

**Submission
No 774**

INQUIRY INTO RECREATIONAL FISHING

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Position: Chair
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**Submission to the NSW Legislative Council's
Select Committee on Recreational Fishing.**

March 2010

On behalf of

Narooma Port Committee

Chair: Dr. Philip Creagh BVSc.

Secretary: Mr. John Moore

Written with the authority of the Narooma Port Committee by Philip Creagh

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Addressing the Terms of Reference of the Select Committee on recreational Fishing

In all instances I refer to the region surrounding Narooma, within the southern end of the Batemans Marine Park on the Far South Coast, and including Bermagui, which is not within the boundary of the BMP. This submission, hopefully, will give a good idea of the challenges facing rural and regional NSW when edicts are handed down in Sydney.

1a. I would like to address the issues surrounding the period before the Batemans Marine Park and after the introduction of the Batemans Marine Park in December 2005 in a separate context.

I demonstrate the use and abuse of statistics and surveys by both the Green conservation NGOs, MPA and recreational fishing groups.

I would like to combine this with **1d.** And **1e.**

1b. I would like to address this issue by discussing the various volunteer organizations that claim to represent recreational fishermen, the NSW Government Advisory Council on Recreational Fishing and what effect this has at Narooma. I highlight the disparity in Government funds available to the Recreational Fishing industry compared to the Green Conservation NGOs.

1c. I will address this by discussing the value of recreational fisheries purely on the Narooma/Bermagui economies, as tested studies have been done in this area.

I believe I have addressed the terms of reference in the overall document.

Abbreviations used in this submission:

AMSA	Australian Marine Sciences Association
BMP	Batemans Marine Park
DECC	NSW Department of Climate Change and Water
DEHWA	Commonwealth Department of Environment, Heritage, Water & Arts
DPI	NSW Department of Primary Industries
ECO	Ecofishers
EDO	Environmental Defender's Office
ESD	Environmentally Sustainable Development
GNS	Grey Nurse Shark
MPA	Marine Parks Authority
NCC	Nature Conservation Council
NGO	Non Government Conservation Organizations
NPA	National Parks Association (NSW)
NPC	Narooma Port Committee
NPWS	National Parks and Wildlife Service
OTLF	NSW Ocean Trap & Line Fishery
JBMP	Jervis Bay Marine Park
RFA	Recreational Fishing Alliance
RFO	Recreational Fishing Organizations
SIMP	Solitary Island Marine Park

Preface:

Narooma is a coastal town, about 400kms South of Sydney, NSW, and population about 8,000 including surrounds. It used to have an economy based on a diversified mix of Tourism, Dairy Farming, Commercial Fishing and the South East Forest Timber Industry. With the gradual rundown in the Primary Industries, for one reason and another, Narooma and surrounds have become very dependent on the Tourism sector. Several business people would say that this dependence is becoming too great.

It has an excellent temperate Coastal climate and, together with Bermagui 30kms to the South, is regarded as a prime sport-fishing destination for beaches, estuaries and to both the Continental shelf and Montague Island 7kms from the bar at Narooma. The point being that this is both in Federal and NSW waters.

With the rise and rise of Animal Welfare and Green Conservation Non Government Organizations (NGOs) from the '90s to the present day, recreational fishing amongst other users of natural resources, has been facing an avalanche of threats which until now has been poorly identified by the Recreational Fishing organizations concerned with the carrying forward of our sport. As a demonstration of the effectiveness of these groups one look no further than the campaign by People for the Ethical Treatment of Animals (PETA) and the difficulties facing the sheep industry and the mulesing debate, an issue I am familiar with as a Veterinary Scientist.

The Narooma Port Committee was formed in 2002 as a group to lobby the NSW Government in an effort to deflect the absurd demands by the Nature Conservation Council (NCC) on a blanket 1500m. Sanctuary zone around Montague Island in order to protect an aggregation site for the Grey Nurse shark.

In December 2005 the Batemans Marine Park was introduced, without any prior public consultation whatsoever, together with the Port Stephens Marine Park, to bring the total Marine Parks in NSW to six.

The NPC decided to expand its *raison d'être* to include lobbying in relation to this and now the Narooma Port Committee's mission statement is thus:

The Narooma Port Committee is fighting for:

Fair and equitable zoning within the Batemans Marine Park, in particular scientific issues surrounding sanctuary zones to enable an outcome that is consistent with the Commonwealth and NSW Goals in relation to Marine Protected Areas.

Challenging misinformation from extreme Green Conservation groups in relation to Montague Island and the protection of the Grey Nurse Shark.

The Narooma Port Committee is a volunteer, community based organization made up of representatives from the recreational and commercial line fishermen, Charter Boat operators, Tackle stores, boating industry, accommodation facilities and licenced clubs who use the port of Narooma, on the far south coast of New South Wales.

The Committee has an ancillary role in lobbying Government, or Council, in any matters that affect the Boating interests of Narooma, NSW.

I, Philip Creagh, was elected as Chair in 2003 and have held the position since.

What is right and what is wrong with Recreational fishing in NSW: a short note on the situation with Commercial and Recreational fishing in NSW prior to 2005

Prior to the establishment of the Batemans Marine Park in 2005, fishing on the South Coast was managed by the NSW Department of Fisheries, which merged with the NSW Dept. of Primary Industries. There appeared to be minor disagreement in the way Recreational fishing was managed, apart from the inevitable conflict between Commercial and Recreational fishing. The same could not be said of Commercial Fishing however.

This industry was riven by poor decision making at both a federal and state management level and had resulted in a stream of commercial fishers leaving the industry. Much of this was driven by ad hoc decision making and initially setting catch quotas not based on ESD principles. This has been further complicated by the advent of NSW Marine Parks since 2002.

The NSW Commercial fishing industry is in disarray and the once stand alone NSW Department of Fisheries is now a small rump within the NSW Department of Industry and Infrastructure. NSW Commercial Fishers no longer have an industry body to talk to

Government; instead there exists a group of small self-interest groups. It is interesting that this has virtually all taken place within 14 years.

Consequently NSW imports approximately 90% of its seafood from interstate and overseas at a cost of \$2.2billion.

Recreational Fishing has a licence structure, bag limits and minimum fish sizes to promote ESD. These measures are generally well accepted by the recreational angler.

The licence fee returned \$13.4million in 2008/09 (NSW Gov, 2008) into the Freshwater and Saltwater trust funds, which is distributed via the trustees. Much of these funds go to NSW Fisheries for further research projects, none goes to the secretarial administration of recreational fishing through not for profit bodies such as Recfish Australia, Recreational Fishing Alliance, Ecofishers, NSW Fishing Clubs Association and so on.

It is estimated there are about 1.2million recreational fishers in NSW: Recreational fishing is the largest participatory sport in NSW.

