



**THIRTY-EIGHTH PARLIAMENT**

**REPORT 21**

**STANDING COMMITTEE ON ENVIRONMENT AND  
PUBLIC AFFAIRS**

**SHACK SITES IN WESTERN AUSTRALIA**

Presented by Hon Brian Ellis MLC (Chair)

April 2011

## STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

### **Date first appointed:**

17 August 2005

### **Terms of Reference:**

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

#### **“1. Environment and Public Affairs Committee**

- 1.1 *An Environment and Public Affairs Committee* is established.
- 1.2 The Committee consists of 5 members.
- 1.3 The functions of the Committee are to inquire into and report on -
  - (a) any public or private policy, practice, scheme, arrangement, or project whose implementation, or intended implementation, within the limits of the State is affecting, or may affect, the environment;
  - (b) any bill referred by the House; and
  - (c) petitions.
- 1.4 The Committee, where relevant and appropriate, is to assess the merit of matters or issues arising from an inquiry in accordance with the principles of ecologically sustainable development and the minimisation of harm to the environment.
- 1.5 The Committee may refer a petition to another committee where the subject matter of the petition is within the competence of that committee.
- 1.6 In this order “environment” has the meaning assigned to it under section 3(1), (2) of the *Environmental Protection Act 1986*.”

### **Members as at the time of this inquiry:**

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Hon Colin Holt MLC

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## **Government Response**

This Report is subject to Standing Order 337:

*After tabling, the Clerk shall send a copy of a report recommending action by, or seeking a response from, the Government to the responsible Minister. The Leader of the Government or the Minister (if a Member of the Council) shall report the Government's response within 4 months.*

The four-month period commences on the date of tabling.



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# EXECUTIVE SUMMARY, FINDINGS AND RECOMMENDATIONS

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## EXECUTIVE SUMMARY

- 1 The Standing Committee on Environment and Public Affairs (**Committee**) is pleased to report its findings and recommendations arising out of its inquiry into Shack Sites in Western Australia (**inquiry**).
- 2 The Committee self-referred the inquiry following its review of a petition tabled in the Legislative Council. The Government is considering shack policy and has advised that the Committee's views will be considered in formulating policy.
- 3 Shack policy is contentious and often complex. Shack policy is contentious primarily because shacks, privately owned structures, are situated on public land.
- 4 The estimated 1 060 shacks in Western Australia are managed by the Department of Environment and Conservation (**DEC**) or local government. DEC manages shacks at Wedge Island and Grey (**Wedge and Grey**), Dampier Archipelago and D'Entrecasteaux National Park (Donnelly River). Local governments manage shacks at Peaceful Bay, Naval Base, Blowholes (near Carnarvon) and Lucky Bay (in the Shire of Northampton) sites. Since 1989, the Government's Illegal Occupation of Coastal Crown Land (Squatters) policy (known as the Squatter Policy) has provided that shacks on unvested reserves shall be removed. The sites managed by local government were vested in local government prior to the Squatter Policy.
- 5 It is particularly relevant to consider shack policy at this time because of recent events at Wedge and Grey and the dramatic increase in visitors to this region since the opening in September 2010 of the extension of Indian Ocean Drive between Lancelin and Cervantes. These once isolated prime coastal sites are now easily accessible and within a two hour drive of Perth.
- 6 During the course of the inquiry, it became evident to the Committee that there are a number of significant differences between shack sites in Western Australia. The Committee's findings and recommendations reflect these differences.
- 7 The Committee's findings and recommendations (noted below) provide a summary of the inquiry.

## FINDINGS AND RECOMMENDATIONS

- 8 Findings and Recommendations are grouped as they appear in the text at the page number indicated:

Page 9

**Finding 1:** The Committee finds that there are approximately 1 060 shacks in eleven shack sites throughout Western Australia. Approximately 450 shacks are located at Wedge and Grey.

Page 12

**Finding 2:** The Committee finds that a number of existing shack sites were vested in, and managed by, local governments prior to the State Government adopting the Illegal Occupation of Coastal Crown Land (Squatters) policy (Squatter Policy) in 1989 and the removal of shacks under this policy.

Page 12

**Finding 3:** The Squatter Policy is supported by a legislative framework, in particular the *Land Administration Act 1997* (which replaced the *Land Act 1933*) and the *Conservation and Land Management Act 1984*.

Page 16

**Finding 4:** The Committee finds that the Squatter Policy, which applies to unvested reserves, provides for the removal of shacks throughout Western Australia. The Squatter Policy has been the endorsed position of previous Labor and Coalition Governments.

Page 17

**Finding 5:** The Committee finds that after the Squatter Policy was adopted in 1989, 678 shacks north of Perth, from Dongara to Wedge, were removed in accordance with the policy.

Page 20

**Finding 6:** The Committee finds that the Squatter Policy has not been uniformly implemented.

Page 20

**Finding 7:** The Committee finds that the Squatter Policy is reinforced by other land use policies.

Page 40

**Finding 8:** The Committee finds that shack policy and regulation throughout Australia differ, from a policy of removing shacks, leasing shacks and affording shack owners the opportunity to purchase freehold tenure.

Page 40

**Finding 9:** The Committee finds that a review of shack policy throughout Australia demonstrates that it is important for the Government to carefully consider shack policy, clearly state that policy and then enforce the policy.

Page 40

**Finding 10:** The Committee finds that the Government should pursue a unique Western Australian shack policy to reflect the circumstances of shack sites in Western Australia.

Page 42

**Finding 11:** The Committee finds that there are significant differences between shack sites in Western Australia for a number of reasons, including the accessibility of the shack site, number of shacks at the site, construction of the shacks, policy and regulatory history at the site, and the terms of lease agreements entered into by shack occupiers. Further, shack site managers have demonstrated various levels of commitment to work with shack communities.

Page 42

**Finding 12:** The Committee finds that there are important historical, regulatory and factual differences between shack sites managed by local government (which were vested in local governments prior to the Squatter Policy) and shack sites managed by the Department of Environment and Conservation (such as Wedge and Grey).

Page 42

**Finding 13:** The Committee finds that when shack owners at a few shack sites entered into lease agreements it was known that leases were not transferable, the shack could be removed at any time and, in the case of Wedge and Grey, that the lease was an interim measure until shacks were removed in accordance with the Squatter Policy.

Page 42

**Finding 14:** The Committee finds that a 'one size fits all' policy is not appropriate and decisions regarding a particular shack site should reflect the circumstances relevant to that shack site.

Page 47

**Finding 15:** The Committee finds that the exclusive use by shack occupiers of shacks on public land is inequitable.

Page 47

**Finding 16:** The Committee finds that a significant principle in shack policy is that public land should be available for members of the public to access and use. Public land should be managed in the interests of the public, not a select few.

Page 50

**Finding 17:** The Committee finds that shacks generally do not meet planning, health, safety and building standards and requirements.

Page 54

**Recommendation 1:** The Committee recommends that the responsible Minister audits the ownership and use of fisher shacks and then reviews the Professional Fisher Shack policy.

Page 58

**Finding 18:** The Committee finds that the National Trust of Australia (Western Australia) is particularly concerned about the failure of the Squatter Policy to consider the cultural heritage values of settlements and establish processes by which these values can be considered alongside other important issues. The National Trust of Australia (Western Australia) is of the view that any future policy should establish processes which would allow consideration of the cultural heritage values of the place in determining the appropriate action to be taken.

Page 58

**Finding 19:** The Committee finds the National Trust of Australia (Western Australia) has found that Wedge and Grey are places of cultural heritage significance.

Page 58

**Finding 20:** The Committee finds that the Department of Environment and Conservation and Heritage Council of Western Australia have agreed that the heritage issues relating to shacks in Western Australia are best examined on a case by case basis.

Page 58

**Finding 21:** The Committee finds that the Heritage Council of Western Australia is of the view that coastal shack settlements represent a distinctive Australia outdoor way of life and the Squatter Policy has made it difficult to conserve examples of this distinctive aspect of Western Australia's history.

Page 59

**Finding 22:** The Committee finds that the social heritage of shack sites is important.

Page 64

**Finding 23:** The Committee finds that there is a lack of good quality coastal locations for high quality nature-based and ecotourism development in Western Australia.

Page 64

**Finding 24:** The Committee finds that there is a demand in Western Australia for nature-based camping experiences and a real need for low impact, affordable family holiday accommodation in attractive locations.

Page 64

**Finding 25:** The Committee finds that shack sites have the potential to provide low impact, nature-based, affordable family accommodation in prime locations to more people and accommodation available to all Western Australians.

Page 66

**Finding 26:** The Committee finds that now is the time for the Government to implement long term and considered shack policy.

Page 66

**Finding 27:** The Committee finds that ongoing tenure of shacks may increase shack occupiers' expectations and demand for services.

Page 67

**Recommendation 2:** The Committee recommends that the responsible Minister and/or managing authority of each shack site conducts a review of shacks to ascertain whether the shack is being occupied by the owner (leaseholder) or another person permitted to use the shack.

Page 67

**Recommendation 3:** The Committee recommends that the responsible Minister and/or managing authority immediately remove any abandoned shack unless there is a decision to actively manage the shack for public use or another public purpose.

Page 68

**Recommendation 4:** The Committee recommends that the Government confirm the policy that no new shacks will be permitted on public land, and the responsible Minister or appropriate managing authority should ensure that any unauthorised new shack erected is immediately removed.

Page 70

**Finding 28:** The Committee finds that there are Aboriginal heritage sites located on, and in close proximity to, Wedge, and there may be Aboriginal heritage sites located on, or in close proximity to, other shack sites in Western Australia.

Page 72

**Finding 29:** The Committee is concerned about the lack of management and protection of Aboriginal heritage sites located on, or in close proximity to, Wedge.

