

Submission
No 77

INQUIRY INTO RECREATIONAL FISHING

Organisation: Newcastle Sportfishing Club Inc
Name: Mr T Kendall
Position: Vice President and Life Member
Date received: 22/02/2010



Newcastle Sportfishing Club Inc



President: Arthur Smith
Secretary: Eddie Sitarz

18th February 2010

The Director
Select Committee on Recreational Fishing
Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Sir,

Submission by Newcastle Sportfishing Club Inc

Please find enclosed the submission to the Select Committee on Recreational Fishing on behalf of the members of Newcastle Sportfishing Club Inc.

We thank the Hon Robert Brown MLC for initiating this inquiry and also the other members of the committee for taking part and giving recreational anglers the opportunity to put forward ideas, suggestion and grievances for consideration. We hope that the outcomes and recommendations from this inquiry will benefit recreational anglers and receive full departmental and political support.

Yours sincerely

A handwritten signature in cursive script, appearing to read "T Kendall".

T Kendall
Vice President and Life Member
For the Committee and Members of
Newcastle Sportfishing Club

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The Director
Select Committee on Recreational Fishing
Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

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Submission by Newcastle Sportfishing Club Inc

The following is a submission to the Select Committee on Recreational Fishing of issues of significance to the members of Newcastle Sportfishing Club Inc.

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General

Recreational fishing has become the most regulated of any sport in NSW. Anglers have to contend with size limits, bag limits, possession limits, species restrictions, number of rods in use, limits on number of hooks, closed seasons, seasonally closed areas, no fishing zones, fly fishing only areas. And recently rods in an unrigged state, rods stowed and code of conduct for competitions. Anglers can only wonder at this proliferation of controls to what is supposed to be a peaceful and relaxing activity.

Governments have continued to exert ever increasing influence over recreational fishing either as a revenue raising activity or bowing to political pressure exerted by minority groups opposed to fishing.

Recreational anglers feel they are being emasculated by this incontinence of laws.

Advisory Council On Recreational Fishing

The DPI website advises:- *"The Advisory Council on Recreational Fishing (ACoRF) is a statutory body established under the provisions of the NSW Fisheries Management Act 1994. The Council provides high quality advice to the Minister for Primary Industries on matters relating to recreational fishing. It comprises a Chairman and persons with expertise in estuary fishing, offshore fishing, freshwater fishing, underwater fishing, sale of fishing tackle, fishing media and charter boat fishing".*

ACoRF is therefore a body of recreational anglers selected to advise the Minister on recreational fishing matters. The council is not representing recreational anglers, angling clubs or angling associations.

A couple of years ago we believe the Minister unilaterally declared ACoRF as the peak body representing recreational anglers in NSW. This role is in conflict with the original intent and aims of the council i.e. a group of individuals with recreational fishing expertise providing advice on recreational fishing matters to the Minister. Following this decision the chairman of ACoRF became a member and ultimately chairman of the national recreational fishing body Recfish. There is potential for conflict of interest if ACoRF, the Minister's selected advisory body, is also the peak body representing NSW recreational anglers both at a State and National level. The peak body could be seen by recreational anglers as being a rubber stamp to the Minister. That decision then also limits any representation by clubs and associations on fishing matters to the Minister and nullifies any broad based dissent.

NSW Recreational Angling Peak Body

NSW recreational anglers need a peak body represented by all recreational fishing associations with funding of expenses and a paid full time executive position coming from the Recreational Fishing Trust Funds. This could be achieved using the Recreational Fishing Alliance, a collective body of angling clubs and associations, as a nucleus. ACoRF could be used to call clubs and associations together and coordinate the initial set up.

Recreational Fishing Trust Funds

These trust funds are the repository for the income received from the sale of recreational fishing licences. The intent as stated on the DPI website for the freshwater fishing fee is :- *"The amendment also provided for proceeds of the fee to be managed by way of dedicated trust funds, for trust funds to be spent only on additional services for freshwater anglers and for the trust to be administered in consultation with ACoRF."*

Over time funding has been approved to pay for numerous fisheries enforcement officers, conservation managers and fisheries research activities. Funding of that number of fisheries enforcement officers and conservation managers we believe to be outside the original terms and intent of the legislation and advice given to recreational anglers. (The Government's change to the wording in the Act to include "maintaining and protecting" after "enhancing" in Section 34AA(a) in the Fisheries Management Amendment Bill 2009 is noted.)

