

Submission
No 921

INQUIRY INTO RECREATIONAL FISHING

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Select Committee on Recreational Fishing
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Dear Chair,

Re: NSW Greens Submission to the Inquiry into Recreational Fishing

The NSW Greens thank the Select Committee on Recreational Fishing for the opportunity to make a submission to the Inquiry into Recreational Fishing. The NSW Greens have developed substantial policies on management of marine and inland river environments, participated in parliamentary debate on associated natural resource management issues and have within its party members with strong interests in marine conservation.

This submission focuses on terms of reference (a), (b) and (e). There appears to be some ambiguity and lack of clarity in the terms of reference. The NSW Greens interpret the preamble in paragraph 1, which states;

"inquire into and report on the benefits and opportunities that improved recreational fisheries may represent for fishing licence holders"

as directing the Committee to investigate the benefits of 'improved recreational fisheries' for NSW fishing licence holders. This is somewhat of a tautology, as it would be assumed that 'improvement' of recreational fisheries would directly benefit recreational licence holders. The Committee prior to holding hearings should clarify the key terminology in the terms of reference. Particularly what constitutes 'improvement of recreational fisheries'. Does 'improvement' constitute increased access and opportunities for recreational fishers or does it refer to larger fish populations and availability of healthier marine ecosystems? In both instances the types of 'improvement' identified do have benefits for fishing licence holders.

Consistent with Government policy and legislative frameworks the NSW Greens interpret improvement as enhanced biodiversity, species resilience and sustainable populations as the key indicia of improved recreational fisheries. These key elements and preconditions of recreational fisheries are the core foundations for quality recreational opportunities. Both the *Fisheries Management Act 1994* (NSW) and the *Marine Parks Act 1997* (NSW) place sustainable management of marine biodiversity at the pinnacle of management and stewardship principles. We encourage the Committee to undertake its inquiry with the understanding that sustainable management of NSW recreational fishing resources is the best way to ensure future generations can continue to have access to fishing resources.

The NSW Greens make the following submissions in relation to the terms of reference;

- a) ***The current suite of existing regulatory, policy, and decision-making processes in relation to the management of recreational fisheries in New South Wales, including the process for the creation of Marine Protected Areas and Marine Parks and the efficacy of existing Marine Protected Areas and Marine Parks***

Process for the creation of Marine Parks

Declaration of State coastal waters as a marine park is generally preceded by the negotiation of commercial fisheries buyouts. The NSW Government, through the funds administered by the Department of Environment, Climate Change and Water purchases licenses and rights in share management fisheries from willing sellers. This initial stage in the development of marine parks adequately addresses structural adjustment issues associated with changes in established practices in the particular marine area prior to declaration of a new marine park.

As outlined in s17B and s17C of the *Marine Parks Act 1997* (NSW), the second stage of the process involves extensive consultation with a wide range of stakeholders, including the local communities and the general public. This is an opportunity for all concerned parties to participate in the development of the initial zoning plan for the marine park, including submitting feedback on proposed classification/zoning of areas within the marine park and the uses within these areas. Recreational fishers, as part of the broader community, are able to participate in this process and have historically played a very active role during consultations. Submissions from recreational fishers should be considered and evaluated in the same manner as all other submissions, consistent with the objects of the Act. The NSW Greens would support greater use of education campaigns to run concurrently with the consultation process. Consultations can become highly emotive and it is important that consultation remains focused on key issues associated with developing management tools while allowing all views to be heard. Any changes to the consultation process must be made in such a way as to ensure equity to all stakeholders throughout the process.

Satisfaction with the current consultation process can be measured in a number of ways. One indicator is general community satisfaction with the management of marine parks. In fact, it should be noted that recent surveys of communities on the north and south coasts of NSW were overwhelmingly supportive of sanctuary zones within marine parks. Results from a survey regarding Solitary Islands Marine Park found that 87% of those surveyed were in favour of the Marine Park and that 80% supported sanctuary zones within this park¹. This high level of support for marine parks and sanctuary zones was also found during a survey for Jervis Bay Marine Park in which 84% of people surveyed were in favour of the park and 82% supportive of sanctuary zones².