Page 72

**Finding 30:** The Committee finds that protecting Aboriginal heritage located on, or in close proximity to, a shack site should be an important consideration when determining the policy applicable to the shack site, including whether shacks should be removed or retained.

Page 72

**Recommendation 5:** The Committee recommends that where an Aboriginal heritage site is located on, or in close proximity to, a shack site, the responsible Minister and/or the managing authority should take action to ensure that the shacks and shack occupants do not pose any threat or risk to the Aboriginal heritage site.

Page 80

**Finding 31:** The Committee finds that the Department of Environment and Conservation manages an estimated 450 shacks at Wedge and Grey (situated between Lancelin and Cervantes). The shacks are located on unvested reserves. The reserves were created as a temporary measure to enable the implementation of the Squatter Policy and the removal of the shacks. Shack leases were entered into on the understanding that this Government policy would be enforced.

Page 83

**Finding 32:** The Committee finds that the opening of the Indian Ocean Drive between Lancelin and Cervantes in September 2010 has dramatically increased access to Wedge and Grey and the number of visitors to this coastal region. The Wedge and Grey sites are no longer isolated sites. Between October 2010 and January 2011, 1 000 to 4 700 vehicles per day travelled (in both directions) on Indian Ocean Drive. Between 27 December 2010 and 3 January 2011, 3 500 to 4 500 vehicles per day travelled on Indian Ocean Drive.

Page 83

**Finding 33:** The Committee finds that the opening of Indian Ocean Drive between Lancelin and Cervantes has resulted in more people looking to enjoy the social experience of visiting and holidaying in this part of the coast.

Page 84

**Finding 34:** The Committee finds that the lease agreements at Wedge and Grey were entered into in 1995 (and have been renewed) as an interim measure until shacks were removed pursuant to the Squatter Policy. It was understood that this interim measure was to continue until the extension of Indian Ocean Drive between Lancelin and Cervantes was completed.

Page 85

**Finding 35:** The Committee finds that when leases at Wedge and Grey were entered into in 1995 the shacks were not transferable and shack purchasers have known that the shacks could be removed at any time.

Page 90

**Finding 36:** The Committee finds that the *Wedge and Grey Masterplan* provides that the shacks at Wedge and Grey will be removed and replaced with a range of low key, nature-based recreational facilities and accommodation available to all members of the public.

Page 90

**Finding 37:** The Committee finds that Wedge and Grey have a highly significant tourism potential and the capacity to add immense value to the development of the region. The development of recreational nature-based, affordable accommodation available to all members of the public is likely to be very popular and will maintain and continue the social heritage of Wedge and Grey.

Page 101

**Finding 38:** The Committee finds that there are many significant and complex issues involved in considering shack retention and the co-existence option at Wedge and Grey. For example, to comply with building and health standards most shacks will need to be reconstructed, many shacks will need to be rebuilt and potable water and septic and sewerage infrastructure is required.

Page 120

**Recommendation 6:** The Committee recommends that the responsible Minister and managing authority instruct leaseholders and shack owners to remove the shacks at Wedge and Grey and, as a priority, develop the area to provide the public with low impact, nature-based, affordable visitor facilities and accommodation, including camping and caravanning facilities.

Page 126

**Finding 39:** The Committee finds that the Department of Environment and Conservation manages 43 huts at Donnelly River in D'Entrecasteaux National Park, which is vested in the Conservation Commission of Western Australia.

Page 127

**Finding 40:** The Committee finds that the Department of Environment and Conservation has advised that the huts in D'Entrecasteaux National Park are of a standard where they are likely to be upgraded to meet building codes.

Page 127

**Finding 41:** The Committee finds that the *Shannon and D'Entrecasteaux National Parks Draft Management Plan (2005)* stated that some huts may be retained and/or modified or upgraded by the Department for public use or heritage reasons.

Page 135

**Finding 42:** The Committee finds that the Shire of Manjimup and the Shire of Nannup support the continued existence of the huts if the huts comply with a number of prescribed conditions, including building and health requirements, and the huts are available for public use or, in the case of the Shire of Nannup, consideration is given to making one or two of the huts available for community/public use.

Page 138

**Recommendation 7:** The Committee recommends that the responsible Minister and Department of Environment and Conservation, the managing authority, work with the Lower Donnelly River Conservation Association with the aim of retaining the huts for use by the public and members of the association, on condition that the huts meet health, building and safety standards.

Page 142

**Finding 43:** The Committee finds that the Department of Environment and Conservation manages 33 shacks at Dampier Archipelago on reserves vested in the Conservation Commission of Western Australia under a licence issued to community groups. The licence provides opportunities for the public use of the isolated shacks open to residents of the Shire of Roebourne.

Page 143

**Finding 44:** The Committee takes no issue with the management of the shacks by the Department of Environment and Conservation at Dampier Archipelago.



Page 148

**Finding 45:** The Committee finds that the Shire of Denmark manages 203 cottages at Peaceful Bay. The cottages are leased under a 21 year lease effective from 1 July 2010. The cottages have been leased by the Shire of Denmark since the 1960s. The Shire of Denmark removed other shacks on the coast in the 1970s and 1980s.

Page 148

**Finding 46:** The Committee finds that the Shire of Denmark supports the Peaceful Bay site and retention of the cottages and is committed to normalising the town site by continuing to improve services and facilities.

Page 152

**Finding 47:** The Committee finds that the Peaceful Bay site differs in significant material respects from other shack sites in Western Australia. The Peaceful Bay site appears to be working well due to the unique circumstances at this site.

Page 152

**Finding 48:** The Committee finds that the present arrangements at the Peaceful Bay site should continue, with the Shire of Denmark managing this site.

Page 155

**Finding 49:** The Committee finds that the City of Cockburn manages 178 shacks at Naval Base. This reserve was vested in the City of Cockburn decades prior to the Squatter Policy. The shacks are leased for a period of one year. To date, the City of Cockburn has offered a lease each year.

Page 166

**Finding 50:** The Committee finds that the City of Cockburn is currently undertaking a public consultation process to consider the future of Naval Base, including whether to remove the shacks and bring the vested reserve under the *Caravan Parks and Camping Grounds Act 1995*. The Council will consider the results of the public consultation and deliberate on this issue in due course.

Page 167

**Finding 51:** The Committee finds that the City of Cockburn should continue to manage the process, including community consultation, they are presently undertaking to determine the future of Naval Base.

Page 176

**Recommendation 8:** The Committee recommends that the responsible Minister urgently consults with the Shire of Carnarvon and resolves the issue of the future of the Blowholes shack site.

Page 178

**Finding 52:** The Committee takes no issue with the management of the shacks by the Shire of Northampton at Lucky Bay.

# CHAPTER 1

## INTRODUCTION

---

- 1.1 In May 2010, the Standing Committee on Environment and Public Affairs (**Committee**) commenced an inquiry into Shack Sites in Western Australia (**inquiry**) following its consideration of a petition.

### THE PETITION

- 1.2 On 10 November 2009, Hon Liz Behjat MLC tabled a petition in the Legislative Council containing 1 932 signatures (**petition**).<sup>1</sup>
- 1.3 The petition was referred to the Committee pursuant to the Committee's term of reference 1.3(c) which provides that a function of the Committee is to inquire into and report on petitions.
- 1.4 Further petitions in the same terms containing additional signatures (repeat petitions) were also tabled in the Legislative Council. In total, 13 petitions containing 5 694 signatures were tabled in the Legislative Council.<sup>2</sup>
- 1.5 The petition, titled 'Petition to prevent the loss of leased Shack Sites Communities in Western Australia as alternative family recreational and holiday destinations for the people of Western Australia' was couched in the following terms:

*To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.*

*Leased Shack Sites Communities, (sic) such as Wedge Island, Grey, Donnelly River, Broke Inlet, Dampier Archipelagos, and Israelite Bay have long been the traditional holiday/recreational destination for many thousands of ordinary Western Australians.*

*Most Shack Site Communities sprung up to accommodate the gathering of farming and town based families to enjoy holidays together in remote and idyllic fishing locations right across Western Australia. Some Shack Site communities went onto becoming fully-fledged towns such as, Bremer Bay, Jurien Bay, Dongara and Horrocks, whilst some Shack Site Communities have disappeared.*

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<sup>1</sup> Legislative Council, 10 November 2009, Tabled Paper No 1499.

<sup>2</sup> A number of petitions were also tabled in the Legislative Assembly.

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*However, some residual communities remain, with a strong sense of community and have become the preferred holiday option for many thousands of Western Australians.*

*These places are tangible examples of sustainable lifestyles, where younger generations can learn responsibility and become creative and family traditions and stories can be passed on. The loss of these communities will seriously diminish the social, economic and health well being of many ordinary Western Australian families.*

*Your petitioner therefore respectfully request the Legislative Council to support our campaign for the government to*

*Examine how other States of Australia, including South Australia, Tasmania and New South Wales have retained conforming Shack Site Communities in order to preserve these valuable assets for many Western Australians to have affordable coastal holiday destinations and continue to allow human interaction all but lost in today's society.*

- 1.6 The Committee conducted preliminary inquiries into the petition and requested submissions from a number of principal petitioners and Hon Donna Faragher MLC, then Minister for Environment,<sup>3</sup> into issues raised in the petition.

