment at the recording of a conviction but noted that such detriment was not detailed to the Court. The Court stated the fact that the defendant would suffer embarrassment and some detriment was not a good enough reason to impose a nominal punishment. The Court advised that although she was not the driver there was an obligation on all members onboard to ensure they did not offend in the zones.</p>	<p>Convicted Fined \$1,200. Costs \$65.40.</p> <p>Convicted Fined \$1,200, costs \$65.40.</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 18 September 2006	Guilty	Marine National Park Zone Cape Hillsborough	<p>Facts: On Monday 1 May 2006, officers from Queensland Boating and Fisheries Patrol were patrolling the waters in the Cape Hillsborough area, north-east of Mackay. At approximately 10:50am, the officers observed a recreational vessel off the shore of Cape Hillsborough. Two people were observed onboard the vessel, one of whom was later identified as the defendant. The officers also observed a fishing line, being used by the defendant, extending from the vessel into the water. The position of the vessel was recorded as 20°53.953'S, 149°02.216'E, placing it approximately 410m inside the Marine National Park zone. The defendant participated in an interview, during which he admitted that he was aware of green zones. He claimed though that he did not realise that they extended to that specific area. He said further that he did not have any marine park zoning maps for the area onboard the vessel, he had not caught any fish, and had been fishing for a couple of years.</p> <p>Remarks: The defendant plea of guilty taken into account. The plea continues the cooperation which commenced when the defendant participated in an interview. The Marine Park is an extremely important feature of Queensland, Australia and the World, and it needs to be protected. With a maximum penalty of \$220,000 the parliament has shown the seriousness of this type of offence. There is certainly a need to deter people from fishing where they are not allowed. As the master of the vessel, the defendant should be aware where he can legally fish, and should have reference to maps. The period of existence of the Marine Park and the defendant's experience as a fisherman taken into account.</p>	Convicted Fined \$2,000, costs \$65.40.
Cleveland MC Ms Tynan 20 October 2006	Guilty	Marine National Park Zone Jabiru Shoals	<p>Facts: On the morning of Saturday 1 October 2005, a GBRMPA Field Operations Team was patrolling the inshore area of the Great Barrier Reef Marine Park between Yeppoon and Gladstone, in Marine Parks patrol vessel As the patrol vessel drew closer, officer Cochrane observed that the other vessel was a white 38 foot timber cruiser bearing the name "Lady Nelson" and the registration number DV307Q. The vessel appeared to be making way in a northerly direction towards Lisa Jane Shoals. Two rods with overhead reels were sitting in rod holders at the rear of the vessel with fishing lines deployed and trailing in the water. The Officers then boarded the Lady Nelson and spoke with its three male occupants, who identified themselves as John Raymond NELSON (the Master), Kenneth Harvey CAPPER (Passenger) and another person named Raymond Joseph NELSON (Passenger). Officer Cochrane then observed that the Lady Nelson was equipped with a notebook computer with integrated GPS and chart plotter, which indicated that the vessel's position was 23 degrees 19.877 minutes South 151 degrees 04.020 East, placing it within MNP zone 23-1160 by approximately 2.4km. The vessel was also equipped with a secondary GPS, radar and sounder which were operational, and a copy of Great Barrier Reef Marine Park Zoning Plan Map MPZ 17 depicting the various zones in the Gladstone area.</p> <p>Remarks: Serious offence, costly to detect. Deterrence required</p>	Convicted Fined \$1,800

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cleveland MC Ms Tynan 20 October 2006	Guilty	Marine National Park Zone Jabiru Shoals	<p>Facts: On the morning of Saturday 1 October 2005, a GBRMPA Field Operations Team was patrolling the inshore area of the Great Barrier Reef Marine Park between Yeppoon and Gladstone, in Marine Parks patrol vessel As the patrol vessel drew closer, officer Cochrane observed that the other vessel was a white 38 foot timber cruiser. The vessel appeared to be making way in a northerly direction towards Lisa Jane Shoals. Two rods with overhead reels were sitting in rod holders at the rear of the vessel with fishing lines deployed and trailing in the water. The Officers then boarded and spoke with its three male occupants, who identified themselves. Officer Cochrane then observed that the vessel was equipped with a notebook computer with integrated GPS and chart plotter, which indicated that the vessel's position was 23 degrees 19.877 minutes South 151 degrees 04.020 East, placing it within MNP zone 23-1160 by approximately 2.4km. The vessel was also equipped with a secondary GPS, radar and sounder which were operational, and a copy of Great Barrier Reef Marine Park Zoning Plan Map MPZ 17 depicting the various zones in the Gladstone area.</p> <p>Remarks: Serious offence, costly to detect. Deterrence required</p>	Convicted Fined \$900.