These results clearly show that the majority of people in the communities of the north coast and south coast areas believe that sanctuary zones are a vital part of marine parks. It also reflects a general satisfaction with the consultation process associated with marine parks.

¹ Information obtained from Cabinet's 'Internal Working Document - Marine Parks', dated 1 May 2009, at p5

² Information obtained from Cabinet's 'Internal Working Document - Marine Parks', dated 1 May 2009, at p5

Recommendation

The existing process for the creation of Marine Parks adequately includes all relevant stakeholders in the zoning and managements of parks. The NSW Greens do not support a change to the current suite of existing regulatory, policy and decision-making processes but do support increased community engagement through direct marine education campaigns and packages.

Efficacy of existing Marine Parks

In 2001, 161 marine scientists signed the Scientific Consensus Statement on Marine Reserves, which states that no-take zones result in long-lasting and rapid increases in abundance, diversity and productivity of marine organisms as well as reduction in habitat destruction and species extinction.³ The international consensus has suggested that the protection of 20% to 50% of the sea from fishing is necessary to adequately conserve biodiversity and to protect the viability of populations of marine species. The International Union for Conservation of Nature (IUCN) has set a target of world wide marine sanctuaries at 10% by 2012 and a long-term target of 20 to 30%.

More than 30 years of research and studies into the marine environment have shown that establishing sanctuary zones is beneficial in the long-term to biodiversity conservation, threatened species protection and leads to improvements in natural resource management⁴. This evidence supports the view that sanctuary zones within marine parks in NSW should be increased from what they are currently. Recently a global synthesis of published scientific data from 124 marine reserves in 29 countries found significant data to support the idea that marine reserves have positive biological effects.

Currently 34% of the NSW coastal zone is contained within marine parks leaving the majority of NSW coastal waters in which recreational fishing can be undertaken in compliance with the *Fisheries Management Act 1994*.⁵ NSW currently lags behind international recommendations on the proportion of sanctuary zones or 'no take zones' within Marine Parks. In NSW only 6.7% of NSW coastal waters are currently categorized as this type of zone. Fishers would benefit from increased sanctuary zones as these zones need to be adequately large in order to facilitate spillover benefits to areas that allow fishing⁶. Further, NSW has not yet satisfied the National Representative System of Marine Protected Areas (NRSMPA) agreement by representing all Bioregions in NSW Marine Parks. To meet these commitments, NSW needs to establish representative

³ National Centre for Ecological Analysis and Synthesis, Scientific Consensus Statement on Marine Reserves and Marine Protected Areas (2001), <http://www.nceas.ucsb.edu/Consensus>. At national level, the joint National Statement on Marine Protected Areas (2006) from Australian Marine Sciences Association and the Australian Coral Reef Society, recently reiterated international consensus on the benefits of MPAs

⁴ NSW Branch of the Australian Marine Science Association 2008 position statement accessed at <http://www.amsa.asn.au/state/nsw/index.php>

⁵ Within NSW Marine Parks 72.5% to 88% remains available for fishing

⁶ The Allen Consulting Group, 'The economics of marine protected areas', Report to the Conservation Council of Western Australia, November 2009 at p16

Marine Parks in the NSW areas of the Twofold Shelf and Hawkesbury Bioregions⁷ to achieve comprehensive and adequate coverage within NSW.

The role of marine parks in preserving and maintaining marine ecology in NSW is and must continue to be given precedence over extractive uses such as recreational fishing. The objects of the *Marine Parks Act 1997* (NSW) clearly define a management hierarchy in which priority is given to conservation of marine biological diversity and marine habitats and to maintaining ecological processes in marine parks. Maintaining biodiversity and marine ecosystem system through marine park management tools is essential for vibrant and expanding fish populations.