#### **INQUIRY TERMS OF REFERENCE**

- 1.7 On 26 May 2010, the Committee determined that a full status inquiry was warranted and initiated an inquiry with the following terms of reference:

*The Committee is to inquire into and report on:*

- 1. information and issues to help inform government in the development of policy and the regulation of shack sites on public land in Western Australia; and*
- 2. any other relevant matter.*

#### **THE LIBERAL-NATIONAL GOVERNMENT IS CONSIDERING SHACK POLICY**

- 1.8 In April 2010, prior to the Committee initiating the inquiry, Hon Donna Faragher MLC, then Minister for Environment, advised the Committee that the Government was considering the State Government Illegal Occupation of Coastal Crown Land (Squatter) policy (**Squatter Policy**) and would consider the findings of the Committee

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<sup>3</sup> Hon Donna Faragher MLC was the Minister for Environment until 22 November 2010. Hon Bill Marmion MLA was appointed the Minister for Environment on 14 December 2010.

in formulating its final policy position on the matter.<sup>4</sup> The Committee understands that Hon Bill Marmion MLA, Minister for Environment, is awaiting the Committee's final report before making final decisions on shack site policy.

## INQUIRY PROCEDURE

- 1.9 In June 2010, the Committee advertised the inquiry in *The West Australian* and issued a State-wide Media Release to advertise the inquiry.
- 1.10 The Committee also wrote to stakeholders inviting them to make a submission. The list of the stakeholders is attached at Appendix 1.
- 1.11 The Committee received 117 submissions. Submissions from principal petitioners received in response to the petition prior to initiating the inquiry were treated as submissions for the purposes of the inquiry. A list of submissions received is attached at Appendix 2.
- 1.12 On 3 August 2010, the Committee conducted hearings with representatives from:
- Wedge Island Protection Association (**WIPA**) and Grey Conservation and Community Association (**GCCA**);
  - Naval Base Holiday Park Residents' Association (**Naval Base Association**);
  - Department of Environment and Conservation (**DEC**);
  - Shire of Dandaragan; and
  - City of Cockburn.
- 1.13 The last two hearings were conducted in private session as the Committee formed the view that this would encourage a more robust discussion of the issues. In any event, both local governments provided a submission to the inquiry and detail of recent action taken by the City of Cockburn is publicly available on their website.
- 1.14 On 28 January 2011, the Committee conducted hearings with representatives from the Lower Donnelly River Conservation Association (**Lower Donnelly Association**) (a public hearing) and DEC (a private hearing).
- 1.15 Committee Members independently visited shack sites and reported back to the Committee. The Committee also issued a number of requests for information, both before and after receiving the large number of submissions.

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<sup>4</sup> Letter from Hon Donna Faragher MLC, Minister for Environment, 22 April 2010, p1.

- 1.16 The Committee also wrote to the relevant ministers in New South Wales, Queensland, Victoria, South Australia and Tasmania requesting information on shack policy and regulation in their State. The Committee received responses from the Ministers from Queensland, Victoria, South Australia and Tasmania and from the New South Wales National Parks and Wildlife Service.
- 1.17 The Committee thanks all witnesses, submitters, and the Ministers from Queensland, Victoria, South Australia, New South Wales and Tasmania for the information and assistance provided during the course of the inquiry.

### **THE PURPOSE AND SCOPE OF THIS REPORT**

- 1.18 This inquiry presents a timely opportunity to review shack policy and regulation in Western Australia.
- 1.19 In this report, the Committee has made findings and recommendations for the Government's consideration. As outlined in the terms of reference, the Committee also aims to help inform the Government, as well as the public, of the evidence acquired during the course of the inquiry and of the range of views expressed to the Committee. To achieve this purpose, the report details a number of submissions and attaches summaries of submissions provided to the Committee.
- 1.20 The report is structured as noted below.
- 1.21 Chapter 2 of the report outlines Government policy and the regulation of shacks in Western Australia. Chapter 3 summarises shack policy and regulation in other Australian States.
- 1.22 Chapter 4 canvasses issues relevant to shack policy and regulation in Western Australia. Chapter 5 of the report outlines relevant Aboriginal culture and heritage matters.
- 1.23 Chapters 6 to 8 deal with shacks sites in Western Australia managed by DEC. Chapter 6 deals with the shacks at Wedge and Grey. Chapter 7 relates to the shacks in D'Entrecasteaux National Park (the Donnelly River shacks). Chapter 8 deals with the shacks at Dampier Archipelago.
- 1.24 Chapters 9 to 11 relate to shack sites managed by local government. Chapter 9 canvasses facts and issues relevant to the shacks at Peaceful Bay. Chapter 10 deals with the shacks at Naval Base. Chapter 11 relates to the Blowholes (Quobba) (near Carnarvon), Lucky Bay and briefly refers to other shack sites managed by local governments.
- 1.25 Chapter 12 contains the Committee's conclusions.

## CHAPTER 2

### OVERVIEW OF SHACKS, GOVERNMENT POLICY AND THE REGULATION OF SHACKS IN WESTERN AUSTRALIA

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- 2.1 This Chapter provides an overview of shacks in Western Australia, and the Government policy and regulation of shacks. A more detailed discussion of each shack site is provided at Chapters 6 to 11 of this report.

#### SHACK SITES IN WESTERN AUSTRALIA

- 2.2 A shack is a structure that has been erected on public land<sup>5</sup> without the approval or permission of the Government or other relevant authority. Over time, as a result of Government policy and local government action, many shacks throughout Western Australia have been removed. Some shack sites became fully fledged towns. The remaining shacks are managed by DEC or local government.
- 2.3 Historically, squatter shack development was confined to small coastal locations where makeshift dwellings were erected on public land for the purposes of annual holidays.<sup>6</sup> These shacks were often known as holiday ‘squatter shacks’ and its occupants were called ‘squatters’.
- 2.4 The history of shack sites in Western Australia differs (as noted in this report). However generally, holiday squatting on public land became increasingly popular after World War II as shoreline near to major centres was alienated and people sought more remote locations that were made more accessible by four wheel drive vehicles.<sup>7</sup> Farmers and city dwellers erected makeshift shacks on public land for holidays and professional fishers also set up bases close to fishing grounds and good anchorage.<sup>8</sup> Shack sites are often located in unique and naturally beautiful locations in Western Australia. The beauty of the area was one reason to build a shack on that public land.
- 2.5 For a time, poor access, isolation and lack of facilities kept the use of some shack sites to a minimum. Over time, while the occupation by professional fishers remained

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<sup>5</sup> The inquiry’s terms of reference refer to public land. The terms ‘public land’ and ‘Crown land’ are used in this report. ‘Crown land’ is defined in the *Land Administration Act 1997* to mean, subject to a few high water mark provisions, all land except for ‘alienated land’ (land held in freehold): Section 3, *Land Administration Act 1997*.

<sup>6</sup> Government of Western Australia, Government Policy for the Administration of Coastal Squatter Shacks, 1989, p1.

<sup>7</sup> Dr J Selwood and A May, ‘Research Note; Resolving Contested Notions of Tourism Sustainability on Western Australia’s ‘Turquoise Coast’: The Squatter Settlements’, *Current Issues in Tourism*, Vol 4, No 2-4, 2001, pp381-91 at p383.

<sup>8</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p1.

constant or decreased, the recreational use of the coast increased with large numbers of new squatter shacks being erected.<sup>9</sup> Many shacks at Wedge and Grey were erected during the 1970s. Unmanaged, unregulated and unplanned development of the shack sites in Western Australia occurred up until 1980.<sup>10</sup>

- 2.6 In the 1980s, laws and policy were established to deal with shacks, particularly shacks between Dongara (south of Geraldton) and Perth. Many shack sites were vested in local government prior to the Squatter Policy (1989) (see below).
- 2.7 Prior to the removal of shacks under the Squatter Policy, the majority of the shacks in this State were located along the 'West Midlands Coastline' between Lancelin (which is south of Wedge and Grey) and Dongara (south of Geraldton).<sup>11</sup> Most of the shacks along this coast, with the notable exception of the shacks at Wedge and Grey, were removed in accordance with the Squatter Policy.
- 2.8 There are approximately 1 060 shacks in eleven shack site locations in Western Australia. Shacks are found in coastal areas from the Blowholes (near Point Quobba), in the Shire of Carnarvon, to Israelite Bay (east of Esperance).
- 2.9 The Committee's inquiry, and this report, is informed by submissions provided by DEC as to the number and location of shack sites in Western Australia (see paragraphs 2.18 to 2.20 for further detail on shack sites and shack numbers).
- 2.10 Wedge and Grey are the largest combined shack sites in Western Australia, consisting of an estimated 450 shacks.
- 2.11 Shacks are used primarily for recreation and vacation purposes, although a few shacks are used by commercial fishers. A few shack owners permanently live in their shacks (even when this is not permitted).<sup>12</sup>
- 2.12 While some shacks may have been used by the same family for decades, other shacks (including shacks at Wedge and Grey) were purchased or taken over in the 1990s and 2000s.
- 2.13 It is important to emphasise that there are significant differences between the look, structure, size and composition of shacks in Western Australia. For example, while some shacks have the appearance of a crudely built shanty built from whatever

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<sup>9</sup> Department of Land Administration, *Illegal Occupation of Coastal Crown Lands (Squatters)*, Policy No 5.4.1, 4 July 1989, p1.

<sup>10</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p2.

<sup>11</sup> Submission No 114 from Department of Regional Development and Lands, 8 November 2010, p1.

<sup>12</sup> Paragraph 6.8 of this report refers to permanent residents at Wedge and Grey. The lease agreements for the Peaceful Bay and Naval Base shacks do not permit permanent residence at the sites although the Shire of Denmark permits some residents to permanently reside at Peaceful Bay (see paragraphs 9.15 and 10.12 of this report).



material was available, others have the appearance of older, basic, small residences or, in some instances, are indistinguishable from freehold residences (such as the shacks at Peaceful Bay).