Mackay MC Mr Risson 20 November 2006	Guilty	Marine National Park Zone Cape Hillsborough	<p>Facts: The defendant was the master of a vessel which was located 410m inside a Marine National Park zone at Cape Hillsborough (20°53.944'S, 149°02.212'E). He was observed to be fishing with a handline from the stern of the vessel. He participated in an interview and stated that he was aware of zoning in the Marine Park but was not aware of the zoning in the area surrounding Cape Hillsborough. He admitted to fishing with a handline and stated that he had not caught any fish at their location.</p> <p>Remarks: Magistrate noted that these are serious offences and that everybody is aware of the importance of the Great Barrier Reef. He was the master of the vessel and responsible for the navigation of it. He was generally aware of green zones but made no attempt to find out if he was in one.</p>	Convicted and fined \$1,500 plus \$65.40 court costs, in default 26 days imprisonment

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Mackay MC Mr Risson 20 November 2006	Guilty	Marine National Park Zone Cape Hillsborough	<p>Facts: The defendant was a passenger onboard a vessel which was located 410m inside a Marine National Park zone at Cape Hillsborough (20°53.944'S, 149°02.212'E). He was observed to be fishing with a handline from the bow of the vessel. He participated in an interview and stated that he was aware of zoning in the Marine Park but was not aware of the zoning in the area surrounding Cape Hillsborough. He admitted to fishing with a handline and stated that he had not caught any fish at their location.</p> <p>Remarks: Magistrate noted that these are serious offences and that everybody is aware of the importance of the Great Barrier Reef. He was a passenger onboard the vessel, but was still under an obligation not to fish inside a Marine National Park zone. He fishes regularly and was generally aware of green zones but made no attempt to find out if he was in one. His early plea of guilty and cooperation with the authorities was also taken into account.</p>	Convicted and fined \$1,500 plus \$65.40 court costs, in default 26 days imprisonment
Rockhampton MC Mr Hennessy 5 December 2006	Guilty	Marine National Park Zone Keppel Bay	<p>Facts: The defendant was the owner and master of a vessel located by Queensland Parks and Wildlife Service officers 1,430m inside a Marine National Park zone at Keppel Bay. The defendant was observed to be fishing using a rod and reel from the rear of the vessel. The defendant participated in an interview and stated that he had fished in the area a few times, that he was aware of Marine Park zoning, that he had been fishing with another person at the location in question and that he was relying on a map he had purchased after obtaining his boat license in 2005.</p> <p>Remarks: Magistrate took into account the defendant's plea of guilty at the earliest opportunity and lack of any criminal history. Also took into account the fact that the defendant was familiar with the area, that he was a long way inside the zone that it was his responsibility to ensure that he was not fishing inside a green zone and the fact that he was fishing with somebody inside the zone.</p>	Convicted and fined \$2,000 plus \$65.40 court costs

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Rockhampton MC Mr Hennessy 5 December 2006	Ex parte	Marine National Park Zone Roslyn Bay (Olive Grove on eastern side of Middle Island)	<p>Facts: On 30 April 2006, Marine Park Rangers were performing a routine vessel patrol of the waters off the coast of Queensland in the Roslyn Bay area. At approximately 9.15am, the rangers observed a recreational aluminium vessel anchored in the vicinity of Olive Grove on the eastern side of Middle Island. The Rangers observed two persons on board the recreational vessel. One person, later identified as the defendant, was observed winding up a fishing line attached to a fishing rod. Attached to the end of the line was a sinker and a baited hook. The Rangers proceeded to the vessel and, using a handheld GPS, determined its position as 23° 09.0676' S, 150° 55.237' East. A GIS plot later undertaken placed the vessel approximately 310 metres inside the Marine National Park zone 23-1158, also referred to as a green zone. The Marine National Park zone is defined under the Great Barrier Reef Marine Park zoning plan and does not permit fishing. A Marine Park Ranger had a conversation with the defendant which he recorded in his notebook. During the course of that conversation, the defendant stated: he was the master of the vessel; that he was aware of Marine Park zoning; he had been fishing at the location at which he was detected by Park Rangers for approximately 1 ¼ hours; and he did not hold a permit to fish in the Marine National Park zone.</p> <p>Remarks: The defendant now resides in Canberra and wrote to the Court indicating his intention to plead guilty. The matter therefore proceeded ex parte pursuant to s.142A of the Justices Act. The Magistrate noted the defendant's need to take responsibility for his actions, particularly as there had been a great deal of recent publicity in relation to the Green zones.</p>	Convicted and fined \$2,000, plus \$65.40 court costs