A number of recreational fishing organisations and political parties have stated that recreational fishing does not pose a threat to stock levels and habitat protection therefore marine parks and specifically 'no take zones' (sanctuary zones) are totally unnecessary. This position is taken even though recreational fishing has been shown to have a greater impact on some fish species than commercial fishing as the amount of fish taken by recreational fishers is significantly higher.⁸

Arguments are made that sanctuary zones are not required to protect fish stocks, based on allegations that marine pollution poses the biggest threat to fish stocks and marine habitat. It is alleged that comparatively recreational fishing represents a minimal impact on fish species populations. However, information provided by the Minister for Climate Change and the Environment on 6 January 2010 on estuary health and water quality shows that there are not any current specific concerns relating to pollution run-off into estuaries or coastal waters within or near marine parks in NSW.⁹ Additionally, results of estuary testing for excessive nutrient loading and increased algal abundance showed that the majority of estuaries tested were in very good or good health and that only one out of four assessed as being in very poor or poor condition. Considering this evidence of water quality monitoring provided by DECCW it is difficult for groups to continue to argue marine pollution poses a bigger threat to fishing stocks in NSW marine parks. This information clearly shows that pollution is not a great threat to fish stocks and habitat within marine parks in NSW.

⁷ Winn, Paul, 'Tom Blue Fringe: Marine conservation in NSW', NPA Marine, December 2007 at p33

⁸ Status of Fisheries Resources in NSW 2006/07.

⁹ Question on Notice No. 3932, Mr Cohen to Minister for Climate Change and the Environment, Minister for Energy, Minister for Corrective Services, Minister for Public Sector Reform, Special Minister of State. Answer received 6 January 2010, printed in Questions & Answers Paper No. 134

Recommendations

- *Amendment could be made to the Act to ensure that all interests are more appropriately defined and protected. This includes amending the Act so that zoning categories, currently found in the Regulations, are included in the Act to remove Ministerial discretion to make changes to these categories.*
- *Additionally, to ensure that NSW meets international and national commitments, it is recommended that two new marine parks be established in NSW, these being in the Twofold Shelf and Hawkesbury Bioregions. Sanctuary zones within these new Marine Parks, as well as within existing Marine Parks, should also be reviewed to ensure that they cover an adequate area to realise the environmental benefits they seek to achieve.*

b) *The effectiveness and efficiency of the current representational system of trusts and advisory committees that advise government departments and statutory authorities.*

The NSW Greens note that there are a multitude of stakeholders in management of marine and inland river environments. Achieving the good outcomes for marine and inland environment environments requires a level of governance that is inclusive of effective stakeholder and community participation. Term of reference (b) deals with the effectiveness and efficiency of current advisory committees and trusts to achieve benefits and opportunities for recreational fisheries. From the outset the NSW Greens wants the Committee to note the problematic elements of this term of reference to existing legislative frameworks and government policy due to its underlying assumption. Advisory Committees and trusts are established to provide advice and recommendations that balance a range of stakeholder views with a specific mandate. The terms of reference could be interpreted as presupposing that trusts and advisory committees involved in marine and inland river management should be geared to producing outcomes solely for recreational fishing. In other words (b) should not be seen in the context of advocating efficiency and effectiveness solely in the context of beneficial outcomes for recreational fisheries. Paragraph (b) should be taken more generally as referring to efficiency and effectiveness in the context of advisory committees and trusts satisfying their legislative mandates under their respective Acts.¹⁰ We would encourage the Committee to evaluate the effectiveness of Marine Park advisory committees and fisheries trusts within the confines of their legislative functions as opposed to a mandate to deliver outcomes for recreational fisheries at the expense of other legislative functions and responsibilities.

Under the *Marine Parks Act*, each NSW marine park has an Advisory Committee.¹¹ The Advisory Committee is made up of individuals who in the relevant Ministers' opinion represent the interests listed in Section 35 of the Act. These interests included marine conservation, marine science, Aboriginal people, the tourism industry, commercial fishers, recreational fishers, scuba divers and local councils. The relevant Ministers do have a power to add additional members representing the listed interests.

¹⁰ Marine Parks Act 1997 (NSW) Section 35AA and Fisheries Management Act 1994 (NSW) Part 8, Division 3.