### Terminology

- 2.14 The Committee observed that shack ‘owners’ often do not use the term ‘shack’ to describe what they referred to as a holiday home, cottage, hut or by another term.<sup>13</sup> It should be noted that shack ‘owners’ own only the structure on the site, and all shacks are, and remain, on public land.
- 2.15 The term ‘squatter shack’ is often used to describe a shack and ‘squatter’ is used to describe the occupant.<sup>14</sup> In this report, the term shack is often used to describe a structure on a shack site. Also, shack owners may refer to themselves as lessees, tenants or by another term.
- 2.16 Some shack owners object to the term squatter on the basis that they lease the shack site (for example, Peaceful Bay and Naval Base shack owners). In this report the terms shack owner, shack occupier and lessee are used interchangeably. As the shacks were erected on public land without approval or permission, shack ownership or squatter occupation is often described as an ‘illegal occupation’, and the shacks described as ‘illegal shacks’.
- 2.17 In this report, the term shack site, rather than shack settlement or shack or squatter community, denotes the broader area of land the shacks are situated on (for example, the Wedge shack site or Naval Base shack site).

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<sup>13</sup> For example, a Naval Base shack site witness did not consider the Naval Base buildings as shacks and questioned whether the inquiry applied to Naval Base, and Donnelly River owners refer to their shacks as huts: Mr Fred Cavanough, Member, Naval Base Holiday Park Residents’ Association, *Transcript of Evidence*, 3 August 2010, p2, and Submission No 38 from Lower Donnelly River Conservation Association, 30 June 2010.

<sup>14</sup> For example, Submission No 114 from Department of Regional Lands and Development, 8 November 2010.

**SHACK SITES MANAGED BY DEC**

2.18 DEC currently manages shacks at the following locations:<sup>15</sup>

<i>Location</i>	<i>Number of shacks</i> <sup>16</sup>	
Wedge and Grey (see Chapter 6)	450 (320 <sup>17</sup> and 130 respectively)	Situated on unvested reserves.
D'Entrecasteaux National Park (including Donnelly River) (see Chapter 7)	63 (43 huts located at Donnelly River)	Situated on land vested in the Conservation Commission of Western Australia and managed under a management plan.
Dampier Archipelago (see Chapter 8)	33	Situated on land vested in the Conservation Commission of Western Australia and managed under a management plan.

2.19 Unlike the Wedge and Grey reserves, the shacks in the D'Entrecasteaux National Park and Dampier Archipelago are on parks and reserves vested in the Conservation Commission of Western Australia subject to a management plan under the *Conservation and Land Management Act 1984*.<sup>18</sup> The Squatter Policy does not apply to reserves vested in the Conservation Commission of Western Australia.

<sup>15</sup> Shack numbers in this report are based on the information provided by the Department of Environment and Conservation: Submission No 47 from Department of Environment and Conservation, 6 July 2010, p3. A few shack owners have provided slightly different figures.

<sup>16</sup> The number of shacks is an estimate: Submission No 47 from Department of Environment and Conservation, 6 July 2010, p3.

<sup>17</sup> See footnote 217.

<sup>18</sup> Letter from Hon Donna Faragher MLC, Minister for Environment, 22 April 2010, p2.

**SHACK SITES MANAGED BY LOCAL GOVERNMENT**

- 2.20 The following sites have been vested in local government and are managed by local government. Leasing arrangements at these sites pre-date the Squatter Policy.<sup>19</sup> Removal powers exist under section 273 of *Land Administration Act 1997*.

<i>Location</i>	<i>Number of shacks</i> <sup>20</sup>	<i>Local Government</i>
Peaceful Bay (near Walpole) (see Chapter 9)	203	Shire of Denmark
Naval Base (see Chapter 10)	178	City of Cockburn
Blowholes (Quobba) <sup>21</sup> (see Chapter 11)	42 <sup>22</sup>	Shire of Carnarvon
Lucky Bay (See Chapter 11)	31	Shire of Northampton
Israelite Bay	1	Shire of Esperance
Cliff Head (near Dongara) (See Chapter 11)	40 professional rock lobster fisher shacks	Shire of Irwin
Coolimba (near Dongara) (See Chapter 11)	20 professional rock lobster fisher shacks	Shire of Carnamah

**Finding 1: The Committee finds that there are approximately 1 060 shacks in eleven shack sites throughout Western Australia. Approximately 450 shacks are located at Wedge and Grey.**

<sup>19</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p5.

<sup>20</sup> The number of shacks is an estimate: Submission No 47 from Department of Environment and Conservation, 6 July 2010, p3.

<sup>21</sup> The shacks identified by the Department of Environment and Conservation as being situated in 'Quobba' are in a location near Point Quobba commonly referred to as the 'Blowholes'. This report refers to this site as the Blowholes shack site.

<sup>22</sup> Submission No 117 from Shire of Carnarvon, 3 February 2011, refers to 42 shacks. Submission No 47 from Department of Environment and Conservation, 6 July 2010, p5, estimated 35 shacks at this site.

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**SHACK SITE POLICY AND REGULATION**

- 2.21 The development and increase in the number of shacks on public land grew in an unregulated, unmanaged and unplanned manner up until 1980.<sup>23</sup> As the recreational use of the coast increased and larger numbers of shacks were erected, the State Government determined that a policy for administration and removal of illegal shacks should be prepared.<sup>24</sup>
- 2.22 In 1980, legislation controlling the use of Crown land was introduced when the *Land Act 1933* was amended to provide greater powers of prosecution for remaining on Crown lands without lawful authority. However, because of the large size of the shack problem no regulatory action was taken to prevent and curb the expansion of shack sites until 1988.<sup>25</sup>
- 2.23 In 1983, the Government adopted the position paper *Coastal Planning and Management in Western Australia*. The statement of policy in this report noted:
- Haphazard squatter shack developments are unacceptable. Public (rental) chalet developments for short term use may be acceptable if properly planned, regulated and serviced.*<sup>26</sup>
- 2.24 In 1987, an approach was agreed for the State to combine with local government in taking positive measures to control shack developments. This was an outcome of a series of reviews.<sup>27</sup>
- 2.25 In 1988, at the initiative of the Minister for Planning, Government resolved that a State-wide policy for the administration of coastal squatter shacks be prepared and the process of removing shacks between Perth and Dongara commence.<sup>28</sup> The Squatter Policy was drafted with the stated purpose of removing shacks between Perth and Dongara, in the Central Coast region (which includes Wedge and Grey).<sup>29</sup>
- 2.26 In 1989, the Government confirmed the policy known as the Squatter Policy (see below for details), to apply throughout the State. The objective of the Squatter Policy

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<sup>23</sup> Submission No 114 from Department of Regional Development and Lands, 8 November 2010, p2.

<sup>24</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p1.

<sup>25</sup> Submission No 114 from Department of Regional Development and Lands, 8 November 2010, p2.

<sup>26</sup> Department of Land Administration, *Illegal Occupation of Coastal Crown Lands (Squatters)*, Policy No 5.4.1, 4 July 1989, p1.

<sup>27</sup> Submission No 114 from Department of Regional Development and Lands, 8 November 2010, p2.

<sup>28</sup> *Ibid.*

<sup>29</sup> In this report, the Committee uses the term 'Central Coast' to describe the area between Dongara and Lancelin. A few submitters refer to area as the 'Mid West'. For example, National Trust of Australia (Western Australia), *Historic Places Assessment Form (Wedge Island Settlement)*, 2001, and *List of Classified Places: Heritage Assessment (Grey Shack Community)*, March 2009.

is to remove shacks. To facilitate an orderly process of shack removal, the former Department of Land Administration (**DOLA**) created reserves at shack sites and issued relevant local governments with vesting orders (now management orders under the *Land Administration Act 1997*) over the reserves, including the power to lease to squatters for a period of six years.<sup>30</sup> The management order included the responsibility to ensure the removal of all structures and the rehabilitation of the area. The Department of Regional Development and Lands advised:

*It was clear to all affected and the public generally understood, that every one of these leases was a means to an end. That end was the removal of the shacks and the rehabilitation of the areas in some cases for their further development for visitor purposes, but in a managed, equitable and sustainable way.*<sup>31</sup>

- 2.27 Prior to the Squatter Policy, a number of shack sites had been vested in, and managed by, local governments (see paragraph 2.20).
- 2.28 The Squatter Policy is supported by a legislative framework, in particular the *Land Administration Act 1997* (which replaced the *Land Act 1933*) and the *Conservation and Land Management Act 1984*.
- 2.29 Section 270(2) of the *Land Administration Act 1997* provides that the Minister may direct the owner of, or any person occupying, that alleged unauthorised structure to remove the structure, its contents and any fixtures, materials and objects in its vicinity permanently from the Crown land by a certain date. If legislated procedures have been followed, the Minister may remove the structure after a certain time and no compensation is payable.<sup>32</sup>
- 2.30 The *Land Administration Act 1997* also provides that the Minister may reserve land, place land in the care, control and management of person/s, and approve management plans.<sup>33</sup> Section 33(2) of the now repealed *Land Act 1933* provided that the Government may direct ‘by order’ that any land shall vest in any person for the ‘designated purpose’, subject to conditions and limitations deemed necessary to ensure that the land is used for the designated purpose. Shack site lands were vested in local governments prior to the Government’s 1989 Squatter Policy under this section. The *Land Administration Act 1997* includes provisions providing that land reserved under the *Land Act 1933* is land taken to be reserved under the *Land Administration*

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<sup>30</sup> Submission No 114 from Department of Regional Development and Lands, 8 November 2010, p3.

<sup>31</sup> *Ibid.*

<sup>32</sup> Sections 271 and 272, *Land Administration Act 1997* respectively provide that owners and occupiers of unauthorised structures may apply for an extension of time to remove the unauthorised structure or may lodge an appeal against the Minister’s notice.

<sup>33</sup> See Part 4, *Land Administration Act 1997*.

