



Speech by

**Dr LESLEY CLARK**

**MEMBER FOR BARRON RIVER**

---

Hansard 9 September 2003

**MARINE PARKS AMENDMENT BILL**

**Dr LESLEY CLARK** (Barron River—ALP) (2.30 p.m): I rise today to support amendments to the Marine Parks Act 1982. At the outset I want to put on the record that I am personally opposed in principle to residential canal developments because of their potential environmental impacts, which have also led them to be banned in New South Wales. Such coastal developments are also particularly vulnerable to damage from cyclones, which are a regular part of life in far-north Queensland. However, I am mindful that any particular coastal development needs to be judged against government policy and legislation of the day and the outcome of environmental impact assessments. Furthermore, job creation is a priority of our government and the beneficial economic aspects of such developments must also be considered.

For members to really understand why this bill is being debated here today and why I am supporting these amendments to the Marine Parks Act, it is necessary to outline the history of the Bluewater development site that goes back some 25 years. In the time that is available to me it will not be possible to give as full account as I would have liked based on news clippings, letters and other documents in my extensive files on this development, but I hope that members will have a much greater appreciation of the reason why these amendments are before the House and should be supported after I have made my contribution to this debate today.

Let us start by going back to the late 1970s when the first canal was created in wetlands at Trinity Park located adjacent to land owned by then Mulgrave shire councillor Wendall Hearl. This canal was created by Councillor Hearl under the guise of drainage works which widened Moores Gully, a tributary of Half Moon Creek in the Half Moon Bay fish habitat reserve. In 1980 the ex-Treasurer then Labor candidate Keith De Lacey alleged in his electorate newspaper, the *Barron River Review*, that Councillor Hearl enlisted the support of the then member for Barron River, Martin Tenni, to obtain government approval after both the council and the Department of Primary Industries rejected his application to carry out the drainage works.

In any event, Councillor Hearl was able to create a canal adjacent to the homes in his one street subdivision, now called Riverside Parade, where he lives. He later sold some of his land to local developer George Chapman, who had plans to construct a marina and provide access to the sea via Half Moon Creek which could have been utilised by residents in Riverside Parade. In fact, there was no more residential development on the Trinity Park site during the remainder of the 1980s. However, the Smithfield Drainage Board subsequently carried out more drainage works to facilitate sugarcane farming while the council cleared mangroves to establish a rubbish dump and sewerage treatment works on the other side of Half Moon Creek. Sadly, but not surprisingly, the Half Moon Creek fish habitat reserve was downgraded to a wetland reserve in 1983.

Fast forward to 1989, the year I was elected to parliament, when a Japanese development company, Town Development, acquired a 247 hectare site from the Emanuel Group and George Chapman, which included Councillor Hearl's original wetland site at Trinity Park, as well as rainforest covered Earl Hill and cleared land linking Trinity Park to Trinity Beach. In January 1990 Town Development, later known as TNN Cairns, released a concept plan for a \$350 million development on the site, to be known as the Earl Hill development, which included a 380-berth marina and associated residential development, golf course and a five-star 300 room hotel. It was one of four such mega coastal developments proposed for the Marlin Coast during the early 1990s, as well as a proposed marina for the community based Yorkey's Knob Boat Club.

Approval was sought for the Earl Hill development from the council and state government and work was expected to begin in mid-1990. Some 250 residents came to the public meeting called by the developer to outline the project and concerns were voiced by residents and fishing groups regarding the impact of the marina and canal component on the wetlands. Later that month the combined Marlin Coast Residents and Ratepayers Association called for a halt to all development projects affecting the northern beaches until further environmental studies were carried out. The conservation movement was also concerned and called for an independent assessment of the company's EIS by the respected Australian Institute of Marine Studies.

I let it be known that I shared the concerns of the community and conservation movement and that my support for the development was dependent on the outcome of the independent environmental impact assessment. I also indicated that I did not personally support the excision of any part of the wetland reserve to accommodate the marina. The Trinity Park Residents Association, headed by none other than Wendall Hearl, who had since stepped down from the council, met and voted unanimously to support the development and began a campaign against me with letters to the editor and a leaflet drop alleging that the marina component of the development was not going to proceed due to my intervention. In response I issued a press release, letter to the editor and wrote to all Trinity Park residents to clarify my position, which was that I would only support the development if it could be demonstrated that there would be no significant environmental impact.