***The fight to maintain healthy fish stocks, habitat and environmental quality.
The key principles of a healthy fishery and hence healthy biodiversity and ecosystems.***

Most Fisheries scientists believe that by improving the understanding of the sustainable catch of the various species that this helps to keep a “balance” within the fishery world if we are going to use fish as a source of food.

This has to be constantly monitored and adjustments made forever. There will never be a balance forever, as there never is in nature. In nature there is a constant “boom and bust” cycle occurring at a macro level, which can be obvious to see, such as the usual natural autumn leatherjacket kill on the South Coast, as well as at a micro level which is much harder to observe using coarse fishery stock levels. Examples at the ‘micro’ level would be of poor spawning due to drought or flood, excessive pesticide, herbicide or hormonal terrestrial effects. However by this monitoring at macro fish levels EPBC rules for sustainable development ‘appear’ to be satisfactorily maintained.

One has to ask the rhetorical question .. Could they be improved?

The unknown for fisheries scientists is the effect from the terrestrial side of the equation and from anthropogenic inputs. The obvious anthropogenic inputs into marine habitat maintenance would include the effects of trawling on reef substrate in the case of sessile species trawling, and the effects on sandy substrates in the case of, say, prawn trawling. The severe effect on reefs of trawling has certainly been identified and codified since before 1994. However whilst reef trawling has shown to be almost universally bad for the reef environment, and by analogy trawling over a sand bottom, it is of interest that recent scientific papers (Underwood) are showing that the effect on both the sand substrate and fish species and bycatch are negligible when prawn trawling in the Clarence was studied.

Notwithstanding this, it is a universal given within recreational fishing groups and bodies that Trawling and Commercial fishing is anathema to Recreational fishing.

This attitude amongst Recreational fishers needs to be reversed, as the real issues affecting fishery quality in NSW waters will, in my opinion, be shown to be the poor maintenance of estuarine and river health by the wide gamut of Government departments who look after the land and estuarine/river interface.

NSW East Coast rivers are notoriously slow flowing compared to any other watershed. A flat coastal plain and only a short distance from headwater to river mouth contribute to this natural problem.

Consequently the rivers do not have a chance to remove the toxins poured into them by Agricultural use, urban development and pollution in its many forms. They have a “flush out” when a flood situation happens. However even this can have disastrous consequences as can be seen with Acid-Sulphate and hypoxic water run-off in NSW Northern rivers. With an increasing chance of climate change reducing these flood events, it will be a miracle if any fish spawning occurs .. but, in 2010, it does ... the question is for how long?

An example I will give is the recent case in the Noosa river, QLD, where a Specialist Veterinary Scientist, Dr. Matt Landos has demonstrated a relationship between sub-lethal levels of pesticide spray drift from a Macadamia plantation to a surrounding aquaculture business has caused embryonic defects in Australian Bass (Landos 2009 pers.com). In the normal course of events this would not be seen at a macro level for several years, then suddenly it would be noted that the numbers of Bass had ‘mysteriously’ disappeared. This ground breaking discovery, together with the work of Dr. Ben Diggles, a leading QLD marine scientist, in my opinion may well be shown to be one of the most significant effects to estuarine juvenile fish stock in NSW.

The question is will they be listened too, OR will the QLD Government want to declare the area a Marine Park, thereby solving all its problems?

The Financial Importance of fishing to the Narooma & Bermagui areas of NSW and the introduction of the Batemans Marine Park.

The importance of fishing to this area can be gauged by the survey done for the Recreational Fishing saltwater Trust in March 2005 (McIlgorm) which showed that there were

4,482 Recreational Fishing Licenses purchased in Port Macquarie and 7,027 purchased in Bermagui-Narooma in 2004.

The importance of these figures can be seen when Port Macquarie has nearly 5 times the population of Narooma & districts. (38,783 to 8,375). Consequently anything that impacts on fishing, and the ability to fish without hindrance, will have an inordinately high effect on income and job security in this district.

The McIlgorm paper summarized the issues as thus:

The study investigated the expenditure in rural coastal towns in NSW by recreational fishers and found this to exceed \$22m in Port Macquarie and \$25m in Bermagui-Narooma. Reference to the National Visitors Survey indicates that recreational fishing in these areas may be undertaken by between 13% and 19% of all tourists visiting the area

The message from the survey of angler expenditure is that small coastal towns which are popular fishing sites can be highly dependent on the expenditure generated by visiting recreational fishers and in the case of the Bermagui-Narooma postcode area, approximately 10.6% of all employment is derived from recreational fishing based tourism. It is important that recreational fishery managers, policy makers and the tourism industry realise the role and significance of recreational fishing in these rural coastal economies.

In the discussion on the Narooma-Bermagui area it states:

In the Bermagui-Narooma area, an estimated 13,655 anglers fish recreationally per annum with 85% of these being visitors to the area.

An estimated 185,570 days are fished in total of which 55% are fished by visitors. Visitors tend to fish for more days on average in Bermagui-Narooma than in Port Macquarie possibly due to less alternative activities.

In Bermagui-Narooma expenditure by local and visiting anglers is estimated at \$24.96m, of which 82.5% is attributable to visitors. Local anglers are significantly more avid than visiting anglers, but because of their lower numbers, contribute less total expenditure than visitors to the area.

'Fishing' and 'general holiday' were the main motivations for visiting in this region, with fewer anglers citing 'visiting relatives' but more citing friends as companions on the trip' than for Port Macquarie.

Ocean fishing was the most popular form of fishing, but estuary and rock/ beach fishing were also important. On average, anglers fish between 12-18 days per annum in Bermagui-Narooma, but locals fish 30-60 days and visitors 5-11.5 days per annum. In Bermagui-Narooma 71% of fishers are licensed, 24% are exempted and 5% were unlicensed. About 70% of licenses were purchased in the town.

An estimated 185,000 days were fished by anglers in the area, but in contrast to Port Macquarie, only 57% of these were by visitors. Many visitors to Bermagui-Narooma are keen fishers on dedicated fishing trips.

Visitors to Bermagui-Narooma made 2.55 trips to the region per annum and friends were the main travelling companions, which is consistent with dedicated fishing trips.

Approximately 40% of car trips were in the 200-500km range one way and 34% were much longer trips of 500-800km one way. Many of these were from Victoria where Bermagui-Narooma is renowned as a good fishing location.

In Bermagui-Narooma average expenditure by local anglers was \$52/day and \$210 per visitor overnight. Visiting angler expenditure included trip companions. The estimated annual expenditure by local anglers was \$4.3m (17%) and visiting anglers \$20.6m (82.4%), totalling \$25.0m per annum. The flow on effect of 1.46, means that total output is estimated at \$36.5m. From this expenditure an estimated 169 persons are directly employed and 91 indirectly, making a total of 260 persons. This is approximately 10.6% of the total employment in Bermagui-Narooma postcode area.