*Act 1997*, and a vesting order under the *Land Act 1933* continues as if that order were a management order or order made under the *Land Administration Act 1997*.<sup>34</sup>

- 2.31 Section 33(2) of the *Conservation and Land Management Act 1984* provides that the Governor may place under the management of the CEO of the ‘Department’ (DEC) any Crown land within the meaning of the *Land Administration Act 1997*, or land reserved under Part 4 of that Act (where care, control and management are not placed with any person under that Act), or land reserved, but not vested in, any person under any other Act. Wedge and Grey were placed under the Department of Conservation and Land Management (**CALM**) (now DEC) management pursuant to this section.
- 2.32 National parks, conservation parks and nature reserves in Western Australia are automatically vested in the Conservation Commission of Western Australia.<sup>35</sup> This applies to the D’Entrecasteaux National Park, where the Donnelly River huts are located, and to the Dampier Archipelago reserves. DEC carries out the management of these reserves in accordance with the *Conservation and Land Management Act 1984* and prepares management plans on behalf of the Conservation Commission of Western Australia. Section 55 of the *Conservation and Land Management Act 1984* provides that the term of a management plan will be ten years but a plan shall remain in force until a new plan is approved.
- 2.33 Further detail on how shack sites in Western Australia are regulated and managed are provided in relevant Chapters of this report dealing with a particular shack site.

**Finding 2: The Committee finds that a number of existing shack sites were vested in, and managed by, local governments prior to the State Government adopting the Illegal Occupation of Coastal Crown Land (Squatters) policy (Squatter Policy) in 1989 and the removal of shacks under this policy.**

**Finding 3: The Squatter Policy is supported by a legislative framework, in particular the *Land Administration Act 1997* (which replaced the *Land Act 1933*) and the *Conservation and Land Management Act 1984*.**

### The Squatter Policy

- 2.34 The Squatter Policy was adopted by the then Labor Government in 1989. The Squatter Policy reflects the endorsed position of previous Labor and Coalition Governments.<sup>36</sup>

<sup>34</sup> See Schedule 2 and, in particular, clauses 14 and 16 of the *Land Administration Act 1997*.

<sup>35</sup> Section 7, *Conservation and Land Management Act 1984* which provides, *inter alia*, that national parks are vested in the Conservation Commission of Western Australia unless stated exceptions apply. The *Shannon and D’Entrecasteaux National Park Draft Management Plan 2005* (at pii) outlines the management framework. This ‘vesting’ is distinguishable from the vesting of land to local governments.

<sup>36</sup> Letter from Hon Donna Faragher MLC, Minister for Environment, 22 April 2010, p1.

- 2.35 The Committee has received a few versions of the Squatter Policy—a Squatter Policy published in 1989<sup>37</sup> (a version published in the Government’s *Land Operations Manual* as well the ‘Government Policy for the Administration of Coastal Squatter Shacks’ (1989),<sup>38</sup> which includes further background information)<sup>39</sup>, in 1999<sup>40</sup> (the policy was endorsed by Cabinet in January 1999)<sup>41</sup> and in 2005.<sup>42</sup> These documents are attached at Appendix 3. (The Squatter Policies published in 1999 and 2005, the current version of the policy, reproduce the Squatter Policy (1989) and make consequential amendments to reflect the commencement of the *Land Administration Act 1997*, which replaced the *Land Act 1933*).

### *Scope of the Squatter Policy*

- 2.36 It is important at the outset to note that the Squatter Policy applies to Crown land and unvested reserves,<sup>43</sup> such as the Wedge and Grey reserves.
- 2.37 The Squatter Policy does not apply to vested land where a body holds a management order (vesting) of affected reserved land, such as local governments, and does not apply to reserves vested in the Conservation Commission of Western Australia and subject to a management plan under the *Conservation and Land Management Act 1984* (such as the Donnelly River and Dampier Archipelago shacks managed by DEC).<sup>44</sup>
- 2.38 However, management bodies, such as local governments and DEC (where they manage vested land), may choose to manage land in accordance with the principles in the Squatter Policy. The Squatter Policy (2005) states:

*The policy relates to unallocated Crown land and unmanaged reserves. Bodies already holding a management order of affected reserved land (eg., local governments) may exercise delegated powers*

<sup>37</sup> Department of Land Administration, *Illegal Occupation of Coastal Crown Lands (Squatters)*, Policy No 5.4.1, 4 July 1989.

<sup>38</sup> Government of Western Australia, *Government Policy for the Administration of Coastal Squatter Shacks*, 1989.

<sup>39</sup> Both these 1989 versions of the policy are referred to as the ‘Squatter Policy (1989)’ in this report.

<sup>40</sup> Government of Western Australia, *Illegal Occupation of Coastal Crown Lands (Squatters)*, Policy No 5.4.01.1, 1 January 1999.

<sup>41</sup> Submission No 45 from Department of Planning, 6 July 2010, p1.

<sup>42</sup> Department of Lands and Regional Development, *Illegal Occupation of Coastal Crown Land (Squatters)*, Policy No 12.5.1.1, March 2005. This is the current version of the policy: Letter from Mr Henty Farrar, Manager, Crown Land Mid West - Gascoyne Lands Division, Department of Regional Development and Lands, 23 November 2010, p1.

<sup>43</sup> ‘*The policy relates to Crown land and unvested reserves*’: Department of Land Administration, *Illegal Occupation of Coastal Crown Lands (Squatters)*, Policy No 5.4.1, 4 July 1989, p1.

<sup>44</sup> See paragraphs 2.18 and 2.19.

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*under s. 273 of the LAA [Land Administration Act 1997] (previously s. 164B of the Land Act 1933) to immediately remove squatters.<sup>45</sup>*

- 2.39 If the management body indicates an unwillingness to evict squatters, they ‘*may be required to proceed along these policy lines*’. The Squatter Policy does not state under what circumstances the Government will require a management body (such as local governments) to proceed in accordance with the Squatter Policy.
- 2.40 Professional fisher shacks are a recognised exemption from the Squatter Policy and ‘*generally are permitted to remain*’.<sup>46</sup> (Fisher shacks are discussed at paragraphs 4.44 to 4.52 of this report).

### *Background*

- 2.41 It appears to the Committee that the Squatter Policy was adopted after due consideration of relevant issues. Many issues and concerns referred to in the Squatter Policy were raised during the course of the inquiry. The Squatter Policy (1989) notes the following ‘*serious problems*’ of shack development:

*The intensification of squatter shack development has resulted in the following serious problems:*

- *the shacks are unsightly and have been constructed without regard for proper building and health regulations. In many cases, they are unsafe;*
- *the land surrounding squatter shack areas is becoming progressively degraded through uncontrolled vehicular use. In many areas, shacks are built on primary dunes resulting in coastal erosion;*
- *the shacks occupy many of the most sought after areas of the coast and tend to preclude access by others;*
- *shack owners have in the past petitioned for formal recognition of their settlements. This has lead to a demand for services and improved access which, in turn, has created unplanned de-facto townsites and long term management and servicing difficulties, the cost of which has to be borne by the State.*

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<sup>45</sup> Department of Lands and Regional Development, Illegal Occupation of Coastal Crown Land (Squatters), Policy No 12.5.1.1, March 2005, p1.

<sup>46</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p2.



*In addition to the above problems, squatter development is also considered inequitable. The shacks are constructed on land which does not belong to those who own them. The owners do not contribute anything to the Local or State Government for the continued use of the land. Any recognition of “squatters rights” through the granting of long term or permanent tenure would be rewarding those who have broken the laws while continuing to preclude access and penalize those who have complied.”<sup>47</sup>*

2.42 The above problems still exist today, more than 20 years later.

*Objective of the Squatter Policy*

2.43 The objective of the Squatter Policy is:

*To control the establishment of any new unlawful dwellings (squatters shacks) on coastal Crown land and facilitate the removal of existing dwellings (shacks) over a six year period.*

*Terms of the Squatter Policy*

2.44 The Squatter Policy (1989) contains the following comment:

*While the Government is mindful of the emotional attachment and financial investment people have made in squatter shacks, it considers that action to remove squatter shacks is in the interests of all West Australians. In view of the potential for further environmental degradation, and the creation of townsites that would be difficult to service and be a continual financial drain to the Government, it is now the general objective of the Government to avoid the creation of additional squatter shacks and work towards the removal of those already existing.”<sup>48</sup>*

2.45 The Squatter Policy provides:

- 1. No new illegal shacks will be permitted on reserves or vacant Crown land along the State’s coastline ...*
- 2. Existing owners of shacks on Crown land or unvested reserves will be permitted to remain for a period of 6 years provided that:*

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<sup>47</sup> Government of Western Australia, Government Policy for the Administration of Coastal Squatter Shacks, 1989, pp1-2.

<sup>48</sup> *Ibid*, p2.

- i) there are no extraneous circumstances in particular areas which require shacks to be removed sooner;*
- ii) the shacks are not situated on reserved land which has been subject to a management plan under the CALM Act.*

*This 6 year period is to allow for the reasonable usage of existing investment while deterring extensive improvements or redevelopment. ...*

3. *This 6 year tenancy is subject to:*

- i) no services being provided by State or Local Government;*
- ii) the sites being left in a clean and tidy condition upon completion of occupancy and the cost of removal of the shack and rehabilitation of the site being borne by the shack owners*

...<sup>49</sup>

**Finding 4: The Committee finds that the Squatter Policy, which applies to unvested reserves, provides for the removal of shacks throughout Western Australia. The Squatter Policy has been the endorsed position of previous Labor and Coalition Governments.**

### **Implementation of the Squatter Policy**

2.46 The Squatter Policy has been enforced, although not consistently.

2.47 The policy was enforced primarily along parts of the Central Coast. A total of 678 shacks from Dongara (south of Geraldton) to Wedge (north of Lancelin) were removed, namely:

- 138 shacks in the Shire of Coorow;<sup>50</sup>
- about 240 shacks in the Shire of Carnamah;
- 130 shacks in the Shire of Irwin; and
- 170 shacks in the Shire of Dandaragan near Jurien Bay.<sup>51</sup>

<sup>49</sup> *Ibid.*

<sup>50</sup> The Shire of Coorow submitted to the Committee the reasons that they are very pleased that the shacks were removed: Submission No 39 from Shire of Coorow, 30 June 2010 (See paragraph 6.79). Shack removal in the Shire of Coorow in 1994 enabled development of a coastal drive and recreational sites adjacent to Greenhead: Submission No 47 from Department of Environment and Conservation, 6 July 2010, p2.