In August 1990 the Australian Institute of Marine Studies released its independent assessment of the company's EIS of the proposed marina development which required the dredging and widening of Half Moon Creek and the deepening of its mouth. The AIMS report indicated that there should be minimal adverse environmental impact on the surrounding wetland reserve if the development was carried out with appropriate care. AIMS carried out baseline studies of fish and prawns in Half Moon Creek and recommended that monitoring of fish stock be carried out during and after development. The report indicated that water quality in the creek could in fact be improved with the opening up of the mouth and subsequent improvement in tidal flushing and oxygen levels. I indicated in the media at the time that the AIMS study had gone a long way to clearing up reservations that I had over the marina proposal and I reiterated my prior stance—that is, that if the development could be shown not to have an adverse impact on the wetland reserve then I would support it.

In 1992 TNN received approval under the Canals Act to dredge the 845 metre access channel for the marina, which involved dredging and the removal of 30,000 square metres of mangroves and the revocation of 6.6 hectares of the wetland reserve. Work was completed in November 1992 and I chaired a community committee that monitored water quality during the dredging work. The government and Mulgrave shire continued to negotiate the conditions of the rezoning with the company, but it was not until August 1996 with the election of the Borbidge government that the rezoning of the entire development was finally gazetted. The marina construction was approved under the Harbours Act in 1997.

In late 1996 earthworks finally began, but the development stalled due to the Asian economic crisis and lack of funds. So, instead, two small standard residential subdivisions were carried out in the northern part of the development site over the next six years. The only work undertaken by TNN in the southern marina and canal site was general maintenance and water quality monitoring following trial disposal of acid sulfate soils from the marina site. However, in 1998 the company received a licence to dredge Half Moon Creek under the Environmental Protection Act, which had been renewed annually since then, and was also granted approval under the Beach Protection Act to excavate or dredge a sandbar at the creek mouth. I seek leave to table a list of the 21 approvals issued to TNN by the state government and Cairns City Council since 1992.

Leave granted.

**Dr LESLEY CLARK:** As a Mulgrave shire councillor in the late 1980s, it was clear to me that coastal planning and management was urgently needed and I attempted to get the National Party government to assist the council and the Cairns Port Authority to carry out a study to identify a limited number of potential marina sites, but it refused, putting responsibility back on the council.

In April 1990, just five months after being elected as the member for Barron River, I organised a coastal management workshop with officers from the new Environment and Heritage Department, community and conservation groups, developers and shire councillors to address the same issue with the aim of limiting marina development to environmentally suitable locations. The government responded by beginning the development of a statewide coastal management and protection plan, but in the meantime all developments continued to be assessed under existing legislation. As a result of the four marina and canal developments proposed for the Marlin Coast, one other, Rainbow Harbour, was approved by the government, much to my disappointment and that of the conservation movement.

It was this development rather than the Earl Hill development that became the focus of an intensive campaign by the conservation movement that was ultimately successful when the Goss government refused to continue to renew approvals in late 1995. The other coastal development proposals at Redden Island near Machans Beach and at Clifton Beach were halted earlier, but the Yorkeys Knob Boat Club marina in Half Moon Bay, which had only a limited impact on the environment, was eventually constructed in 1994.

Following the approval of the Earl Hill and Rainbow Harbour canal and marina developments I was determined to commit the state government to providing greater protection for the coastal environment of the northern beaches. The Trinity Inlet Management Plan, which I helped to formulate, came into effect in 1992 and provided recommendations for the protection of the Cairns wetlands and mudflats but only as far north as the Barron River.

Statewide coastal protection legislation that would protect the Marlin Coast was still some way off, so prior to the 1992 election I sought and gained the support from the government for the preparation of a State Marine Park for the Marlin Coast, together with Trinity Inlet and Wonga Beach north of Port Douglas, which were the only areas of state waters in the Cairns section of the Great Barrier Reef Marine Park, apart from port areas, without State Marine Park status. I seek leave to table a letter from the EPA that gives the history of the establishment of this marine park.

Leave granted.