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Ms Coates 3 January 2007	Guilty	Marine National Park Zone Zone 16-1050	<p>Facts: On 30 April 2006 the defendant was observed fishing with another person from the vessel within the Marine National Park Zone 16-1050. This zone, which is also known as a green zone, is defined under the Great Barrier Reef Marine National Park zoning plan and does not permit fishing. This zone, which is also known as a green zone, is defined under the Great Barrier Reef Marine National Park zoning plan and does not permit fishing. The defendant's vessel, equipped with a GPS unit, was located 380 meters within the Marine National Park zone. No fish were caught. The defendant participated in a record of interview in which he made the following statements and admissions: he was the owner of the boat and in charge of it that day; he did not have any zoning maps or zoning plans on the vessel, but he did have them at all times before now; he is fully aware of the green zones and other zoning areas in the Marine Park and the reason he came to this spot was because another fisherman known by the co-defendant said it was a good spot, although he did not give them GPS co-ordinates; he is aware that you cannot fish in a green zone, and his actions were unintentional; he is "very conservative, environmentally wise" and always likes to do the right thing.</p> <p>Remarks: Defence made submissions on behalf of each defendant that an order pursuant to s.19B would be appropriate having regard to the defendant's good character and the effect it would have on his ability to go overseas for work related travel. The Magistrate stated that despite the defendants' exemplary character and antecedents, having regard to the decisions of previous Courts in similar matters and to the comments of McPherson J in R v Abdi, s.19B was not an appropriate sentencing option. She further stated that the offence was not trivial.</p>	<p>Convicted</p> <p>Fined \$1,000, court costs \$66.50.</p> <p>Convicted</p> <p>Fined \$1,000, court costs \$65.40.</p>
Bundaberg MC Ms Batts 30 January 2007	Guilty	Marine National Park Zone "Baffle Cat" shipwreck, Bundaberg	<p>Facts: On 12 July 2006 at approximately 9.45am, officers from the Queensland Boating and Fisheries Patrol (QBFP) in Bundaberg were patrolling the waters in the vicinity of the "Baffle Cat" shipwreck when they observed an aluminium recreational vessel within the Marine National Park Zone 24-1173. This zone is a green zone and does not permit fishing under the Great Barrier Reef Marine National Park zoning plan. A person, later identified as the defendant, was observed fishing with a fishing rod onboard the vessel. The QBFP officers observed the defendant retrieving the line and saw that 2 hooks were attached to the line. Whilst alongside the vessel, the QBFP officers recorded the vessel's GPS position as 24°26.518S, 152°06.749E. This reading placed the vessel approximately 580 metres from the nearest exit to the Marine National Park zone. The defendant participated in a recorded interview with QBFP officers.</p> <p>Remarks: Her Honour took into account the defendant's remorse as well as his antecedents, including that he is a pensioner on limited income. Her Honour noted the seriousness of these types of offences, as reflected by the \$220,000 maximum penalty.</p>	<p>Convicted</p> <p>Fined \$900</p>

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Rockhampton MC Ms Hennessey 6 February 2007	Ex parte	Marine National Park Zone Canoe Passage	<p>Facts: The defendant negligently used a Marine National Park (MNP) Zone (known as a "green zone") at Canoe Passage for the purpose of fishing. A Marine National Park or "green" Zone is a no take zone, and all fishing is prohibited</p> <p>Remarks: The defendant did not appear, and the matter was dealt with in his absence pursuant to s.142A of the Justices Act. The Magistrate took into account the defendant's lack of criminal history and his letter regarding the circumstances of the offending, but noted his disputation of the facts was contrary to his admissions in interview.</p>	Convicted Fined \$2,000. Costs \$66.50.