<sup>51</sup> Letter from Hon Donna Faragher MLC, Minister for Environment, 22 April 2010, p1.

- 2.48 The Shires of Coorow, Carnamah and Irwin removed all recreational shacks in their shires and development nodes were identified to facilitate public recreational use of these coastal areas. DOLA removed shacks from Port Kennedy (in the City of Rockingham).<sup>52</sup>
- 2.49 The Shire of Dandaragan was the last local government in the Central Coast to formally adopt the Squatter Policy. With the exception of Wedge and Grey, all shacks in this Shire were removed.<sup>53</sup> The most recent removal of shacks were the 170 shacks at Jurien Bay, which were removed in 2001. This enabled the development of the popular Sandy Cape recreation area that provides basic amenities for camping, caravanning and day visitors.<sup>54</sup>
- 2.50 The removal of shacks on unvested reserves in Western Australia has largely been achieved, with the exception of shacks managed by the CALM, now DEC.<sup>55</sup>
- 2.51 The Government vested reserves in local government to implement the Squatter Policy (see paragraph 2.20). Mr Peter Driscoll, Regional Manager for the Central Coast Region, Department of Planning and Urban Development between 1987 and 1995 advised the Committee that one of the most important aspects of the program to remove the shacks was the commitment by successive State governments that they would apply the same program and remove shacks on State reserves.<sup>56</sup>

**Finding 5: The Committee finds that after the Squatter Policy was adopted in 1989, 678 shacks north of Perth, from Dongara to Wedge, were removed in accordance with the policy.**

#### GOVERNMENT POLICIES REINFORCE THE SQUATTER POLICY

- 2.52 A number of Government planning policies reflect and reinforce the Squatter Policy. The continued existence of shacks conflicts with land management policies as the Department of Planning advised:

*The location of the remaining shacks conflicts with a number of State Planning Policies in relation to the provisions of services, location relative to existing settlements, coastal setbacks and protection of environmental and natural resource values.*<sup>57</sup>

- 2.53 The *State Coastal Planning Policy* (State Planning Policy (SPP) 2.6) states:

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<sup>52</sup> Submission No 114 from Department of Regional Development and Lands, 9 November 2010, p3.

<sup>53</sup> *Ibid*, p3.

<sup>54</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p2.

<sup>55</sup> Submission No 45 from Department of Planning, 6 July 2010, p1.

<sup>56</sup> Submission No 33 from Mr Peter Driscoll, Principal Planner, Landvision, 1 July 2010, p2.

*Local and regional planning strategies, structure plans, schemes, subdivisions, strata subdivision and development applications, as well as other planning decisions and instruments relating to the coast should: ...*

*(v) Support the removal of existing unlawful dwellings (squatter shacks) on coastal Crown land as per the Cabinet endorsed State Government Squatter Policy (July, 1989 and January, 1999).<sup>58</sup>*

2.54 The objectives of the *State Coastal Planning Policy* are to:

- *protect, conserve and enhance coastal values, particularly in areas of landscape, nature conservation, indigenous and cultural significance;*
- *provide for public foreshore areas and access to these on the coast;*
- *ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities; and*
- *ensure that the location of coastal facilities and development takes into account coastal processes including erosion, accretion, storm surge, tides, wave conditions, sea level change and biophysical criteria.<sup>59</sup>*

2.55 The *State Coastal Planning Policy* regulates setbacks. General policy measures require a setback line be set aside for public ownership and vesting of the coastal foreshore in the local authority for foreshore management and recreation, or DEC where areas have significant conservation value. Further policy measures include the requirement that urban development should be encouraged in and around existing settlement, and land use and development adjacent to the coast should be sited and designed to complement and enhance the coastal environment in terms of its visual amenity, social and ecological values.<sup>60</sup>

<sup>57</sup> Submission No 45 from Department of Planning, 6 July 2010, p2.

<sup>58</sup> Western Australian Planning Commission, *State Coastal Planning Policy*, Clause 5.1: [www.planning.wa.gov.au/Plans+and+policies/Publications/139.aspx](http://www.planning.wa.gov.au/Plans+and+policies/Publications/139.aspx) (viewed on 9 November 2010).

<sup>59</sup> *Ibid*, Clause 4.

<sup>60</sup> *Ibid*, Clause 5.

- 2.56 The *State Urban Growth and Settlement Policy* (SPP3) provides that the planning of new settlements should avoid areas of environmental sensitivity and give preference to locations near existing settlements.<sup>61</sup>
- 2.57 A key policy objective of the *State Agricultural and Rural Land Use Planning Policy* (SPP 2.5) is to plan and provide for rural settlement where it can benefit and support existing communities and have access to appropriate community services and infrastructure. The plan discourages development that may result in environmental degradation.<sup>62</sup>
- 2.58 The *Central Coast Regional Strategy* (September 1996) outlines problems resulting from squatter settlements and assesses progress on the Squatter Policy. Policy objectives include implementing the Squatter Policy, investigating and promoting mechanisms for a range of accommodation forms and ensuring that both State and local government continue to support the implementation of the Squatter Policy. The policy supports action of local governments to remove squatters. The *Gingin Coast Structure Plan* (February 2006) draws on the recommendations of the *Central Coast Regional Strategy* and gives criteria for recreation and tourism nodes including not more than 500 tourists.<sup>63</sup>

#### GOVERNMENT DEPARTMENTS AND AGENCIES

- 2.59 Government departments and agencies provided submissions on shack policy. A summary of submissions received from Government departments and agencies is attached at Appendix 4. A brief summary of these submissions follows:
- The Department of Regional Development and Lands is of the view that the Government needs to ensure that the policy of shack site removal is consistently applied by all levels of Government.
  - The Department of Planning supports the Squatter Policy to ensure well planned and connected communities and for reasons of equity.
  - DEC raises issues arising out of the presence of shacks including environmental, equity, compliance, native title and heritage issues.
  - Tourism Western Australia considers that the Squatter Policy provides a set of reasonable guidelines that will lead to the orderly and proper administration of Crown lands. Tourism Western Australia add that there is a lack of good quality coastal locations for high quality nature-based and ecotourism development.

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<sup>61</sup> Submission No 45 from Department of Planning, 6 July 2010, Attachment, p1.

<sup>62</sup> *Ibid*, p2. The *State Agricultural and Rural Land Use Planning Policy* is being reviewed.

- The Heritage Council of Western Australia notes that from a cultural heritage perspective, coastal shack settlements represent a distinctive Australian outdoor way of life characterised by simple, low scale informal development. The Squatter Policy has made it difficult to conserve examples of this distinctive aspect of Western Australia's history as heritage registration would be contrary to a Government policy in relation to Illegal Occupation of Coastal Crown Land (the Squatter Policy).
- 2.60 The National Trust of Australia (Western Australia) (**National Trust**) is concerned about the failure of the shack policy to consider culture heritage values of existing settlements and to establish processes by which these values can be considered alongside other important issues, such as building compliance, demand for services, environmental impact and other issues of health, equity and access.
- 2.61 The Urban Development Institute of Australia (Western Australia) (**Urban Development Institute**), a peak body representing the property industry, supports the Squatter Policy and *Wedge and Grey Masterplan*.<sup>64</sup>
- 2.62 During the course of the inquiry, local governments, shack site associations, shack owners (particularly Wedge and Grey owners), private organisations and members of the public submitted divergent views on shack policy. These views are summarised throughout this report.

**Finding 6: The Committee finds that the Squatter Policy has not been uniformly implemented.**

**Finding 7: The Committee finds that the Squatter Policy is reinforced by other land use policies.**

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<sup>63</sup> *Ibid*, p4.

<sup>64</sup> Submission No 40 from the Urban Development Institute of Australia (Western Australia), 30 June 2010.

## **CHAPTER 3**

### **SHACK POLICY AND REGULATION IN OTHER STATES**

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- 3.1 This Chapter summarises shack policy and how shack sites are regulated in other states in Australia. This information is largely sourced from information received from the relevant Ministers from Queensland, Victoria, South Australia and Tasmania and from the New South Wales National Parks and Wildlife Service.
- 3.2 During the course of the inquiry, submitters noted that shack policy and regulation in other states needs to be investigated, particularly Tasmanian and South Australian models where shack site outcomes have been quite favourable to a number of shack occupiers.
- 3.3 It is clear that shack policy, regulation and outcomes differ from State to State. For example, in Tasmania shack site owners have been provided with the opportunity to purchase freehold title over their shack site, whereas in Victoria the Government has enforced a policy predicated on the approach that Crown land is managed and used for public benefit and shacks have been removed. The history of shack sites and their regulation also varies from State to State. Information obtained suggests that many shacks around Australia existed and were subject to formal regulation well prior to a number of shacks in Western Australia being built and regulated.
- 3.4 It is important to note that the information below largely reflects the scope and nature of the information provided. Some responses note the current regulation of shacks and do not comment on how many shacks in their State were removed in the past. The information provided may therefore be skewed in this way. To give one example, the Committee is not certain how many shacks in New South Wales were removed pursuant to Government policy.<sup>65</sup> The Department of Regional Development and Lands noted in their submission to the Committee that the more populous states opted for removal of shacks as being the most rational approach to ensure equitable access and visitation by the broader community.<sup>66</sup>
- 3.5 Shack policy and regulation has been a contentious and difficult issue throughout Australia.