¹¹ Marine Park Act, Section 35

The NSW Greens are of the opinion that Advisory Committees must balance a range of interests in marine park management. However, we do note that there may be specific demands for specialised knowledge and expertise to bolster the technical competency of the advisory committee. Considering the allegations and suggestions by some political parties and community groups that marine park management is not based upon empirical scientific data, there may be a need to allow for the relevant Ministers to add representatives with expertise in marine science. During the passage of the *Marine Parks Amendment Bill 2008* both the Greens and the Nationals Party sought to make amendments to Section 35. The Nationals Party sought to restrict the Advisory Committee to 10 members and ensure members were drawn from local associations. The NSW Greens amendment sought to constrain the power to add additional members in s 35(3) by requiring that additions had to be justified on the grounds that there was a disproportionate workload on a particular member that needed to be reconciled. After much debate neither of these amendments were adopted and the original proposal from the Government remained.

Generally, the NSW Greens are satisfied with the operation of the Advisory Committees. In a ministerial advice from the NSW Marine Parks Authority to the relevant Ministers dated 16 March 2009, the NSW MPA noted the comments of the Solitary Island Marine Park (SIMP) Advisory Committee "*complimented the quality of the zoning review report and the level of community consultation undertaken*". In terms of constitution and representation the NSW Greens generally support the current requirements, however would question whether the high volume park users such as beachgoers are adequately represented. Or maybe the question needs to be framed as: are any particular park users over represented in directing park management?

At present there appears to be an adequate balance of park users on the Advisory Committees. However, given the discretionary powers of appointment and lack of limitations of representatives this may become an issue in the future. What is of key importance is to ensure there is an adequate level of technical expertise on marine science to counter allegations that zoning recommendations and operational plans are not based on scientific principles and data.

In relation to representation of recreational fishers on Advisory Committees, the NSW Greens can see no reason why the current level of representation is not satisfactory. Taking into account that recreational fishing is only one of many activities undertaken in Marine Parks there is no justification for additional representation.

Improvements could be made to the operation of Advisory Committees to combat unfounded and frivolous claims that Advisory Committees are operating to the detriment of recreational fishing stakeholders. Amendment should be made to Section 17D of the *Marine Parks Act 1997* to provide for the publication of zoning plan review reports and Advisory Committee comments on the report after the relevant Ministers have considered the report. Additionally all minutes of advisory committee meetings should be published.

Representation on recreational fishing trusts established under the *Fisheries Management Act 1994* is primarily geared to provide recreational fishers opportunity to administer the expenditure of licensing fees through the established trusts. The NSW Greens would like to see some broader diversity of representation on these trusts. Specifically, the NSW recreational fishing trusts should be open to individuals beyond the

recreational fishing community. This will help ensure fees are applied for outcomes that satisfy broader fisheries stewardship associated with increased research.

The NSW Greens would ask that the Committee take note of the *NSW Recreational Fishing Trusts*

Investment Plan 2008/09 to 2012/13. On page 6 of the investment plan, Industry and Investment NSW sets out the investment platform for the saltwater and freshwater trusts. The seven investment platforms can be broken down into three key categories; natural resource or asset improvement, research and compliance. It is not clear how the investment program and trust income is assigned to various programs or upon what criteria funding allocations are made. The NSW Greens support prioritising funding from trusts in the following order; research, compliance and resource development. Researching fish populations, their resilience and sustainable harvesting should receive the lion's share of trust funds.

State management and stewardship of fisheries resources must be based upon empirical scientific data with the additional application of precautionary principles. Sustainable population evaluations are the corner stone and essential baseline for responsible and effective management of NSW Fisheries. The integrity of state management/resource stewardship must be equally supported by significant investment in compliance, monitoring and enforcement measures. Recreational fishing enhancement programs should receive the lowest level of priority and habitat rehabilitation should be prioritised ahead of recreational fishing enhancement programs. The suggested prioritisation is based on the mandates given to the Department and NSW Government under the objects of the *Fisheries Management Act 1994*.¹² In order to adequately gift fishery resources to future generations the NSW Greens believe priority should be placed on research and compliance.