The potential economic and social contribution of recreational fishing is shown by the fact that 85% (11,628 visitors as part of 13,655 fishers) of fishers are visitors from out of town. About 2,027 locals fish among a population of 8,375, approximately 24%. Visiting fishers contribute 102,897 days fished, (55% of the total days fished) and probably the same percentage of expenditure to the town. However 760 exempted local fishers, contribute 35,379 days fished, approaching 50 days per angler per year, indicate a likely important social role of fishing among young fishers and retirees in the community.

What this report highlights is the socio-economic importance of recreational fishing to the health of Narooma-Bermagui, a regional area of NSW that has been poorly serviced with Federal and State Government Infrastructure, Roads and Services. It also has a notably higher representation of unemployment than most other areas of NSW.

After the BMP was declared in December 2005 a Socio-economic assessment was produced by the Marine Parks Authority (NOTE not before, as was required):

*THE ESTIMATED ECONOMIC IMPACT OF BATEMANS MARINE PARK ON COMMERCIAL ACTIVITIES
NSW Marine Parks Authority
Prepared by Roy Powell and Linden Chalmers
Centre for Agricultural and Regional Economics Pty Ltd
ARMIDALE NSW
Date, March 2006*

This has been roundly criticised and found to be wanting in its level of analysis. A desktop study done to a lowest cost possible. There were absolutely no studies done by this organization actually in the Eurobodalla Shire to determine likely impacts, it was all done with prior studies, notably the McIlgorm paper (above).

The first gross error this report made was in its core description of the shire:

Eurobodalla is a small growing economy that represents about 0.3 per cent of the NSW economy. The natural-resource based industries include commercial fishing while farming activities are concentrating on beef cattle. A main force for growth is the rising population of up to 1000 per year. In 2004, there were almost one million visitors representing 2.6m visitor nights and a total expenditure estimated at \$250m. Within these visitors were recreational fishers who were estimated to spend \$20m in the Bermagui and Narooma area in that year and an unknown but higher level in Eurobodalla as a whole.

The second was in the likely effects on Recreational Fishing:

*The MP zoning plan specifies the activities that are permitted in the various zones. The industry most impacted by zoning will be commercial fishing. **While recreational fishing is an important economic activity within the MP, it is not expected to be impacted as much as commercial fishing and has not been included in the study.** A major task in the study was to estimate the economic impact on the local economy of the reduction in commercial fishing.*

The third was the economic losses predicted:

The impact of the MP and associated zoning arrangements was modeled from an indicative reduction in commercial fishing. This scenario results in a reduction in catch value of \$1.16m or 19 per cent of the 2005-05 level. These changes were estimated to reduce the Eurobodalla GRP by between \$1.0m in 2004-05 and similar amounts in 2010. The changes are at most 0.1 per cent of the Eurobodalla economy. Some of those impacts will be offset by additional management and operating activities associated with the MP.

However the report didn't get everything wrong:

Commercial fishing supplies a wide variety of fresh fish to local consumers, restaurants and visitors. This is an attribute that forms part of the attraction of visitors and residents to Eurobodalla. While the reduction in commercial fishing is modest, care should be taken to maintain those perceptions.

As stated above fresh local fish is an important 'attribute' for tourism. Unfortunately with the cessation of virtually all Commercial fishing almost no local seafood is produced. Flathead, regarded as the 'working man's fish' went from about \$ 9/kg in 2005 to \$42/kg, and imported from Sydney, by 2009.

However these surveys were at odds with ones done by Ernst & Young for AFTA/BIA. I am unable to copy the table from Page xii describing the 'Potential economic costs arising from a reduction in fishing in Narooma-Bermagui'. This table puts the cost at \$1,984,059 for recreational fishing alone.

Subsequent to the Batemans Marine Park zoning being put in place in December 2006 the following businesses, in Narooma, ceased operating due to a reduced income:

Narooma Mobile Marine Service .. J. Whiting
 Narooma Tents & Tackle .. Princes Hwy. Narooma
 'Reel Sport' .. Charter fishing boat
 'Nitro' .. Charter Fishing Boat
 Narooma Motors
 7 Commercial Fishermen
 The local Dick Smith store
 The local Narooma Angus & Robertson store
 Narooma Ice
 Rose's fish .. a licenced fish receiver.

Whilst it is almost impossible to say definitively these were as a DIRECT result of the BMP, I personally queried most of the business owners for their opinions. All were unanimous that it was due to the Batemans Marine Park.

The Anomaly of who gets what of the financial pie in NSW

A standout item in any discussion of finances is the appalling state of funding by both Commonwealth and State Governments to Recreational Fishing Organizations in NSW.

It appears that much of the funding has gone on in a piecemeal fashion with ad hoc grants for projects being made available by DAFF at a Federal level to volunteer run organizations within the Recreational fishing sector.

At the State level, after a substantial administration fee is charged by NSW Department of Primary Industries, the income from Recreational fishing licences is administered by a freshwater and saltwater fishing trust and grants are made to worthy applicants (ACoRF and NSW DPI Annual Report 2008/09). A surprisingly high amount of this money goes to NSW Government Departments and Shire Councils for fishery project funding. Much of this could be viewed as core Government funding, but what does a Government do when it has such a large pie of recreational fishing licence fees just sitting there?

Freshwater fishing trust funds now go to the Gaden Trout hatchery to support its functioning which effectively prevented the short-sighted closing of this extremely worthwhile facility. This is despite the NSW Government making substantial sums from the recreational fishing industry via GST revenue and fishing revenue within the Snowy Mountains area.

It appears that NO funding goes to RFOs to pay for administrative costs, despite the fact that recreational fishing is the largest participatory sport in NSW.

Below I have noted the Commonwealth Recreational fishing Community Grants program which provided \$15million over 5 years(\$3million per year) from Commonwealth DAFF to both freshwater and saltwater projects throughout Australia. This appears to be the Commonwealth Government's sole contribution to recreational fishing in Australia. Being instituted in 2005 we wonder what preceded this program, and terminating in 2009 we wonder what will follow on from the program.

Recreational Fishing Community Grants program.

The \$15 million Recreational Fishing Community Grants Program (RFCGP), has now closed to new applications and will be wound up by 30 June 2009 to allow for finalisation of all approved grants.

The purpose of the program was to support local initiatives to enhance the recreational fishing experience, increase participation and capture the flow-on benefits to the economy, particularly smaller local economies.

The Program has sought to:

1. enhance sustainable resource use and fishing practices by recreational fishers
2. develop a sense of ownership, awareness and responsibility amongst recreational fishers for the sustainable use of fish resources and fish habitats
3. maintain or enhance fish habitats for present and future generations

4. foster partnerships between governments, the recreational fishing community, and associated industries to conserve, restore and enhance the values of recreational fisheries throughout Australia.

