

Structural Adjustment Package – Legal Advice
26th March 2009
12.30 – 2.30pm, MBSIA Boardroom

Meeting Overview

The purpose of the meeting was to provide an opportunity for commercial fishers to have some of their legal questions answered in relation to the rezoning of the Moreton Bay Marine Park.

The meeting was open to all commercial fishers and related businesses.

Chris Thompson, Legal Director and Solicitor, of law firm, Law Essentials attended the meeting. Law Essentials has a long history of experience working with the commercial fishing industry on a range of similar issues.

Meeting Summary

Please note – the information provided by Chris Thompson was of a general nature only and should not be considered as independent legal advice. If you are wanting legal advice specifically for your issue, you should contact a lawyer and provide them with the full history of your situation. Chris was only speaking in general terms.

Chris provided the meeting with an overview of the Structural Adjustment process from a legal perspective. He recommended that a submission / lobbying process be the first action the fishing industry takes. If this is ineffective, then maybe consider court action.

Chris recommended that a coordinated and united submission to the Government would be the quickest and most cost effective means to try to have action taken. This submission would contain case studies of fishers, DPI&F data showing that effort has not been removed, and other evidence supporting the negative impacts that the buy-backs and rezoning have created.

A submission would conclude with a request for Government to correct the situation and industry would provide a “wish list” of actions to be taken. These actions may include further money for another structural adjustment, equity in zone rules.

A coordinated submission would be delivered to all levels of Government, including State Ministers and Federal politicians, to try to put pressure on the Queensland Government to act.

Chris will provide MBSIA a proposal for the strategic direction of such a submission, and costs involved in Law Essentials developing the submission.

Those members who attended the meeting agreed to pursue a submission / lobbying avenue as the first action.

Member Questions Raised at the Meeting

Q: Why not launch into legal / court action immediately?

A: Delivering a submission to the newly appointed Government which contains factual information on how the rezoning and buy-out did not work as it was supposed to, is a more cost and time effective method in the first instance.

Taking legal action against the Queensland Government will most probably involve a long and expensive court trial, which may drag out for several months or years.

The evidence collected in a submission is the same supporting evidence needed in a court situation, so if the submission is ineffective, then all the information is ready to proceed to court.

Furthermore, if a submission process is ineffective and the fishing industry decide to take the matter to court, there is history of the industry trying to be co-operative and settle matters quickly and efficiently. This may benefit any possible court hearing.

Q: But we did a lengthy submission and lobbying before all this happened. Why will this one be any different or have any impact?

A: This submission will focus on the fact that the zoning / buy-out did not achieve what the Government stated that it would. It will contain factual evidence demonstrating that the Structural Adjustment Package did not work as it was promoted to industry.

The submission and lobbying done prior to the zones coming into effect focused on the impacts we thought would happen, and it was very important that this work was done. Any submission and lobbying done now can refer to the fact that industry provided feedback prior to the zoning / buy-out which highlighted some of the issues that are now a reality.

On top of this, there is a new Minister in place. This may increase the Government's willingness to listen and act.

Q: Who will coordinate the lobbying and collate information for the submission?

A: MBSIA working with other relevant bodies including QSIA, will be responsible for the coordination of lobbying.

It is proposed that Law Essentials assist with the collation of supporting evidence and develop the submission as it will carry more weight coming from an independent legal firm.

Q: What kind of information needs to be collected?

A: The submission will include a range of data to demonstrate the rezoning / buy-out is not working as the Government proposed it would. Much of the data will be collected from DPI&F etc., but fishers will be asked to provide information for their case studies.

Fishers should, if not already, start keeping detailed fishing logs including when, where, catch, time spent fishing, competing boats etc. Anything that may be useful to prove change in effort, catch or profits.

The proposal to be supplied by Law Essentials will also include recommendations on what information to collect.

MBSIA with assistance from Audrey Garcin, a Masters student from UQ, has already commenced collecting data which will feed into this submission. For more info [click here](#)

Q: What if the submission is unsuccessful?

A: Legal action against the Government may be the next step if the industry wishes to continue pursuing the issue. Legal action following extensive lobbying is likely to be more effective and more efficient as the majority of information will have already been collected and prepared for the submission.

Q: Has the submission process actually worked in other fishing industry related circumstances?

A: Yes. Much of the Federal Government's re-adjustment for the Great Barrier Reef Marine Park was the result of submission type lobbying. A comprehensive submission based lobbying is a fairly common practice amongst many industries.

Q: Should I continue to lobby individually?

A: Yes. The more pressure that is placed on local MPs and Ministers and media coverage will all contribute and strengthen the united case put forward by the fishing industry. There are many individual cases which all need to be shared with the Government and the public.

Keep copies of any letters sent to your local MPs, as these may be included in the submission.

Q: How much will the development of the submission cost and who will pay for this?

A: Law Essentials will supply MBSIA with a proposal for the submission and include a quote for their assistance. It is proposed that fishers share the cost.

For more information, contact Linda Cupitt, CEO of MBSIA
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