**Dr LESLEY CLARK:** This began formally in 1994 with the publication of an issues paper, involved extensive consultations with a total of 270 submissions and ended with gazettal in December 2001, more than a decade after I began my crusade for coastal protection for the Marlin Coast. The change of government in 1996 was a major factor in the delay in the gazettal of the marine park. When the draft zoning plan of the Trinity Inlet-Marlin Coast Marine Park was finally released for public comment in May 1999 there were no submissions from the Trinity Park Ratepayers Association or from any Trinity Park residents. While TNN Cairns did put in a two-page response to the 1994 issues paper several months after submissions closed, it overlooked the call for submissions in 1999 and did not respond to the draft zoning plan. I seek leave to table a copy of the draft zoning plan, which confirms that there was no change made to the boundaries of the marine park between the draft and final zoning plans, as has been claimed. I indicated in a media release in April 1999 my belief that the previous approvals for the Earl Hill development would stand up despite any marine park gazettal and that only future development proposals would be affected.

Leave granted.

**Dr LESLEY CLARK:** Following the passage of the Coastal Protection and Management Bill through parliament, also in December 2001 the *Cairns Post* reported that the Earl Hill canal estate development was likely to be the last of its kind because of the tough new coastal management guidelines in the legislation. I was quoted as saying that developments that had already gained approvals could still go ahead under that legislation. TNN confirmed that it did indeed have all the necessary approvals, but nobody at that time recognised that it would in fact need one more additional permit—the one that would give it approval to carry out dredging in the estuarine conservation zone of the marine park.

It serves no purpose now to lay blame for this lack of recognition of the major problem that the marine park gazettal would create when the following year the financially troubled TNN company finally found a prospective buyer for its Earl Hill development site. Consolidated Properties entered into an unconditional contract to purchase the property from TNN for \$8 million, with settlement due in April 2003. It believed it had all the approvals necessary to progress this development, because the due diligence checks by its lawyers also failed to discover the implications of the marine park adjacent to the development site. So on November 2002 Consolidated Properties unveiled plans for Bluewater, now a \$600 million development consisting of 1,000 waterfront, rainforest and garden lots, 150 apartments, a retail centre and tourist accommodation and marina. The waterfront blocks included 130 homes sites with marina berths on a canal estate.

Following this announcement, the consultants acting for Consolidated Properties were informed by the EPA that they would need permission to dredge the channel through the Marlin Coast Marine Park. Not surprisingly in light of the history I have outlined, the company argued that it already had all the approvals it needed and legally had the right to dredge Half Moon Creek. However, by April 2003 the company was convinced that it should lodge a dredging application while the EPA also considered its legal arguments. It was at this point in late April that the Cairns and Far North Environment Centre publicly called on the government to stop the Bluewater development because of its potential environmental impact, while Mr Hearl had emerged again to target me personally, just as he had over a decade ago when it looked as though the Earl Hill development might not go ahead.

Mr Hearl called a Trinity Park Ratepayers Association meeting on 28 May when parliament was sitting, which was attended by some 90 people who expressed strong support for Bluewater. It was at this meeting that a representative of Consolidated Properties outlined all the benefits that the development would provide for the local community but then indicated that it would have to walk away from the whole project if the EPA rejected its application for a dredging permit. The campaigning from all sides continued, with calls for the Premier to intervene to either ban the Bluewater development or progress it. Supporters and opponents of Bluewater in equally large numbers wrote or emailed me with their views.

I explained the current situation and reiterated my own position in a two-page letter to local residents. I confirmed that I had supported the Earl Hill development in the past and still held the view that the best thing that could happen was that the site be developed in an environmentally responsible way meeting all local and state government planning and environmental conditions.

On 27 June the EPA announced its decision to reject the application for dredging from Consolidated Properties because it did not conform to the requirements of the marine park zoning plan in respect of the objectives of the estuarine conservation zone. The campaign then entered a new phase of two weeks of unprecedented unrelenting action to change the marine park zoning plan to allow the Bluewater development to proceed, which members may have seen reported in state and national newspapers and on television. At the same time, conservationists and many people from throughout the Cairns region wrote or emailed me expressing their equally strong views.

I seek leave to table a petition from 108 Cairns residents opposed to this proposed bill. I was also intending to table the petition in support of the bill with some 800 names but, unfortunately, despite my best efforts to obtain this petition, it appears that it has been mislaid by Consolidated Properties.