The Program invested in a broad range of activities, including the following areas as they related to recreational fishing:

1. improvements to infrastructure, including establishing fish cleaning tables, boat wash down facilities and upgrading tracks and paths used by recreational fishers to access fishing spots
2. support of local initiatives to enhance recreational fishing, such as restocking or resnagging waterways
3. protection of the environment at the water's edge by, for example, protecting sensitive habitats
4. establishment and upgrade of volunteer marine rescue groups and associated infrastructure
5. education and awareness raising projects such as biofouling, aquatic pest translocation, increasing survival rates of released fish, and sensitive species
6. increase of the capacity of local recreational fishing groups and communities through activities such as monitoring programs, tagging projects and data collection.

It is worth reminding the Committee again that when the projects are reviewed that ALL the monies have been spent in worthwhile projects and absolutely NONE of it has been spent on the administrative costs of recreational fishing organizations in NSW, such as the Recreational fishing Alliance (NSW), ANSA or the NSWCFR. It should also be pointed out that the sole administrative organization for Recreational fishing Australia wide is Recfish Australia, based in Queensland. \$100,000 of their funding was withdrawn in early 2009 by the Commonwealth, as a cost saving measure ... leaving a substantial hole to be filled.

In conclusion the situation where no RFOs are funded for administrative costs has to change. Within NSW there should be at least one or two Peak bodies representing Recreational Fishers. This body should be funded from general funds, acknowledging the contribution that fishing plays in the community as the largest participatory sport in NSW

This body should also have the capacity to lobby Government, both Federal and State, in any context that is seen to affect fishers.

The current situation for peak Recreational Fishers contrasts with:

The funding of NSW Green Conservation Organizations.

NSW Green Conservation NGO's have up to 98% (in the case of the NCC), of their administration salaries and wages paid by the Federal government's DEHWA, NSW Department of Environment and Climate Change (DECCW) and NSW Department of Premier & Cabinet. The NCC has a ever changing paid staff members ranging from 10 to 23. Similarly the National Parks Association has a paid staff level of hovering around 10.

One position that was advertised in 2008 was for a 'Grant grabber'. An unusual job description, however their sole function is to scour the Federal, State and Council

Departments for grants that may be on offer for ANY cause. Then they write an application couched in terms that make the money 'extremely useful for the environment cause'. When one studies which Departments have contributed funds to the NPA it just doesn't make sense to a rational person.

This has produced a situation when members of the public pay as membership fees a very small percentage of these organizations revenue. This anomaly is further made worse by the fact that these NGOs are tax exempt with donations above \$2, and are tax exempt in terms of Commonwealth taxation.

It is difficult to find the TRUE expenditure of the NPA and NCC.

Below is the 2009 Profit & Loss Statement for the National Parks Association. Can it be seen how the wages figures are hidden?

National Parks Association

Annual Report

2008/09

2007/08		2008/09
RECEIPTS		
372,825	Donations	497,767
63,000	Government Grants - General (Note 2)	66,250
219,419	Government Grants - Projects	192,357
105,152	Other Grants and Project Contributions	75,712
134,592	Membership Fees & Subscriptions	145,252
19,228	Interest & Dividends	20,936
40,428	Merchandise and Event Sales	45,987
2,623	Office Share Income	6,118
1,799	Expenses Reimbursed	1,197
959,066		1,051,576
LESS: PAYMENTS		
17,230	Activity Insurance	16,728
9,905	Merchandise and Fundraising	8,997
191,858	Conservation Activities - General	204,993
482,456	Conservation Activities - Projects	538,523
96,315	Conservation Activities - Branch Support	111,377
74,477	Direct Membership Servicing/Support	8,465
74,000	Journal	79,000
0	Reimbursement to Office Bearers	521
946,241		1,048,604
12,825	Excess of receipts over payments (or deficit)	2,972
219,705	Accumulated surplus at beginning of financial year	232,521
232,530	Accumulated surplus at the end of the financial year	235,493

It can be surmised that unless the staff are paid \$521, then the wages figures come out of the three conservation activities mentioned above.

Below is the Cash flow statement from the Nature Conservation Council.

Despite having a million dollar plus revenue cash flow they still have a cash deficit for both 2007/8 and 2008/9. How long before they go cap in hand to the NSW Department of Premier and Cabinet. Premier Carr helped top up the funds of the NCC by substantial one off grants in 2004/5.

Nature Conservation Council of NSW Inc		
ABN 96 716 360 601		
STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2009		
	2008-9	2007-8
	\$	\$
CASH FLOWS FROM OPERATING ACTIVITIES		
Receipts from membership, donations, grants, sponsorship and other activities	1,301,491	1,591,315
Payments to employees and suppliers (incl GST where applicable)	(1,460,208)	(1,798,753)
Net cash (used) by operating activities	<u>(158,717)</u>	<u>(207,438)</u>
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchase property, plant and equipment	-	(2,682)
Net cash (used) by investing activities	<u>-</u>	<u>(2,682)</u>
Net decrease in cash held	<u>(158,717)</u>	<u>(210,120)</u>
Cash at the beginning of the financial year	637,434	847,554
CASH AT THE END OF THE FINANCIAL YEAR	<u>478,717</u>	<u>637,434</u>

When the NCC financials are looked at more closely it can be seen that the NCC send in excess of \$100,000 to their member organizations. This is an organization heading towards bankruptcy.

Despite the lack of financial probity within these NGOs they are adept at using mass communications and they are extremely media savvy. The problem is that a few people at the apex of these organizations have an almost unfettered ability to use taxpayer funds in whatever manner and political ideology they wish.

This can perhaps be seen at its best in the use that the NGOs have of the Environmental Defender's Office. This is not the forum to discuss the use and abuse of the EDO, however it seems reprehensible that the EDO has been used to send solicitor's letters of intent to sue for defamation on behalf of the National Parks Association.

Of interest is that the former CEO of the NCC, Cate Faerhmann, is also a board member of the EDO, and is now standing as a Greens candidate at the 2011 NSW State elections.

These NGOs are superb at lobbying. I am unsure of who invented e-lobbying, however I would suggest the NGOs have taken it up with alacrity.

On the NPA web site there is an e-lobby form to simply have the name and address filled in and the NPA sends it in on your behalf. Mindless form filling which enables these groups to say “X thousand submissions were made by concerned conservationists” (NPA, 2010).

The current form could be summarised:

A – NSW needs more Marine Parks and zoning that cannot be changed by regulation.

B – Rec fishing organizations are biased .. eliminate them.

C - Marine Parks, closing off 50% of NSW, will enhance Fishing businesses.

D – Fishers need to be taught the benefit of Marine Parks, so they will want more Marine Parks

And so on, and so on.

The form from the NCC is remarkably similar, more in the style of a letter and simply name and address filled in (NCC, 2010).

Without doubt there will be no form on behalf of a peak recreational fishing body, they do NOT have the paid resources either financial or administratively to organize it.