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<sup>65</sup> Hon John Jenkins MLC advised the Legislative Council of New South Wales on 16 November 2004 that after the founding of the National Parks and Wildlife Service in 1967 a policy of cabin removal was introduced and between a quarter and a third of the original number of cabins were removed. See paragraph 3.15.

<sup>66</sup> Submission No 114 from Department of Regional Development and Lands, 8 November 2010, p1.

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**QUEENSLAND**

- 3.6 In Queensland, public land is primarily administered by the Department of the Environment and Resource Management under the *Land Act 1995* (Qld) and the *Nature Conservation Act 1992* (Qld).<sup>67</sup> Under section 404 of the *Land Act 1995* (Qld) a person must not unlawfully do any of the following things in relation to a non-freeholder or trust land: occupy or live on it; enclose it; build, place or maintain any structure, improvement, work or thing on it; or clear, dig up or cultivate it.
- 3.7 Hon Stephen Robertson MP, Minister for Natural Resources, informed the Committee that in northern Queensland there are a number of shack sites located on land administered under the *Land Act 1995* (Qld).<sup>68</sup> The reasons for the existence of the shack sites appear to include lifestyle choices, native title interests, the continued occupation of land at expiry of tenures, continuing family traditions, as well as the combined effects of past government decisions to legitimise unauthorised occupation by issuing permits. Some shacks were historically granted as permits to occupy, which is a non-transferable interest that does not have a set term and which can be cancelled by giving reasonable notice.<sup>69</sup>
- 3.8 Currently shack sites in Queensland are dealt with on a case-by-base basis and addressed when identified as a regional priority. No new permits to occupy are being granted over other shack sites which are not eligible for a more secure tenure such as leasehold or freehold.<sup>70</sup>
- 3.9 On ‘*conservative estate lands*’ administered under the *Nature Conservation Act 1992* (Qld), it is illegal to erect or keep a structure without approval. If shack sites were to be established on these lands, approval would not be provided because such structures are inconsistent with the conservation purpose of these lands.
- 3.10 There are policies addressing the removal of long term camping and illegal structures on national parks. Issues relating to long term camps on national park tenures mainly involve equitable access to campsites. The maximum term for a camping permit is 30 days, and any long term camps or illegal structures identified are dealt with on a case by case basis by regional officers. There is no provision to convert such sites to freehold title.<sup>71</sup>
- 3.11 The Department of the Environment and Resource Management is currently developing a policy on unauthorised occupation of land administered under the *Land*

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<sup>67</sup> Letter from Hon Stephen Robertson MP, Minister for Natural Resources, 23 August 2010, p1.

<sup>68</sup> *Ibid.*

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*, p2.

<sup>71</sup> *Ibid.*



*Act 1995 (Qld)* so as to better manage shack sites and related issues. The Minister for Natural Resources asked to be advised of the outcomes of the Committee's work and any changes to policy in Western Australia. (The Committee will provide the Minister with a copy of this report).

## NEW SOUTH WALES

- 3.12 The New South Wales National Parks and Wildlife Service (**NPWS**) advised the Committee that most relevant to its inquiry is the management of '*some 200 cabins*' in Royal National Park, 32 kilometres south of Sydney.<sup>72</sup>
- 3.13 The NPWS response relates to these cabins. The Committee is not aware of how many other 'shacks' there are in New South Wales. NPWS advised that the policy and regulation of the sites in Royal National Park may differ from other New South Wales agencies potentially managing shack sites, such as Forests NSW and NSW Land and Property Management Authority.<sup>73</sup> Further, the Committee is not aware of exactly how many shacks in New South Wales have been destroyed under any New South Wales Government policy of removing shacks in the past, although this policy and the removal of shacks in the past is referred to in the statement Hon John Jenkins MLC provided to Parliament in 2004 (see below).
- 3.14 The cabins in Royal National Park are described as '*very simple structures built in the absence of planning controls, major infrastructure and services*'.<sup>74</sup> There is considerable stakeholder interest in the future use and ongoing management of the cabin areas.<sup>75</sup>
- 3.15 In 2004, Hon John Jenkins MLC provided the Parliament of New South Wales with the following history:

*There are approximately 220 coastal cabins in Royal National Park divided into four communities - Little Garie, Era, Burning Palms and Bulgo ...*

*Most cabins were built between 1910 and 1950, either on freehold land with the permission of the then owners, or on Crown reserve land. When development proposals threatened in the mid-1940s the communities forsook the opportunity to purchase the land themselves. For the common good they lobbied ... to have the freehold land incorporated into the Royal National Park. This selfless act was to*

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<sup>72</sup> Letter from Mr Alistair Henschman, Head, NSW National Parks and Wildlife Service, 11 October 2010, p1.

<sup>73</sup> *Ibid*, p2.

<sup>74</sup> *Ibid*, p1.

<sup>75</sup> *Ibid*.

*guarantee that the public would have access to the huts for future generations. The Royal National Parks Cabins Protection League was formed in 1945 to represent the communities ... None of the communities is accessible by road ... The cabin communities number hundreds of families across a wide range of backgrounds, with the involvement of some reaching back over five generations. The communities have a strong attachment to the place ...*

*After the founding of the National Parks and Wildlife Service in 1967 a policy of cabin removal was introduced. Under this policy between a quarter and a third of the original number of cabins were removed. To counter this, the communities sought heritage listing. The result is that Era and Burning Palms are listed by the National Trust, Era and Little Garies are listed by the Australian Heritage Commission and all communities are listed in the Wollongong Council heritage study.*

...

*The February 2000 plan of management for the Royal National Park calls for the cabins, and specifically their social fabric, to be retained under strict conditions to be negotiated between the National Parks and Wildlife Service and the communities. ... The conditions of the current licence expressly restricted the use of the shacks to the owners and their immediate families. ... For any current owner to take out a new licence or nominate another person, such as their children, to take out a licence, they must relinquish ownership of the cabins to the Minister. The Minister threatened to remove any shack where the owner does not accept one of the options ...*

*I call on the Minister to withdraw the threat of demolition of the shacks.<sup>76</sup>*

- 3.16 In 2005, following extensive discussion with the Cabin Consultative Group, the Department of Environment, Climate Change and Water (which includes NPWS) offered a licence to licensees and caretakers of cabins in the Little Garie, South Era, Burning Palms and Bulgo precincts within Royal National Park. Cabin stakeholders contested this licence in the Land and Environment Court.
- 3.17 In 2007, after reaching a Mediation Agreement, 119 cabins were licensed. The 2007 licence (**licence**)<sup>77</sup> includes terms from the 2005 licence and the mediation agreement.

<sup>76</sup> Hon John Jenkins MLC, New South Wales, Legislative Council, *Parliamentary Debates (Hansard)*, 16 November 2004, p12860.

<sup>77</sup> This licence is referred to as the 'Legal Action Group licence'.

- 3.18 The licence permits the licensee to have the right to occupy the ‘cabin’ (subject to paying an annual fee and any other charges) for the five year duration of the licence. The licence states that at the expiry of the licence (in the absence of licence renewal) the ownership of the cabin will be vested in the Crown.<sup>78</sup> The licence states that the licence is personal to the licensee and may not be transferred or assigned to any other person, and the cabin shall not be used as a place of residence, for any business purpose or be used in a manner contrary to the park’s Plan of Management (among other provisions).<sup>79</sup> The licence also provides that that licensee shall comply with the *National Parks and Wildlife Act 1974* (NSW) and its regulations, shall not interfere with the right of the public to use any part of the park outside the cabin and includes release and indemnity provisions.<sup>80</sup>
- 3.19 The licence requires licensees to meet the Cabin Condition Standards within the first year. The aim of these standards is to bring the cabins to an acceptable level of safety and maintenance and reduce the risk of injury or death to occupants and park visitors.<sup>81</sup>
- 3.20 Approximately 100 cabins remain on the old licence system as the occupiers of these cabins were not party to the Mediation Agreement. A modified version of the licence will be offered to these cabin occupants.<sup>82</sup>
- 3.21 A unique system was required to the facilitate maintenance of the cabins by licensees to enable NPWS to meet its obligations under the Cabin Areas Conservation Management Plan. Its Cabin Works Application provides a streamlined process for assessing the likely impacts of works that go beyond maintenance and determining whether works should proceed. The Cabin Works Application includes standard design details for common types of works as a best practice guide.<sup>83</sup>

## VICTORIA

- 3.22 The State of Victoria has ‘*relatively few*’ existing shacks sites on Crown land due to the policy and regulatory approach taken to the issue.<sup>84</sup>

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<sup>78</sup> Letter from Mr Alistair Henschman, Head, NSW National Parks and Wildlife Service, 11 October 2010, Attachment, Deed of Licence, pp1 and 3.

<sup>79</sup> *Ibid*, p5.

<sup>80</sup> *Ibid*, pp7-8.

<sup>81</sup> Letter from Mr Alistair Henschman, Head, NSW National Parks and Wildlife Service, 11 October 2010, p1.

<sup>82</sup> *Ibid*.

<sup>83</sup> *Ibid*, p2.

<sup>84</sup> Letter from Hon Gavin Jennings MLC, Minister for Environment and Climate Change, 17 August 2010, p1.