Some of the research activities have been of a nature also beneficial to the commercial fishing industry and aquaculture. Other funding has benefitted farmers, local councils and communities or has financed activities which may be considered core activities of government (refer Attachment A – blue highlighting). The appropriate percentage of funding must then be forthcoming from State or local government or the commercial industry where a beneficial outcome is received from the project.

Some anglers consider this State and local government benefit has eventuated as a result of having the chairman of ACoRF (the Minister's advisory body) as chairman of the Trust Funds. Again there is a potential for conflict of interest and certainly the perception of the Trust Funds being a "slush fund" for departmental and government use. This concern is strengthened by the attached press release where the Minister is taking credit and political gain from the use of Trust Funds. (refer Attachment A – red highlighting)

It must be noted that there have been some very positive activities funded by the Trust Funds particularly in the restoration of freshwater habitat and riparian vegetation, the native fish breeding and stocking programmes and much of the research. In saltwater the provision of artificial reefs and fish aggregating devices have a dual benefit of forming new fish habitat and new fishing sites for anglers.

Both fish stocks and anglers have benefitted from the buyout of commercial fishing licences and subsequent declaration of recreational only fishing zones. However careful consideration should be given when Trust Fund allocation is made to the flow on effect to the commercial industry by way of potential catch increases from the reduction in commercial effort in these zones and resultant stock recruitment. For instance in Lake Macquarie the buyout of commercial estuary licences has resulted in increased biomass of species such as mullet, bream and luderick which may then be taken immediately on leaving the estuary to breed by the commercial beach haulers. A way must be found to factor into the funding process this benefit so that it is not funded by the recreational anglers.

Marine Parks

For some years this government has been “encouraged” to declare areas of the NSW coast and estuaries as Marine Parks. The science behind selection, zoning and declaration of most of the marine parks has been questioned and considered by many to be a sophism of “green “ politics.

We have been told that marine parks are declared to preserve biodiversity with areas deemed to have high biodiversity being given sanctuary zoning . Anglers can therefore assume that high biodiversity still exists in these areas as the MPA deems them important enough for sanctuary status. Commercial fishing and recreational angling had taken place in these areas for around 80 years yet this high biodiversity still exists. An assumption could be made that the impact of commercial fishing and recreational angling has been minimal for that extended period. Why then the rush to lock out these stakeholders? Especially when area specific scientific studies are lacking.

The declaration of marine parks has had an enormous impact on recreational anglers in pursuit of their sport through extensive loss of prime fishing areas, confusing and unreasonable laws enacted , and anti angling bias from within the Marine Parks Authority. It is strange that recreational anglers are numerically the largest group of stakeholders in the marine parks process and yet have been the most adversely affected. Also that these stakeholders do not have any representation on the MPA.

The actual zoning plans for the marine parks have put both the Marine Parks Authority and the current government offside with most recreational anglers. These zoning plans have been used to enact unreasonable laws on recreational anglers and their sport. A case in point is the use of the terminology “unrigged” or “unrigged state” and “stowed” to determine guilt in instances where anglers have not breached the terms of the Act or Regulations. “Unrigged” and “unrigged state” has further been refined by MPA to now include swivels on lines when the only purpose of a swivel is to prevent line twist.

The MPA Regulations generally state:-

A person must not, while in the sanctuary zone of a marine park:

- (a) harm, or attempt to harm, any animal, or*
- (b) harm, or attempt to harm, any plant, or*
- (c) damage, take or interfere with, or attempt to damage, take or interfere with, any part of the habitat (including soil, sand, shells or other material occurring naturally within the zone),*

Having a fishing line not in an “unrigged state” or not “stowed” therefore presumes the angler guilty of harming or attempting to harm any animal or plant. This presumption of guilt contradicts the basic tenet of Australian law that one is innocent until proven guilty.

An analogy would be that a person is legally parked in a vehicle in a 60kph zone and a police officer issues that person with an infringement notice for speeding because the vehicle’s low profile tyres are rated to 200kph.

It seems the MPA has arranged the zoning plans to assign guilt if the angler has the equipment even if there is no intent to “harm or attempt to harm” .