Funding for Green Conservation NGOs must be ceased altogether OR funding for RFOs must be commenced on a similar basis to Green Conservation NGOs

The NSW Marine Park debate

On 31st January 2005 Ministers MacDonald & Debus (DPI 2005) issued a press release stating unequivocally *“Finally the community should know that no Marine Park would ever be declared on the South Coast until a detailed socio-economic assessment had been carried out into possible impacts on local businesses and industries”*

Furthermore Minister Macdonald stated in a 2006 media release that *“People can generally continue to do what they’ve always done within the sanctuary zones except commercial and recreational fishing”* (MPA, 2006)

One statement is untrue, the other is very true.

The input from NSW Politicians in relation to NSW Marine Parks has been predictable.

Those politicians not directly affected by NSW Marine Parks, and since the 2007 Elections there are no Labor party politicians impacted, plus the NSW Greens as you would expect, believe that Marine Parks are the best solution for the Marine environment to ‘protect and preserve the marine heritage for our grandchildren’.

At the 2007 elections Labor lost two seats whose seats were adjacent to NSW Marine Parks. Mr. Neville Newell lost to Mr. Geoffrey Provest in Tweed and Labor lost its seat held in Port Stephens by Mr. John Bartlett, who was retiring, to Mr. Craig Baumann. Marine Park agitation was at a high level in these seats and definitely had a bearing on the outcome. This will be stronger in March 2011, as the Green Conservation groups push their agenda for a ‘Sydney Marine Park’, which threatens the seats of 27 Labor held electorates.

My statements above need to be looked at in their full context:

The Westminster system of Government means that the Government Ministers of the various Departments are chosen from elected members to the Upper or Lower Houses of Parliament. Inevitably there will be 'less than knowledgeable Ministers', some may say 'incompetent Ministers'.

However the American/European system means that Ministers of various Departments can be selected from people recognized within their profession as country or world leaders.

The Australian system consequently relies VERY heavily on the competence of the bureaucracy, in particular the senior level to give 'frank, fearless and competent' advice. The three NSW Departments charged with NSW Marine Parks are NSW Premier and Cabinet, NSW Dept of Primary Industries and NSW Department of Environment Climate Change and Water.

Effectively the two lead Departments are DPI, representing Fisheries and DECCW, representing the Environment.

It is fair to say that there will be environmental zealots at a greater level in DECCW than in DPI. The problem is that DECCW has virtually NO experience in dealing with the Marine environment as its main area of expertise is within the NPWS system, ie. terrestrial National Parks.

Consequently DECCW came to rely very heavily, almost exclusively, on advice from the Australian Marine Sciences Association.

This body is one of two professional bodies representing marine scientists in NSW. The other is the Australian Society for Fish Biology.

The members of AMSA are almost exclusively University staff members and have an extremely strong bias toward using NSW Marine Parks as Fishery allocation tools, using no take fishing zones. On their website there is a position paper:

NSW AMSA Position Statement on Marine Protected Areas and No-Take Marine Sanctuaries - this Position Statement has been developed by NSW AMSA and approved, as signatories, by more than 60 marine scientists from NSW and elsewhere in Australia. 2008 (AMSA 2008)

This is a blatant advocacy paper and merely makes the position for bigger and larger Marine Parks in NSW. Despite being signed by 60 marine scientists in the form of a 'consensus statement', a understanding of the meaning of consensus statements is needed, and the marine scientists who have not signed the statement is interesting as well.

How AMSA became so supremely influential within DECCW is a mystery, its influence within DPI(fisheries) is almost negligible. I believe it is due to the personal opinions of the DECCW officers handling marine issues rather than any greater degree of scientific competence

The advice from AMSA is then passed onto the NPWS section of DECCW, reviewed by MPA scientists who interestingly have ALL signed the AMSA consensus statement and then passed onto the Deputy Director- General, Parks & Wildlife Group, Ms Sally Barnes.

It then goes through the Director- General of DECCW, Ms L. Corbyn, onto the Minister. Ms Corbyn and Ms Barnes have Bachelor of Arts degrees (DECC, 2008/09). In the opinion of the author this means that many of the more 'reactionary' statements from AMSA can slip through the net without having effective senior management, trained in the rigours of Science, to act as an 'interruptor' .

I will not burden the Committee with thoughts on the appropriateness of having such senior bureaucrats in an obviously science oriented department only having Bachelor of Arts degrees.

Since 2005 there have been six Ministers of DECCW. None of them had, or has, any scientific training. The Ministers have only had a fleeting interest or knowledge in marine issues, hence they have relied solely on the advice from their senior Department members.

This has led to a disgraceful state of affairs whereby a handful of University staff, concentrated in only one or two Universities, especially the University of Technology, Sydney, now appear to run the NSW Marine Park system occupying 30% of the NSW Coastline by 2010. They are more powerful in the overall running of the NSW marine environment than the NSW Department of Primary Industries (Fisheries).

The current Minister for Primary Industries, Whan, appears to know nothing about fishing, or Marine parks. In a personal meeting with him and Premier Iemma in Queanbeyan, NSW in 2006 he claimed that Marine Parks were "wonderful for the marine environment" (pers.comm.).

His perceived weakness in the face of the environmental zealots and his own apparent willingness to accept green oriented platitudes about Marine Parks bodes poorly for the recreational and commercial fishing sectors.

The very first principle that needs to be understood by the Committee is that since their inception, all six NSW Marine Parks have been shown to be purely an exercise in Fishery allocation. This is despite Minister Macdonald declaring Marine Parks were "not only about fishing."

When the Marine Park Act (1997) is read carefully it quickly becomes obvious that the main issue the vast majority of anglers have with the Batemans Marine Park, indeed all NSW Marine Parks, is that none of the REAL threats to marine biodiversity and sustainable ecosystems will be considered.

Absolutely no effort has been, or will be, put into the serious issues of fish kills in Northern NSW, or investigating the effects of agricultural run-off and urban pollution on the marine or estuary ecosystems that kill tens of millions of fish and juveniles per year. The Marine Parks

Authority even admits it cannot address these issues in its own paper “A review of benefits of Marine Protected areas ...”(2008)

“In addition, while marine park zoning arrangements currently are not designed to address all the threats to the oceans such as pollution, disease, invasive species, and climate change.”

If Kosciuszko National Park was managed in a similar way then no effort would be made to remove weeds, feral animals or control bushfires.

The Marine Parks Authority claims NSW Marine Parks protect “coastal biodiversity and ecological processes” are gross distortions of reality. They are no more than an attempt to cover-up the failure of the NSW Government to address the real threats to our coastal ecosystems over the past 14 years.

Emeritus Professor Kearney has written two major papers on Marine Parks and one in a response to the NPA paper ‘Torn Blue Fringe: Marine Conservation in NSW’. I urge the Committee to read and understand them. (Kearney, 2007, 2008 and 2009)

These have been accepted by the vast majority of anglers in NSW as a counter to the ‘greenwash’ from the Marine Parks Authority, Green NGOs, and NSW DECCW. The debate has been blurred by the frivolous attitude of the NGOs and their response has been predictably “attack the messenger, not the message”.