Leave granted.

**Dr LESLEY CLARK:** I absolutely refute the defamatory claims made after the EPA rejected the Bluewater dredging application that I betrayed my constituents or that I was not an honest representative because of my past statements that gazettal of the marine park would not stop the Bluewater development. Nobody back in December 2001—not me, not Wendall Hearl, not the council, not the media, not the EPA, not the opposition, not the conservation movement, not even TNN, which had the most to lose—nobody recognised that the gazettal of the marine park would present a major impediment to the Earl Hill development. It was an honest mistake on the part of a number of people and it needed to be fixed. To suggest, as some have done, that the Marlin Coast Marine Park gazettal was a deliberate plot on my part to stop the Bluewater development and build low-cost public housing is nothing more than the product of a paranoid and delusional mind.

Following scrutiny by the Premier and the Minister for Environment of the legal minefield and history of development approvals, it became obvious that the gazettal of the marine park was never intended to prevent development occurring on the Trinity Park site, confirming my long-held assumptions and past media statements. A range of mechanisms was subsequently examined to resolve the impasse, and the Premier and Minister for Environment came to Cairns on 9 July, joining me on an inspection of the development site, and announced that the government would act to allow the Bluewater development to proceed. The amendments to the 1982 Marine Parks Act proposed in this bill provide the means of delivering on the Premier's commitment.

However, while the Premier made it clear that dredging would be allowed in the marine park because of approvals already given under the Canals Act, the Environmental Protection Act and the Beach Protection Act, the work would be subject to new stringent environmental conditions. He also made the commitment that the legislative amendments required to allow Bluewater to proceed would be very narrow in their application so as not to set a precedent for development in other marine parks. This legislation delivers on that commitment.

I am satisfied that this proposed legislation is sufficiently narrow so as not to open the door to other development in this or any other marine park in Queensland that is inconsistent with the requirements of park zoning plans. Maintenance dredging works for existing boat ramps and marina access channels within marine parks will continue subject to permits issued under the Environmental Protection Act and the Marine Parks Act.

Time does not allow me to go into the detail I would like in terms of the details of the deed of agreement. Suffice it to say there is significant benefit for both the environment and the community. As outlined, some \$835,000 worth of work will be carried out by the Bluewater company and other works subject to local and state government requirements. I intend to monitor the activities of the company very closely to ensure that it delivers 100 per cent of what it has promised to my constituents and has committed to do in the deed of agreement with the government. I will not tolerate their being let down once again. I will be equally vigilant with respect to the EPA to ensure that it enforces the conditions of

the deed of agreement, particularly as they relate to environmental standards and performance designed to minimise the impact of development on Half Moon Creek and the surrounding wetlands.

The conservation movement has had the opportunity to scrutinise both the bill and deed of agreement since they were introduced into the House on 20 August. I have had several meetings with members of the conservation movement and Environmental Defenders Office in Cairns and Brisbane and they have raised some questions with respect to particular clauses in the bill that will be addressed by the minister in his contribution to this debate.

Being between a rock and a hard place is part and parcel of public life. It is not comfortable; in fact, it is very uncomfortable, but it goes with the territory in Barron River, where development that impacts on the environment still polarises the community. Putting to one side the political campaigning and the rhetoric from all sides, some of it very vicious and personal, I considered that my job as member for Barron River was to weigh up what was right and fair for the development company, what the local residents wanted, my previous support for the Earl Hill development and what was the best outcome possible for the environment in light of the history of the site and past impacts on the surrounding wetland. I do believe that the amendments to the Marine Act proposed in this bill represent the most appropriate course of action for the government taking into account all of the factors described above.

As difficult and painful as this issue has been for me personally, I am proud of my achievements as part of two Labor governments in providing much-needed management and protection for our coastline, and I would like to thank all those people who have supported me through the last few months. I commend the bill to the House.

c approach by changes in policy and practices within government and within the institutions where girls and women learn and work. If more women are to participate in SET industries, then as a priority we must increase the number of girls undertaking and succeeding in science, advanced mathematics and information technology subjects at school. I thank the Premier for the opportunity to investigate this important issue and to act as a catalyst for some exciting new initiatives.

Time expired.