Anglers are left to ponder if this is a revenue raising process or a lazy compliance strategy negating the need to actually catch perpetrators in the act of harming or attempting to harm.

The MPA Regulations and zoning plans must be simplified, made fair and reasonable and the anti angling bias removed.

Fisheries Management Act and Regulations

Over the years the Act and Regulations have been amended to a point where the backbone of the legislation has been lost in a plethora of amendments and rescissions making it very complex and open to interpretation by the compliance authorities.

Anglers are required to abide by the Act and Regulations and keep up with the multitude of amendments made with recreational associations not being consulted and not being advised of the changes. The handbooks issued to recreational anglers only giving a summary of the Regulations and excluding much of the needed "fine print" to fully comply with the Act and Regulations.

A complete rewrite would be timely following extensive consultation with stakeholders. Perhaps recommendations from this Inquiry may be the catalyst or form the basis for a new Act and regulations.

Industry and Investment – NSW Fisheries

In the previous section of the submission on Marine Parks the inappropriateness of terminology such as unrigged state and stowed was highlighted. Recent instances have indicated that the same terminology has now permeated into use by I&I NSW Fisheries Officers. Anglers are being threatened with infringement notices on freshwater dams for having more than two fishing rods in a rigged state in the boat. The regulation states :- *"Two attended lines are permitted in all non-tidal waters other than some notified trout waters. Attended lines must be within 50 metres, in your sight and have no more than 2 hooks per line (except some notified trout waters) "or 3 treble hooks per line attached to a lure.*

In the 2009 Freshwater Fishing Handbook the following wording has been included :-

Prohibited fishing methods and activities

Line fishing

You are not permitted to:

- ➔ Set line, drop line, or jag (foul hooking).
- ➔ Use handlines in notified trout waters (rods and lines only permitted).
- ➔ Carry excess fishing lines in, on or adjacent to waters. Spare lines should not be rigged e.g. no hooks, sinkers or swivels attached and should be properly stowed.

We are advised by I&I NSW fisheries that the wording "no hooks, sinkers or swivels" is incorrect and should read "no hooks, flies or lures".

Anglers may consider this wording to have been included to catch anglers not stop illegal fishing.

Most sportfishing, tournament and the majority of keen anglers carry a number of rods in their boats. These may include a fly rod, a rod for use with soft plastic lures, a baitcasting rod for small hard body lures and perhaps a heavier rod to troll large hard body lures. Each outfit has been designed for a purpose and use in differing situations. Strangely these are the very anglers who are conscientious and have a strong catch and release ethic. They also tend to be the ones who put their hand in their pocket or conduct activities to raise money for restocking of the waterways they fish. Ironically they are also more likely to be affected by this unnecessary law because of the number of specialised rods they carry.

Use of the MPA derived terminology must be removed in this legislation and all I&I NSW fisheries officers must use some fairness and discretion in the application of the above rule until removal. Consider the potential for enforcement action being used against campers having "excess fishing lines" or "spare lines rigged" in their vehicles or tents when "adjacent to waters".

The 2009 Saltwater Fishing Rules allows "No more than four rods or lines can be used by any one person at any one time." This terminology is far preferable to and much fairer than the freshwater rules terminology simply by the use of "can be used by any one person at any one time". Why the variation in wording between freshwater and saltwater rules ? These should be standardised to the Saltwater Guide wording.

Further a lack of consistency by I&I NSW fisheries officers in interpretation and application of the Act and Regulations has been experienced by our club. A member recently received a \$200 fine one month after being advised he would receive a caution for not having his fishing fee receipt in his possession. He had a receipt valid until mid 2012 in his wallet which was temporarily lost in his vehicle at the boat ramp where the Fisheries Officer requested production of the receipt. Yet 31 persons around the same time in another part of the state received cautions as advised in the following statement by Industry & Investment (I&I) NSW Fisheries Compliance Director Glenn Tritton in an article on the DPI website entitled "Most Recreational Fishers Do The Right Thing" "Over 20 people were issued penalty notices for failing to pay the NSW Recreational Fishing Fee, with 31 persons receiving a written caution for failing to have the fishing fee receipt in their possession" Why do we have these apparent inconsistencies ? Can these be a result of the continuing amendment process to the Act and Regulations and the inability of the fisheries officers to assimilate the changing information ?

Trout

Historically the various species of trout introduced to Australia were given some exalted and over protected status as they were species pursued by the landed gentry or those of the upper social classes.