A few examples are:

“Prof. Kearney is known for his role representing fishing interests. Recent titles of authored papers include Fisheries property rights and recreational/commercial conflict and Evaluating the Benefits of Recreational Fisheries, as well as having represented the fishing industry on the Federal Biological Diversity Advisory Committee.”(NPA 17th October 2007)

Or this media release below from the National Parks Association. They obviously did not check Prof. Kearney’s credentials as he was a Professor within the Canberra University’s Institute of Applied Ecology, which has as its motto ‘Ecological solutions for a healthy Environment’

Nicky Hammond, Marine Program Manager of NPA said, “ACoRF is a pro fishing council, and Kearney is, without doubt, the most vocal scientist speaking out against marine park proposals in NSW. He is not a conservation biologist; he is a fisheries scientist and has represented the fishing industry professionally on committees. The outcome of any review conducted by Professor Kearney is a foregone conclusion.” (NPA, 11th March 2009)

However the NPA is not without humour, claiming “a marine park scientist” would be impartial!

It isn’t rocket science to figure out why ACoRF has paid Kearney to undertake this task instead of a marine parks scientist, an impartial scientist or a panel of scientists which represent the supportive majority, of which Kearney should be welcome to also sit on but as part of a more representative scientific group. Instead of spending the money of the NSW fishing community on objective analysis, ACoRF has commissioned a hatchet job.”

(NPA, 11th March 2009)

Below is the preamble to the National Parks Association’s Lobby form. NOTE carefully they are suggesting that NSW Marine Parks can somehow cure “pollution, habitat destruction

and invasive species” ... perhaps someone could ask them HOW. Call me cynical but I don't think that fishing for turtles, dolphins and seahorses has been on anyone's fishing 'wishlist' since I can remember.

Before March 19th 2010, organisations and individuals are asked to fill out a personalised online form on NPA's website. Following protests from the anti-conservation lobby they need to hear our supportive voice!

Supporters just need 2 minutes to fill out an online form. With overfishing, pollution, habitat destruction and invasive species all putting pressure on our oceans, it's essential we have proper protection for the turtles, dolphins, seahorses and hundreds of other creatures that call NSW home.

This attack is not restricted to the NGOs however.

Ms. V Firth, briefly Minister for the Environment at the time, stated in parliament: '*Professor Bob Kearney is literally the lone voice in the scientific community opposing marine parks*' (NSW Hansard 27/2/2008).

This, of course, shows a bewildering lack of knowledge of the scientific process and brought the discussion down to a juvenile level within Parliament. This was further grist for the mill for those who opposed the revolving door of non science oriented Ministerial appointments to Environment.

Predictably this outburst from Firth and the National Parks Association prompted Professor Kearney's peers within the University of Canberra to respond to the NPA, with a cc to Firth. I have printed an appropriate selection:

"..I was dismayed to see that you chose to question Professor Kearney's independence from vested interests, implying that connections with fishing interests governed what he said and wrote on the subject. Professor Kearney is a valued member of the Institute for Applied Ecology at the University of Canberra, and we pride ourselves on being able to speak freely on a range of environmental issues as an independent voice committed to an evidential approach to decision-making.

..... The implication from your press release, in total, is that Professor Kearney was representing the fishing industry in making his points, when in fact he was acting appropriately in professing his views as an active member of the Institute for Applied Ecology. Your press release is not only a sleight on Professor Kearney, but also a sleight on the Institute for Applied Ecology which greatly values its independence in contributing to debate on environmental issues. In this instance we may disagree, but I would have expected you to attack the arguments presented, not the credibility and independence of a valued member of the scientific community." Professor Richard Norris, Professor Arthur Georges.

University of Canberra, 03/03/2008 to P. Winn, NPA. CC to Ms V. Firth

Equally predictably this produced NO response from either Minister Firth or the National Parks Association.

Government spin used in Marine Parks in South East NSW.

Within the Conservation movement, both at a NGO and State Government Department level, it has been claimed that the only way to “recover” a fish species in decline is by declaring a Marine sanctuary, or ‘no take’ zone. This has led to an over allocation of resources at NSW State level into Marine parks, which in 2010 cover nearly 30% of the NSW Coastline. There is an overweening assumption by the NSW Department of Environment and the various Green Conservation NGOs that more and more “No take” zones (Winn 2008, and various) will cure all of the NSW Marine environment’s problems. The Green conservation NGOs and the Australian Marine Science Association have an ambit figure of up to 50% of both State and Commonwealth waters as ‘no take’ fishing areas.

Unfortunately neither Commonwealth DAFF nor NSW Department of Primary Industries have attempted to counter, or provided the funding to counter, the “pro sanctuary zone” and “pro marine Park” psychobabble. Consequently the debate on sustainable fishing has been hijacked and twisted into an anthropomorphic attack on the Recreational and Commercial fishing groups, backed by excellent funding, most of it supplied from Federal and NSW Government taxpayer funds to animal welfare and Green conservation NGO’s.

An example of this relentless spin is a media release from NSW DECCW, which appeared in the Narooma News of 17th February 2010. Mr. Tim Shepherd is the manager of NPWS (South East). He is superior to Dr. B. Kelaher the Manager of BMP.

DECCW Media release: 3 February 2010

The Marine Parks Authority is very pleased with feedback it is receiving from visitors and representatives of the local tourism industry about this year's summer holiday period in the Eurobodalla Shire and the Batemans Marine Park.

National Parks Far South Coast Regional Manager, Tim Shepherd, said today that the general view of the holiday season right along the Far South Coast has been very positive.

"We are hearing the message loud and clear virtually every day "It's been an excellent season," Mr Shepherd said.

"The Narooma News editorial on January 6 declared, "Narooma swells with visitors. The boat ramps and beaches have never been busier."

"Or John Sloan, in a letter to the editor on the same page, "it is wonderful to see so many happy fishermen in Narooma for the holidays. The kingfish have been terrific and Ocean Hut has sold something approaching 2,000 licences this week alone."

"In the same paper a week later under the headline 'Billion dollar summer' it reads "But on the Far South Coast, it's been blue skies all the way, with Narooma beds completely sold over the Christmas/New Year period and beyond as visitors extend their stay."

"Our own staff say that there have never been as many recreational watercraft seen on the waters off the coast as there have been this summer. I am told constantly that shops throughout the Eurobodalla have been doing a roaring trade," said Mr Shepherd

According to Eurobodalla Tourism's manager, John Pugsley, "Caravan parks particularly, right along the coast, were at capacity over the summer holiday period.

"If it's not the best season we've had it's certainly up there and this has all occurred at the tail end of the greatest financial crisis since the Depression.

