

Question on Notice
No. 537
Asked on Thursday, 15 March 2007

MR WETTENHALL asked the Minister for Local Government, Planning and Sport (MR FRASER) –

QUESTION:

With reference to the Cairns City Council's approval of the residential and resort development at False Cape at Cairns—

- (1) What state law, policies, plans and regulations was the Reef Cove development application assessed against?
- (2) Which current state law, policies, plans and regulations (not applicable or in force at the time of the approval) would the Reef Cove development application be assessed against if it were lodged today?
- (3) Will he give an indicative outcome of such an assessment of the Reef Cove development against state law, policies, plans and regulations?
- (4) Are there examples of developments of a similar nature across the state, if so, what has been the nature of those approvals?
- (5) Is he considering including this issue as part of the review of the *Integrated Planning Act 1997* in terms of requiring all development applications, regardless of the date such applications were lodged or approved, to be assessed against and comply with current state laws, policies, plans and regulations?
- (6) What power or discretion does he have to call in or otherwise stop the False Cape development and what would be the legal requirement, if any, to compensate the owner?

ANSWER:

- (1) The Reef Cove Resort land was included in the Special Facilities (Tourist Resort Development) zone in the late 1980s, when the Nationals were in Government, under the planning legislation and Cairns City Council's planning scheme in force at that time. That rezoning approval set the pattern for future development applications over the land. The provisions of the zone were carried forward in subsequent planning schemes and were reflected in Council's *Integrated Planning Act 1997* planning scheme, CairnsPlan, adopted in March 2005.

The proposed development at False Cape is fundamentally the result of an historic development approval, reinforced by Cairns City Council's choice to preserve the decisions made under superseded plans, decisions that would otherwise have lapsed. Council reinforced its original decision by approving a subdivision of the land in 2004, assessed against the original rezoning approval and Council's transitional planning scheme (Balance of the City of Cairns), which maintained the existing planning approach to False Cape.

- (2) If the Reef Cove development application was submitted to Council today, the application would be assessed against the requirements of the *Integrated Planning Act 1997*, relevant State Planning Policies and Council's *Integrated Planning Act 1997* planning scheme, CairnsPlan. The application would also

be subject to assessment against the Wet Tropics Coastal Regional Coastal Management Plan, which is taken to be a State Planning Policy for the purposes of development assessment.

(3 & 4) Council, as the assessment manager, is the appropriate authority to make a determination on such applications, following a comprehensive assessment against its own planning scheme and state law, policies, plans and regulations. Individual Councils hold information regarding existing approvals. This information comes to the attention of the State when an approval is further actioned by an applicant.

(5) Yes.

(6) There was no ability for a Ministerial call in of the original rezoning application in the late 1980s. Under the *Integrated Planning Act 1997*, the ability to call in a development application is limited to statutory timeframes which have long since lapsed.

The Environmental Protection Agency's recent concurrence agency direction to Council to refuse an operational works application to construct an external access to the site is subject to applicant initiated appeal in the Planning and Environment Court. As such it is not appropriate for me to comment further on this aspect of the development.