Over the years this status has been diminished to a stage where trout have become species sought by anglers of all socio economic backgrounds. The over protection given has not been accordingly reduced and in fact has been increased to a point where the restrictions on capture are the most restrictive and numerous of all the fishing laws. To start seven trout water classifications have been declared, each with it's own set of rules and geographical limits. Then there are size limits, bag limits, limits on number of rods and hooks, closed seasons, closed streams, fly fishing only streams, lure only streams, no bait fishing streams, blue ribbon streams, catch and release streams, general trout streams, trophy trout dams, exclusion zones. Further is a ban on taking Murray Crayfish, using setlines, traps and nets, lights, tickling, gaffs or use of salmon roe in declared trout waters. Plus a different legal length and bag limit for trout spawning streams.

All this for basically two introduced species. No other species of fish in NSW waters receives anywhere near the protection, hype and funding that is enjoyed by trout.

These laws need rethinking, review and revision back to conform with laws relating to all other freshwater species. Their status as an introduced species and their impact on other native freshwater species in rivers and streams must be given serious consideration.

Gaden Trout Hatchery

The current governments decision to close Gaden Trout Hatchery and then negotiate recreational angler funding through the Recreational Fishing Trust Funds must be seen as a cynical move made with knowledge that the funding would be forthcoming. Whilst members agree with funding being provided under threat of closure they strongly disagree with the Government's decision.

The Gaden Hatchery product does not only benefit recreational anglers there is a tremendous benefit to the Snowy Mountains communities through tourism and subsequent maintenance of business cash flow during the non snow period. Hotels, motels, tackle stores, restaurants and petrol stations not only in the immediate Snowy Mountains area but also on major routes to and from all benefit from the influx of anglers and their families.

The decision is seen in a poor light by recreational anglers.

As recreational anglers are not the sole beneficiaries of the Gaden breeding programme the NSW Government must take back responsibility and funding of this facility.

Fisheries Management Amendment Bill 2009

It is understood that in the Fisheries Management Amendment Bill 2009 penalties for fishing offences were doubled including the term of imprisonment. Anglers can only be amazed at the inappropriateness of the fines when compared to those issued by NSW Police for far more serious breaches. The government needs to be reminded that these offences are not life threatening offences and many are borne out of ignorance or just a lapse of memory.

As these penalties far exceed the deterrent effect needed more reasonable and appropriate penalties must be considered.

Anglers can only feel that the doubling of fines is revenue raising by the government.

Recommendations

1. A peak body representing all recreational fishing and spearfishing associations should be set up with one full time paid Executive Officer and adequate running expenses funded from the Recreational Fishing Trust Funds. One member of this peak body to represent recreational anglers on ACoRF.
2. ACORF then reverts to being an advisory body for the Minister.
3. One member of ACoRF to hold a non voting position on each of the Recreational Fishing Trust Funds.
4. At least one member of the peak body to hold a voting position on each of the Recreational Fishing Trust Funds.
5. Funding from appropriate sources be sought to supplement Recreational Fishing Trust Fund funding where the approved project also benefits the commercial fishing industry, aquaculture, or local and State government.
6. No further marine parks to be declared without substantial and area specific scientific studies.
7. Marine parks legislation and zoning plans be made fair and reasonable to recreational anglers. All references to "unrigged", "unrigged state" or "stowed" be removed from the legislation and zoning plans. The wording from the regulations "harm or attempt to harm" be used to determine offences.
8. A complete rewrite of The Fisheries Management Act be carried out following extensive consultation with stakeholders. Perhaps recommendations from this Inquiry may be the catalyst or form the basis for a new Act and Regulations.
9. The 2010 Freshwater Fishing Guide be standardised to the Saltwater Fishing Guide to include the wording "No more than two rods or lines can be used by any one person at any one time." All references to carrying excess fishing lines or spare lines, rigged or stowed be removed from the Freshwater Fishing Guide and appropriate changes be made to the regulations where necessary.
10. A comprehensive review be undertaken and appropriate adjustments be made to the regulations relating to trout fishing with a view to simplification and standardisation with the native fish species.
11. As recreational anglers are not the sole beneficiaries of the Gaden Trout Hatchery breeding programme the NSW Government must take back responsibility and funding of this facility.