"Visitors have been spending up in retails and eating out so we're pleased with the season so far," Mr Pugsley said.

Mr Shepherd said, "the Batemans Marine Park is thriving and so is the local tourism industry on the Far South Coast. This is fantastic."

"We know for a fact following an AC Nielson survey in 2007 that 95% of those surveyed were either strongly supportive or saw some value in a marine park compared to only 2% who were strongly opposed.

"I think the time has come where even some of the naysayers accept the Batemans Marine Park is a good thing for the community and for fishing.

"It may well be that Marine Park will soon be recognised by all as the best thing that's happened to the Far South Coast for a long time," Mr Shepherd said.

Mr Pugsley concluded, "Recreational fishing is always a big drawcard and with eighty per cent of the marine park available for recreational fishing and weekly reports in the local papers that the fishing has never been better, we are confident our visitors are more than happy with the marine park and will be coming back for more."

Contact: Stuart Cohen

Below is part of my reply to Mr. Shepherd:

"...He claims that Jon Sloan's letter of 6th January was evidence of how busy it was, saying that "2,000 (fishing) licences were sold in the Christmas week alone ... " What he forgot to mention was that Jon's letter was about the lack of fish cleaning tables in Narooma, not extolling the numbers of licences sold. Does Mr. Shepherd know the licence sales figures for the past 5 years .. has it increased, decreased or stayed the same?

Mr. Shepherd goes on to claim that a 2007 AC Nielsen survey showed 95% of those surveyed supported the Batemans Marine Park, an astonishingly high percentage which, when checked, reveals that the correct figure is between 69% and 75%. I accuse Mr. Shepherd of not making a simple error, but of lying to try and hoodwink the non-fishing general public.

The reasons the fishing has improved include the Department of Fisheries initiative to remove the trawlers from the Batemans Marine Park and the buyout of commercial fishers, which incidentally means that our tourist guests were paying up to \$40/kg for flathead this year. However it is most probably due to the cyclical nature of fishing .. some years are good, others not so good. Fishermen understand this, those that don't fish don't understand it.

Mr. Shepherd is on a mission to convince us the Batemans Marine Park, which has as its SOLE objective to ban fishing, is absolutely wonderful for the Eurobodalla. Unfortunately for him the 20% of NSW residents who fish have woken up to this and a sleeping giant has been aroused up and down the whole of NSW.

Of course it is not only spin in the media. The National Parks and Wildlife Service, at all levels, is not above making direct and indirect threats to business and media in the South East to muffle the opposition to sanctuary zones within NSW Marine Parks.

Much confusion has been engendered in the general public with a confusion between the terms 'Marine Park', 'Marine Protected Area', 'Sanctuary zone' and 'Marine Reserve'. DECCW and NGOs ruthlessly use this confusion to their own advantage in well funded publicity campaigns to present a "caring sharing" image.

In numerous fishing trips overseas in the last 10 years, I have noted how little influence the Green NGOs and Greens have in countries such as USA, Canada, Norway and New Zealand. This is essentially because they do NOT have the political clout of preference deals with parties, as the Australian and NSW electoral system has produced here. I was in the USA in late 2009 and noticed that PETA had decided to rename fish as 'sea kittens'. This was derided in the local press and quickly forgotten. Within the local NGOs this is starting to get traction, naturally it is most present in ABC radio and television. Sometimes rational people despair at modern society.

PEW charitable trusts are a very large conservation group in USA. They are heavily funded by oil money, for an obvious reason, but have little influence in continental USA. Is it any coincidence that they are heavily involved in providing funds and resources in the creation of Marine Parks in Western Australia and in the Coral Sea in Queensland?

The abuse of Community surveys or 'Opinion' Polls by DECCW

DECCW have commissioned two 'Community surveys' to gauge the acceptance of Marine Parks. One was in JBMP, the other in SIMP. (MPA, 2008)

The surveys were conducted by McGregor Tan & Associates.

A few general observations about the two polls are worthwhile. About 400 people in each area were surveyed by phone. In a population area of about 30,000 this seems inadequate when the opinions of two different groups (fishers and non-fishers) are being sort.

The first and second questions asked in both the JBMP & SIMP surveys were:

Q1. What is your understanding of the term "Marine Park"?

- a. An area established to conserve and protect the local marine environment
- b. An area restricted to the public or closed to fishing

Remarkably the response to A. scored 65% and 63% respectively for JBMP and SIMP. Even more remarkably, to sceptics the response to B. was 36% in BOTH JBMP and SIMP.

Q2. Are you aware of any marine parks around your local area?

If yes, could you name them?

This question, of course, will vary between geographic areas. However only 47% in SIMP identified SIMP, and 55% in JBMP identified JBMP.

An interesting result is that exactly 16% in both areas had “Don’t know” .. to any interested observer the similarities and results are starting to seem contrived

There are amazingly similar occurrences with many of the following responses, a few more examples below

Q6. Overall, how would you describe your view of conserving the Solitary Islands Marine Park?

56% said “strongly in favour”, 31% said “in favour” in SIMP. 56% said “strongly in favour”, 28% said “in favour” in JBMP.

Q10. How strongly do you support the sanctuary zones in the Solitary Islands Marine Park?

55% “strongly in favour”, 25% “in favour” in SIMP. 58% “strongly in favour”, 23% “in favour” in JBMP.

And so it goes on with amazingly similar responses to the survey from two areas quite disparate in nature. DECCW accepted these results without question and trumpet them to the unsuspecting public that Marine Parks are “accepted” by the vast majority of residents.

The DECCW survey was done via phone and asked 440 respondents, in both areas, the questions. There is an enormous amount of meaningless socio-economic modelling done to produce a result that is highly suspicious and contentious. The questions asked and the unprompted responses are the key to this investigation which is on-going.

The Batemans Marine Park survey

By way of comparison a survey was done in 2006, by the local NSW member Mr. Andrew Constance (Constance 2006), this involved surveys at marine park meetings and in businesses in the area bounded by the Batemans Marine Park

Questions asked here, together with actual numbers, and percentages were

Do you support the Batemans Bay Marine Park?

YES was 414 or 18%
NO was 1778 or 78%
Don't Know was 86 or 4%

Do you fish on the South Coast?

YES was 1914 or 88%
NO was 243 or 12%

Do you believe the State Labor Govt has consulted with the community on the issue?

YES was 285 or 13%
NO was 1889 or 86%
Don't Know was 22 or 1%

Do you believe the park will create jobs?

YES was 259 or 12%
 NO was 1583 or 78%
 Don't Know was 193 or 10%

Do you believe the marine park will effect where you fish?

YES was 1626 or 85%
 NO was 183 or 10%
 Don't Know was 94 or 5%

Of course this survey was conducted and responded to by far more concerned respondents, mostly people who fished on the south coast.

