Speech by

Lesley Clark

MEMBER FOR BARRON RIVER

Hansard Wednesday, 6 October 2004

MARINE PARKS BILL

Dr LESLEY CLARK (Barron River—ALP) (3.02 p.m.): It is now more than 20 years since the Marine Parks Act 1982 was introduced, and much has changed in Queensland since that time.

Mrs Carryn Sullivan: Hear, hear!

Dr LESLEY CLARK: Thankfully. I take that interjection.

The Marine Parks Bill 2004 is the result of a comprehensive review of the act to update and extend the government's powers to protect our marine environment based on a greater appreciation of the functioning of marine ecosystems and more effective management strategies founded on the principle of ecologically sustainable use—unheard of in any National Party legislation 20 years ago, despite what the member for Lockyer might have told us.

When I was first elected to this House in 1989, the coastline around Cairns was excluded from protection afforded by a marine park. Persistent efforts on my part and the part of other stakeholders finally remedied that situation with the gazettal of the Trinity Inlet-Marlin Coast Marine Park in 2001. Regrettably, despite that gazettal legislation was required to be enacted last year to allow for dredging in that marine park because of past development approvals. It was arguable that the chief executive had the power to make an administrative decision to allow such works to occur; however, the government resolved to bring the matter to parliament to ensure an appropriate level of public scrutiny.

Currently, provisions in the act dealing with reclamation of marine park areas are ambiguous resulting in administrative uncertainty, divergent legal interpretation, public criticism and potential legal challenge which is unacceptable for both park managers and developers. Bluewater, the canal development at Trinity Park, served as a timely reminder of the need to review the Marine Parks Act to address this important issue and provide certainty in the process for dealing with reclamation in marine parks.

The bill makes a distinction between highly protected areas such as preservation, national park and conservation park zones and general use and habitat protection zones in the way that proposals for reclamation would be treated. In the highly protected zones there have been no instances of reclamation works, and it is not likely that there would be any in the future. However, if such a proposal were to be put forward then reclamation would have to be preceded by a rezoning of the area, which would require community consultation or a parliamentary resolution for revocation of the area from the marine park.

In the case of reclamation in zones that are not highly protected, the parliament would have three opportunities for disallowance of relevant provisions: firstly, in the approval of the relevant zoning plan, which must incorporate provisions allowing for reclamation works in the respective zones before any reclamation can occur; secondly, through the tabling of the Governor in Council notice of intent prior to the grant of any permit for the reclamation; and, thirdly, through the tabling of the Governor in Council regulation revoking the reclaimed area following satisfactory completion.

The revocation of an area of a marine park prior to the undertaking of the reclamation works would not be desirable as this would remove the development from the scope of the bill and prevent the chief

executive from managing the reclamation until its completion by imposing management, rehabilitation, monitoring and supervision conditions and bonds.

The bill also provides for enhanced parliamentary scrutiny of marine park rezonings. In the past, Queensland marine parks have sometimes been criticised as not being secure because a national park zone, for example, could be readily downgraded through rezoning. To facilitate parliamentary scrutiny, the bill now requires that where the classification or boundaries of an existing zone are changed in a way that decreases the level of protection a statement must be tabled in parliament clearly identifying the area affected and giving reasons for the reduced protection.

In addition, the bill provides more flexible powers to achieve compliance and stronger penalties to bring it into line with other environmental legislation. It allows for compliance notices to be issued as an alternative to prosecution. It allows the chief executive or an inspector to seek enforcement orders. This is consistent with current practice under the Environmental Protection Act 1994, the Coastal Protection and Management Act 1995, the Nature Conservation Act 1992 and other legislation.

The bill also allows third parties to seek an enforcement order in relation to matters which have been explicitly prohibited in a marine park, for example illegal reclamation works in a national park zone or unlawful serious environmental harm. The bill also toughens penalties for environmental harm. Under the present act, the maximum penalty that can be imposed is 100 penalty units, or $7,500, which is considerably lower than penalties for similar offences under other natural resource management legislation. The bill consequently introduces a range of penalties consistent with the Great Barrier Reef Marine Park Act 1975, the Nature Conservation Act 1992 and other relevant legislation. In the most severe cases these may be up to $225,000 for an individual or $1,125,000 for a corporation or two years imprisonment, which is much more appropriate given the significance of our marine environment.

The issue of coastal developments in or adjacent to state marine parks continues to generate public concern in Cairns and elsewhere down the coast of Queensland. The problem of longstanding approvals, often with inadequate conditions reflecting lower standards of environmental management, must be addressed. The Bluewater and False Cape developments in Cairns are examples of such legacies of the past. The Bluewater deed of agreement signed by the council, the state government and the developer was an attempt to minimise environmental impact with new conditions and environmental offsets and community benefits, but the reality is that approval for a canal development estate in such a location would not be given today.

It is time that all such longstanding but environmentally unacceptable coastal developments are identified and their approvals revoked, be they local or state government approvals. The same two-year ‘use it or lose it' rule that operates under IPA for developments following a change in a council planning scheme could be invoked to address this issue without giving rise to claims for compensation. Adopting such a scheme would ensure that we have greater certainty about the extent of planned coastal developments and hopefully have eliminated the most inappropriate ones. New development proposals will now become subject to the provisions of the Coastal Protection and Management Act and relevant regional coastal management plans as well as local authority planning controls to ensure a much higher level of ecological sustainability than in the past.

The recent Fitzroy Island development application will be a good test of the Wet Tropics region coastal management plan and the Cairns City Council planning schemes. This proposed resort consists of 148 holiday apartments, a 160-bed hostel, a hotel, restaurants and day-use facilities. It will effectively mean the end of a camping site enjoyed by locals on the island and will intensify development to an unacceptably high level. I believe it should be rejected or significantly modified. Protection of our coastal marine environment is critical for social, economic and environmental reasons, and this legislation is another attempt towards achieving that goal. I commend the bill to the House.