Recommendations

- *Amendment should be made to Section 17D of the Marine Parks Act 1997 to provide for the publication of zoning plan review reports and Advisory Committee comments on the report after the relevant Ministers have considered the report. Additionally all minutes of advisory committee meetings should be published.*
- *The NSW Greens support prioritising funding from trusts in the following order; research, compliance and resource development. Researching fish populations, their resilience and sustainable harvesting should receive the lion's share of trust funds.*

¹² (1) The objects of this Act are to conserve, develop and share the fishery resources of the State for the benefit of present and future generations.

(2) In particular, the objects of this Act include:

(a) to conserve fish stocks and key fish habitats, and

(b) to conserve threatened species, populations and ecological communities of fish and marine vegetation, and

(c) to promote ecologically sustainable development, including the conservation of biological diversity,

(e) ecologically sustainable development issues related to improving recreational fisheries.

ESD in the NSW context is based on integrating economic and environmental considerations in decision-making processes as outlined in the *Protection of the Environment Administration Act 1991*. Specifically, this includes the implementation of:

- The precautionary principle
- Intergenerational equity
- Conservation of biodiversity and ecological integrity
- Improved valuation, pricing and incentive mechanisms

ESD is embedded into the current Marine Parks Act which already includes specific provisions allowing recreational fishing. ESD acknowledges the sometimes conflicting interests of economic, environmental and social aspects to resource management but makes it clear that these interests must be balanced to achieve inter-generational equity and conservation values. Any consideration of changing the extent of recreational fishing cannot be dealt with separately from all other aspects of marine protected area and coastal zone management and should consider potential impacts both now and in the future. The process of undertaking an environmental assessment of recreational fishing in NSW could be one way of ensuring that all economic, environmental and social elements are considered in totality rather than individually and without appropriate recognition of the interconnectedness of these factors.

However, recreational fishers have an important role to play in maintaining ESD within marine parks/marine protected areas and recreational fisheries as they are able to provide information on changes to fish stocks or habitat that may be experienced over time, so their input into the ongoing management should be encouraged. The NSW Game Fish Tagging Program has a role to play in data collection and tracking fish population movements however data collected needs a higher level of dissemination to other government departments and the general public. At present Industry and Investment NSW are not maximising the value of the data in resource management.

The precautionary principle

The precautionary principle is an essential component of ESD. Its relevance to management of recreational fisheries and marine protected areas is essential in light of the gaps in existing scientific, species specific knowledge, threat of serious or irreversible environmental damage and scientific uncertainty as to the environmental damage.¹³ Whether setting bag and size limits or zoning marine parks assessment of empirical data must be based upon the precautionary principle, which does not preclude taking proportionate action without scientific certainty. This view is supported by conclusions in a recent economic study into marine protected areas that an absence of complete certainty should not prevent environmental protection measures being undertaken when marine ecologies appear to be at risk¹⁴. For this reason, precaution should be taken towards fishing of species that are in decline but not yet listed or named on threatened list(s). In the context of recreational fisheries an Environmental Assessment, including an Environmental Impact Statement should be undertaken to gather more data and provide

¹³ Per Preston CJ *Telstra Corporation Limited v Hornsby Shire Council* [2006] NSWLEC 133 at 130-181

¹⁴ The Allen Consulting Group, 'The economics of marine protected areas', Report to the Conservation Council of Western Australia, November 2009 at p3

an effective framework to evaluate environmental risks, biodiversity impacts and recreational opportunities.

Intergenerational Equity

Applying the precautionary principle is a central tenet to ensuring that not just the current generation but also future generations enjoy benefits of recreational fishing, including economic and recreational benefits in marine parks. Commonwealth and international instruments, such as the Agenda 21 principles, would be supported by this approach, bringing NSW into further alignment with national and international frameworks.

Likewise the social benefits of recreational fishing must be balanced with the social benefits of maintaining or increasing areas in which recreational fishing is not permitted. This is reflected in the objects of the Act by providing for public use, including recreational fishing and other forms of enjoyment, of marine parks. By applying the precautionary principle to define the extent to which recreational fishing can occur within marine parks, intergenerational equity has the best chance of being achieved.