It is hard to reconcile that about half the people who answered the question in the DECCW survey .. **Q2. Are you aware of any marine parks around your local area?** were not aware of ANY Marine Park in their area. Surely this must throw serious doubt on the way this survey has been interpreted by both the MPA and Tan Research?

Unfortunately we have been told by the Director General of DECCW, Ms. Corbyn, that these phone surveys will become a 'benchmark' for community acceptance of NSW Marine Parks. This will not be tolerated in the future

The Saga of the Grey Nurse Shark, or the three great untruths "lies, damn lies and statistics"

The Conservation groups, NCC NPA started a campaign in about 1998 to protect the Grey Nurse Shark. It started, as many of these campaigns do, with an individual taking a particular interest, following a TV program on sharks.

This rapidly spread, and by 2000 this had become a statewide campaign and had attracted the attention of the NSW Minister for Primary Industries, Ian MacDonald. A section was developed within Fisheries and Dr. N. Otway was the main scientist involved, within the Conservation section of NSW Fisheries, with doing research into the numbers of GNS in NSW. Macdonald was given anecdotal evidence that the numbers were low and despite no population or assessed threat studies done, fishing restrictions were introduced at Montague Island and the Tollgates at Batemans Bay in 2002, two sites identified as aggregation sites for GNS.

These restrictions were regarded as quite satisfactory within the fishing community. However the NGOs were pressuring the Government for 1500m fishing exclusion zones surrounding at least 16 recognized aggregation sites within NSW. The introduction of this at Montague Island would have destroyed the commercial and recreational fishing industry at Narooma and Bermagui.

This was the start of the misuse and abuse of marine science in New South Wales.

Otway produced a paper titled the “Mark-recapture population estimate and movements of Grey Nurse Sharks (2003)”. This study determined that in NSW there were approximately 450 sharks. The statistical methodology appeared correct and the numbers appeared irrefutable. However there was a fatal flaw to be demonstrated 4 years later.

Meanwhile the NGOs used numbers ranging from 250 to 450 in their media release to justify the 1500m exclusion zones. There was disquiet within the fishing community as rumours were rife that the ‘numbers were wrong’, the ‘methods used were wrong’ and even the ‘data used was wrong’. Subsequent events were to show this was correct.

The following year Otway and Burke produced the ONLY peer reviewed document related to GNS numbers in NSW, “*Estimating the rate of quasi-extinction of the Australian grey nurse shark (Carcharias taurus) population using deterministic age- and stage-classified model (2004)*’

This paper showed that the GNS could become functionally extinct within a worst case of 6 years to a best case of 324 years. It would be obvious which scenario was presented in sensationalist headlines by the NGO media. This spurred the NGOs onwards and when the BMP was zoned far more restrictive fishing rules were established for Montague Island.

Then the NCC made a mistake. Before Justice Downes in the Administrative Appeals Tribunal (AAT, 2007) they challenged the validity of the Commonwealth Minister for the Environment’s decision that the NSW OTLF fishery was NOT an approved wildlife trade operation, as the NSW Government had not taken sufficient steps to protect the GNS from extinction. This was a tactical case developed as a mechanism whereby the NCC wanted to gather ‘irrefutable support’ for 1500m closures around the aggregation sites. It failed and ultimately led to a more realistic assessment of the numbers of GNS in NSW waters.

Appearing for the Commonwealth was Dr. N. Otway, as an expert witness. Appearing for the NCC was Dr. V. Peddemors, as their expert witness.

It became obvious to recreational fishers if they were NOT represented this would be a catastrophe, as Otway was a strong proponent of fishing exclusion zones. Otway, appearing for the Commonwealth, had already submitted sworn evidence that 12 GNS had been killed in the vicinity of these aggregation sites since 2002. This evidence, of course, was not queried by the NCC Barristers.

Fortunately Recfish Australia with the support of 7 organizations ensured that the truth came out. Despite being ‘late off the blocks’ the Recfish team managed to secure the services of Dr. Marcus Lincoln-Smith and Dr. Julian Pepperell. Otway was heavily queried about his ‘Mark recapture ...’ paper and his ‘time to quasi-extinction...’ paper

The results can be summarised by:

- Otway’s 2004 ‘Mark recapture ..’ paper was discredited by Justice Downes. It was shown that a survey result NOT acceptable to Otway, was rejected in his study, nor was this omission mentioned in the paper. This could be construed as scientific fraud.

- Also it was asserted that this survey violated several assumptions Otway made for a valid Petersen method.
Justice Downes concluded that these factors suggested, politely, that "Dr. Otway's mark recapture study....was unreliable". At the hearing Otway's figure that was entered as sworn evidence was between 500 and 800
- Otway's peer reviewed paper "estimating the rate of quasi extinction ..." was shown to have an incorrect eigen(λ) value which demonstrated that no matter how many GNS there were in NSW they would inevitably become extinct. In essence the eigen value was calculated to be .9960. Which means the population will always decline unless it can be altered to >1. During the hearing Otway produced an 'adjusted' figure of slightly >1. He claimed there were new estimates of the onset of reproductive age and maximum age of GNS. This led Justice Downes to comment "*that the biology of Grey Nurse Sharks is only just becoming known.*"
- Notwithstanding that Otway's discussion in both papers produced a 'believable' assessment of the numbers of GNS and the time to their extinction it was shown at the Hearing and in a subsequent court to be hopelessly incorrect. In other words many people re-affirmed their belief that "there are three kinds of recognized untruths ... lies, damn lies and statistics".
- A subsequent analysis of the GNS numbers in NSW waters has conservatively reached an estimate of 1300 as at December 2009. However to this day the DECCW still quote the number of GNS in NSW as "about 500".
- Further to the sworn evidence Otway submitted in relation to the 12 GNS killed since 2002, an FOI revealed that this was merely anecdotal evidence provided by lay people. One instance occurred at Montague Island where a person saw a fisherman a couple of hundred yards away pull a juvenile shark into a boat that 'looked like a GNS' and not release it, chalk up one more death! This being presented to the President of the AAT as evidence beggared belief, however as we were not represented when the evidence was presented we were not allowed to subsequently cross-examine.

To many scientists the AAT Hearing was a revelation. For the first time it was obvious there was a difference between scientists within the Conservation movement, in so much as there were those who were prepared to go to extraordinary lengths to get an outcome that they desired.

There appears to be no disciplinary mechanism within the science degrees to address this, unlike the professions where the ability to practice, and earn an income, can be endangered by 'professional misconduct'.

The outcome of this was that much of what had been produced as 'fact' in the Marine Park and GNS debate was looked at with a far more discriminating way. Many of the analogies were found to be wanting and irrelevant.

Of interest is that the case involved from the NCC side, the EDO and two Barristers, who appeared for 12 days, from the Recreational Fishers a law firm and one Barrister, from the Commonwealth their own legal representatives and from the NSW Government one Barrister. The combined value of this Court hearing must have been very close to \$1 million

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