



Speech by

**Liz Cunningham**

**MEMBER FOR GLADSTONE**

Hansard Wednesday, 6 October 2004

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## **MARINE PARKS BILL**

**Mrs LIZ CUNNINGHAM** (Gladstone—Ind) (3.10 p.m.): I rise to speak to the Marine Parks Bill, which was introduced by the previous Environment Minister. I have a couple of areas of concern which I wish to raise—in particular, the consultation, or potentially the lack of consultation, which this bill allows for. The issue of fishing, whether commercial or recreational, has been very much in the forefront of legislation in the last few years. Commercial fishermen and their families in my area say that, in terms of impact on their ability to earn a living over the last 10 years, there has been significant change and in the majority of instances a shrinkage in opportunities to earn a living. As a group of people I think they have been most affected by government requirements—both state and federal—to adjust not only the areas in which they can earn a living but also the times in which they can earn a living. There have also been other obligations such as turtle excluders, VMSs and other equipment which they have had to purchase in order to remain consistent with state and federal legislative requirements.

I had concern expressed to me regarding the GBRMPA declaration which just recently occurred. Other members have already stated that there was significant consultation up and down the coast on the GBRMPA declarations. Since the issue of complementary zoning by the state government first came onto the public agenda, quite a number of fishing families, both commercial and recreational, have been seeking some additional information. I did get some from the previous minister, but at the time it was still unclear as to what direction the government was going to take. I passed what was available at the time on to the constituents who made inquiries, but it is fairly concerning that this legislation appears to allow for that complementary zoning without any further consultation.

It is concerning to me for a number of reasons. Firstly, it appears as if the constituencies that will be affected will not have an opportunity to have direct input into the government's decision making on the basis that government is allowing itself the power to declare the areas where the declaration is in cooperation or conjunction with the Commonwealth or other states' legislation or decisions. The fishing community—and I am including recreational fishers—would very much appreciate the opportunity to talk to the minister on the ground about some of their own experiences. I know it is not her portfolio, but in the fishing industry when there are decisions to be made there is sometimes conflicting information which goes to the minister's information gathering group. I know at times the professional fishing industry can be a very mixed group of people to deal with, but the feedback I have had since the complementary zoning was discussed indicates a high level of concern in the community. I believe the minister and the minister's officers would be very positively enlightened if community members up and down the coast were afforded an opportunity to discuss with her and with her officers the impacts that such complementary zoning genuinely would have.

Another concern that I have with it not being consulted and/or discussed prior to its declaration is that, depending on the level of information dissemination after the event, there could be very innocent, good community people who inadvertently breach the legislation and who would be subjected to quite severe penalties when their intention was never to breach any legislation at all. There have been other pieces of legislation outside the Environment portfolio which have had far-reaching effects and impacts on the community. There are very clear examples not just under the Labor government but also under other

governments where information dissemination either has not occurred or it has occurred relatively inefficiently as far as departmental officers are concerned. However, when you talk to members of the community, the new restrictions and the constraints have not been well announced and articulated, and so many people have been inadvertently caught in breach of new legislation. So any action that this government takes without consulting with the community means that the chance of innocent people inadvertently breaching legislation without any intention to do harm increases.

I have a third concern. The provisions in this legislation mean—and this is not just in relation to the complementary zoning—that in legislation where we often mirror other jurisdictions the chances are that that, too, will accord with the powers that we are allowing in this legislation. However, again, it could impact on people inadvertently because there is not any obligation for that public consultation process. So I have some real concerns about the exemption given in several sections of this legislation, to the discretion that will be allowed not to release the draft of proposed amendments for public consultation. I would seek the minister's review of that provision that is being allowed in this legislation.

I was on the Scrutiny of Legislation Committee when I first joined this parliament, and Jon Sullivan was the chair at the time. He was very—I am trying to think of a word other than 'terrier'—proactive in ensuring that certain parts of—

**Mrs Carryn Sullivan:** He was very committed.

**Mrs LIZ CUNNINGHAM:** Committed; that is right.

**Mrs Carryn Sullivan** interjected.

**Mrs LIZ CUNNINGHAM:** He did. One of the areas which was lobbied for at the time concerned people appointed under legislative powers as inspectors. These people sometimes had quite invasive powers as inspectors. They could not just be an officer of the government or an officer of the government bureaucracy; they had to be a suitably qualified person. It has been noted throughout this bill that any inspectors who are appointed have to be suitably qualified, and I commend the minister for that. Although it is some years now, many ministers have followed through with that qualification for the appointment of inspectors and other enforcement agents, that that 'suitably qualified' title is attached to them.

Another area of concern to me—and I am sure it is in other pieces of legislation—is that of the issuing of a warrant. There is an 'out' clause that allows for a warrant still to be executed and still to be valid even if there is a defect in the warrant or a defect in the procedures in obtaining the warrant. Whilst I am sure the minister could rise and tell me 16 other pieces of legislation where that 'out' clause has been included, I would like to put on the record my concern that, in having that exemption, it places no constraint or little constraint on a person responsible for applying for that warrant and the person responsible for granting and executing that warrant to ensure that the details are correct.

The warrants that are made available to officers under legislation do have quite intrusive powers. They are upsetting to the people against whom the warrant is executed. Whilst some of those people, in the eyes of the government, may deserve to have that intrusion, in many instances innocent parties are caught in the net when the warrants are executed. Therefore, I think it is incumbent on those applying for warrants and those executing warrants to ensure that in all material ways and as much as possible the information and the area of impact of the warrant is accurate and done properly.

I look forward to the minister's response to those issues. Other than those areas of complementary zoning, I believe that the community will support very strongly the protection of our marine parks.