Conservation of biodiversity and ecological integrity

It should be noted that recreational uses of marine parks/marine protected areas and the state coastal area should not be at the expense of conserving biodiversity or maintaining ecological processes as set out in the objects of both Acts. In the context of marine parks and marine protected areas an increase to recreational fishing within marine parks would most likely be to the detriment of other objects. It is not appropriate to propose an increase purely on the basis of specific social and economic benefits that are not integrated with conservation aims.

Currently waste generation by recreational fishers has not been adequately addressed and increasing recreational fishing opportunities would have a proportionate impact on the level of fishing associated waste such as disused line and plastics. Like other forms of marine pollution fishing associated waste may lead to a diminution of biodiversity and ecological integrity. Waste from fishing activities is already a significant problem in some marine park areas so more effort is needed to address current issues.

Improved valuation, pricing and incentive mechanisms

Marine Parks are an asset not only to marine ecology but also to the community as a whole. As such they should be valued not only for the purely economic returns gained such as tourism and regional development but also for their intrinsic environmental value.

The economic benefits of recreational fishing on local communities have been given as a reason for limiting the establishment of sanctuary zones. However, the way in which these assumptions have been made has drawn criticism for not adequately measuring the true economic value - surplus generated as opposed to number of transactions to purchase fuel, bait, food and equipment - of recreational fishing.¹⁵ Similarly, only measuring potential economic loss associated with sanctuary zones on the basis of previous surplus figures is not economically precise as it does not use figures from a low

¹⁵ The Allen Consulting Group, 'The economics of marine protected areas', Report to the Conservation Council of Western Australia, November 2009 at p4, p9

enough base point.¹⁶ This indicates a need to improve the way in which the value of Marine Parks is assessed, particularly in light of the fact that developments within economics modelling have not been fully integrated with progress in ecological understanding.¹⁷

While economic benefits related to recreational fishing should not be discounted completely, the economic value of preserving the ecological integrity of marine parks is also an important consideration. In fact, taking the approach of valuing ecological integrity can in turn have significant knock-on benefits to fisheries economies by providing transfer of fish stock from sanctuary zones into fishing zones and protection against fish stock depletion¹⁸.

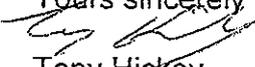
Another economic benefit that can be quantified by limiting recreational fishing within marine parks is that of eco-tourism which is based on the promotion of unique protected marine parks. This is a significant market not just nationally but also internationally and would be threatened by an increase in recreational fishing. Predictions have also been made that "environmental non-market values" and the use of marine biodiversity in future technologies are important considerations that could be assigned monetary values when assessing the economics of marine parks¹⁹.

The non-monetary aspects of marine parks should also not be discounted as they include significant factors such as providing educational and scientific resources, social benefits associated with preserving past, current and future use and cultural values deriving from the mere establishment of marine parks²⁰. For these reasons it is important that improvements to valuation, pricing and incentives are based on the whole picture of what a marine park provides rather than on one narrow aspect such as recreational fishing.

Recommendation

- **The existing hierarchy of placing biodiversity and ecological considerations above those of commercial and recreational uses of marine parks is appropriate given the environmental intent behind the creation of Marine Parks. To ensure that the NSW marine environment is adequately protected now and in the future this precedence must remain, hence the recommendation to continue to place biodiversity and ecological outcomes above the interests of recreational fishers as currently set out in the Marine Parks Act.**

Yours sincerely


Tony Hickey
Secretary
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¹⁶ The Allen Consulting Group, 'The economics of marine protected areas', Report to the Conservation Council of Western Australia, November 2009 at p4

¹⁷ The Allen Consulting Group, 'The economics of marine protected areas', Report to the Conservation Council of Western Australia, November 2009 at p2

¹⁸ The Allen Consulting Group, 'The economics of marine protected areas', Report to the Conservation Council of Western Australia, November 2009 at p5

¹⁹ The Allen Consulting Group, 'The economics of marine protected areas', Report to the Conservation Council of Western Australia, November 2009 at p5

²⁰ The Allen Consulting Group, 'The economics of marine protected areas', Report to the Conservation Council of Western Australia, November 2009 at p20