Cairns MC Mr Hodgins 22.08.07	Guilty	Marine National Park Zone North East of Green Island	<p>Facts: Defendant was the owner and master of a recreational fishing vessel found approximately 1,565 metres within the Marine National Park Zone directly north east of Green Island off the coast of Cairns. There were 2 persons on board the vessel, including the defendant. Both were photographed with fishing rods in their hands and fish on the end of those lines. Another vessel was also located nearby which was skippered by the defendant Deon. The defendant participated in an interview and stated that he had chosen to fish at the position at Green Island after he had seen other boats in the area, all of whom appeared to have persons on board who were fishing, assuming it was safe to do so. He was aware of the zonings on the Great Barrier Reef and that no fishing allowed in the green zones but that he had no idea of the zoning at Green Island. He had a sounder, compass and radio on board the vessel on the day. He has lived in Cairns for 39 years and has owned boats "all his life" but only owned the boat used on the day for 3-4 months.</p> <p>Remarks: The matter was dealt with at the same time as co-defendant Gregory Angelo DEON. Defence submitted that offences of this nature are now dealt with by way of infringement notice and that these two defendants are the only two outstanding defendants to be dealt with under the criminal provisions of the Act. Attempts had been made to make the infringement notice provisions retrospective but this was unsuccessful. Defence submitted that the defendant had fully co-operated with authorities and made admissions in an interview. The prosecution pointed out that the infringement notice system was not retrospective and that the criminal provision under the Act had not been repealed. His Honour stated that while he welcomed the introduction of the infringement system and it was regrettable that a criminal conviction had to be recorded, the matter had to be dealt with according to the law in operation at the time of the offence. The authorities made it clear that a fine of around \$2,000 was warranted for this type of offending, however in fixing penalty he took into account introduction of infringement notice scheme which had a penalty of \$1,100. He also stated that anyone who lived in Cairns would be aware of green zones and recreational fishers should be aware of the laws.</p>	Convicted and fined \$1,100.

Court Coram Date	Plea / Ex- parte	Zone Location	Facts Sentence Remarks	Sentence (Unless otherwise stated, all sentences are to be served concurrently - Penalties & Sentences Act (Qld) – section 155)
Cairns MC Mr Hodgins 22.08.07	Guilty	Marine National Park Zone North East of Green Island	<p>Facts: Defendant was the owner and skipper of the recreational fishing vessel found approximately 1,565 metres inside the green zone, directly northeast of Green Island, off the coast of Cairns. The defendant was the only person aboard his vessel. Another vessel was located nearby, owned by the defendant. The defendant was photographed with a fishing rod in his hands and a line deployed in the water. He participated in an interview with authorities and stated that he was aware of the green zone around Green Island and that he could not fish in a green zone but he did not know that he could not anchor up or that he was in a green zone at the time. He had never been out to Green Island before this occasion. He had a GPS on board on the day but it was not functioning properly. He had lived in Cairns all his life. He was sorry if he had done the wrong thing and it was accidental and not something he would do deliberately.</p> <p>Remarks: The matter was dealt with at the same time as co-defendant. Defence submitted that offences of this nature are now dealt with by way of infringement notice and that these two defendants are the only two outstanding defendants to be dealt with under the criminal provisions of the Act. Attempts had been made to make the infringement notice provisions retrospective but this was unsuccessful. Defence submitted that the defendant had fully co-operated with authorities and made admissions in an interview. The prosecution pointed out that the infringement notice system was not retrospective and that the criminal provision under the Act had not been repealed.</p> <p>His Honour stated that while he welcomed the introduction of the infringement system and it was regrettable that a criminal conviction had to be recorded, the matter had to be dealt with according to the law in operation at the time of the offence. The authorities made it clear that a fine of around \$2,000 was warranted for this type of offending, however in fixing penalty he took into account introduction of infringement notice scheme which had a penalty of \$1,100. He also stated that anyone who lived in Cairns would be aware of green zones and recreational fishers should be aware of the laws.</p>	Convicted and fined \$1,100.