- 3.23 The Victorian Crown land legislative and policy framework is predicated on the approach that Crown land is managed and used for public benefit. This is achieved through the management of the public land estate through reservation, licensing and conservation mechanisms. In this context, a shack constructed on Crown land without proper authorisation may be regarded as an illegal or unauthorised occupation of Crown land, and action may be taken to remove the building.<sup>85</sup>
- 3.24 Government departments undertook significant enforcement action in the 1970s and 1980s. One example of enforcement action was the removal of over 200 shacks on Crown land along the Murray River near Echuca in 1978<sup>86</sup> (situated on the Murray River, west north west of Shepparton).
- 3.25 Unauthorised and illegal occupations are dealt with on a case by case basis by the body responsible for the area of Crown land on which the occupation occurs. When an unauthorised or illegal occupation is identified, the response to the occupation may include a licensing or leasing arrangement or the removal of any buildings, structures, crops or other thing on the site.<sup>87</sup>
- 3.26 The Minister for Environment and Climate Change is responsible for the key legislation and policy relating to Crown land in Victoria. The Department of Sustainability and Environment (DSE) is responsible for advising the Minister, developing policy and the administration of Crown land. Local councils or shires are often established under section 14 of the *Crown Land (Reserves) Act 1978* (Vic) (see below) as the committee of management of reserves within the local government area. Further, Parks Victoria is responsible for the administration of Crown land in certain parks. This is based on management agreements with DSE.
- 3.27 Victoria does not have dedicated legislation regulating shack sites on Crown land but a number of Acts provide a legislative framework relevant to the management of shack sites.<sup>88</sup>
- 3.28 The *Land Act 1958* (Vic) deals with the sale and occupation of Crown land in Victoria and provides mechanisms to address illegal or unauthorised occupation of any Crown land, primarily for unreserved Crown land, but also for land reserved under the *Crown Land (Reserves) Act 1978* (Vic). Under section 188A of the *Land Act 1958* (Vic) an application may be made by an authorised officer, the Secretary of DSE or by the committee of management to the Magistrate's Court for an order to remove any building, structure, standing crop or improvement or anything whatsoever that is constructed, placed or found on any Crown land without a current lease, licence,

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<sup>85</sup> *Ibid.*

<sup>86</sup> *Ibid.*

<sup>87</sup> *Ibid.*

<sup>88</sup> *Ibid.*

permit or other authority. An unauthorised occupier may also be dispossessed using the procedures under sections 195 and 195 of the *Land Act 1958* (Vic).<sup>89</sup>

3.29 The *Crown Land (Reserves) Act 1978* (Vic) provides for the temporary or permanent reservation of Crown land for a range of public purposes and for the management and leasing of that land and vesting of reserved lands to councils and establishment of committees of management to manage reserved land.<sup>90</sup>

3.30 The Forest (Recreation) Regulations 2010 (Vic) provide mechanisms for addressing unauthorised constructions and long term unauthorised camping in forest reserves and parks. Regulation 24 provides that a person is not permitted to construct any building, permanent structure or improvement. Also, under regulation 8(7) a person must not camp in an area of a State Forest for 28 consecutive nights without a permit.<sup>91</sup>

## TASMANIA

3.31 The contentious nature of shack site regulation in Tasmania was highlighted by Hon Tony Rundle MHA, Premier, in 1997 when he advised Parliament in 1997:

*For fifteen years this issue has bedevilled Tasmania. There are environmental and local government issues involved in the shack sites around Tasmania. There are practical considerations that everybody knows about and there are significant environmental issues ...*<sup>92</sup>

3.32 There is a long history of shacks in Tasmania. It has been said they are a ‘way of life’ and the tradition of the shack and the institution of ‘shacking it’ is a cultural phenomenon ‘*that’s about as Tasmanian as it gets*’.<sup>93</sup> Premier Bartlett was quoted as saying that ‘*family shacks are part of the Tasmanian lifestyle and many of them have been in the same family for generations*’.<sup>94</sup>

3.33 In 2004, a representative from the Tasmanian Department of Primary Industries, Water and Environment gave the following history of shacks in Tasmania:

*There are thousands of shacks in Tasmania and 1 335 of them are on Crown land ... They started springing up in the early 1900s as timbermen’s and fishermen’s huts. From the 1950s, there were also*

<sup>89</sup> *Ibid*, pp1-2.

<sup>90</sup> *Ibid*, p2.

<sup>91</sup> *Ibid*.

<sup>92</sup> Hon Tony Rundle MHA, Premier, Parliament of Tasmania, House of Assembly, *Parliamentary Debates (Hansard)*, 11 December 1997, p54.

<sup>93</sup> Mocatta G, ‘Environmental upgrades for Tassie Shacks’, *Australian Geographic*, Issue 73, 1 January 2004, pp20-22.

<sup>94</sup> Sue Neales, ‘Shack tax shock relief promise: Fears for humble huts in posh spots’, *The Mercury*, 11 December 2009.

*the hydro huts - construction workers' quarters at hydroelectric schemes - which were towed all over the State. Back then, establishing a shack was simple: you just put an X on a map and sent it in with your £1, and that was as far as it went.*<sup>95</sup>

- 3.34 The history of shacks in Tasmania was set out in the Parliament of Tasmania Standing Committee on Public Accounts report *Administration of the Crown Lands (Shack Sites) Act 1997* (**Standing Committee on Public Accounts report**) as follows:<sup>96</sup>

*The first shacks were constructed on Crown Land around 1944 and leased to the occupier. They had variously been described as having a unique character of construction and were part of the rich history and integral part of a way of life for many Tasmanians. Shacks were located in pockets all around the state but principally at relatively isolated beach areas and fishing spots in the Central Highlands. The shacks were built without regard to any planning or any environmental concerns. Land areas were not clearly defined or of standard size; water and effluent treatment was haphazard and of growing environmental concern; and road and access infrastructure was poor or ill defined. Owners had no security of tenure and leased on a year to year basis.*

*There were approximately 1370 shacks on Crown Lands authorised by either an annual licence or a short term lease. Due to the uncertainty of this type of tenure owners were reluctant to improve the shacks and few shacks complied with modern environmental and building standards.*

*Shack owners had petitioned governments for over 15 years and successive governments since the mid eighties had made various attempts to resolve issues associated with the shacks however progress was slow. A review of the program which was administered by the Hydro Electric Commission and the Department of Environment and Land Management found that the existing processes were inconsistent, cumbersome and frustrating, and there were serious funding limitations. A major impediment was the strict requirements of the Resource Management and Planning Tribunal of Tasmania (RMPAT). The Review identified three major issues which needed to be addressed before changes could be made. They were the*

<sup>95</sup> Mocatta G, 'Environmental upgrades for Tassie Shacks', *Australian Geographic*, Issue 73, 1 January 2004, pp20-22, quoting Mr Scott Marston, Department of Primary Industries, Water and Environment.

<sup>96</sup> Parliament of Tasmania, Parliamentary Standing Committee of Public Accounts, *Administration of the Crown Lands (Shack Sites) Act 1997*, 18 November 2008, pp7-8.

*environmental problems, a new assessment process and special legislation to facilitate the planning difficulties in converting shack tenures.*

*In 1997 the Government of the day decided to do something about the situation. The Leader for the Government in the Legislative Council Mr Tony Fletcher MLC was asked, in conjunction with the Department, who had been working on the problem for some time, to plan, determine and devise a process which would regularise the land areas and provide basic infrastructure, give some certainty to occupiers of the shacks who had an unsatisfactory year-to-year lease arrangement and address the growing environmental concerns.*

*The solution chosen was a combination whereby some shacks in sensitive areas or unsuitable for conversion to freehold would be removed, some would remain under conditional lease and others would be sold freehold to existing occupiers/tenants. Quite clearly the intention allowed for most shack owners to be able to purchase their own shack sites. An important and necessary part of the process would be to provide solutions to the serious infrastructure and environmental issues associated with the shack occupancy.*

- 3.35 The Shire of Dandaragan, when commenting on the shacks at Wedge and Grey (located in their Shire), submitted to the Committee that the situation in Tasmania is quite different.<sup>97</sup> The Shire stated that shack development in Western Australia has generally occurred illegally, is a relatively recent phenomenon (in the 1970s and 1980s) and shacks are occupied mainly by recreational users, but in Tasmania the timeframe is historically older and the shacks came about as a result of logging operations or the hydro electricity scheme. The Shire also noted that approvals for occupation of Tasmanian shacks were sought and granted and rationalised with longer term leases.<sup>98</sup>
- 3.36 It appears to the Committee that shacks in Tasmania were leased from an early date and there were formalised shack arrangements from an early date. There are differences between the history of shacks in Tasmania and Western Australia.

### ***Crown Lands (Shack Sites) Act 1997 (Tasmania)***

- 3.37 The *Crown Lands (Shack Sites) Act 1997* (Tas) sets out the framework for shack site regulation and the processes for assessing shacks on Crown land in Tasmania.

<sup>97</sup> Submission No 18 from Shire of Dandaragan, 25 June 2010, p6.

<sup>98</sup> *Ibid.*

- 3.38 The Act defines ‘Shack site’ to mean the Crown land on which a shack is erected.<sup>99</sup>
- 3.39 The Act provides that the Secretary of the relevant Government Department must carry out an assessment of each shack site and make a determination that:<sup>100</sup>
- the existing lease or license of the shack site should be replaced with a long term lease;
  - the shack site should be removed and the land revert to the use of the Crown; or
  - the shack site should be sold to the existing lessee or licensee.
- 3.40 The Minister must issue criteria to be applied by the Secretary in making shack site determinations and in doing so must have regard to particular matters, including the State Coastal Policy and the objectives of the Resource Management and Planning system set out in the *Land Use Planning and Approvals Act 1993* (Tas).<sup>101</sup> In carrying out the assessment and making a determination, the Secretary must have regard to and consult on particular matters including the Aboriginal community, lessee, State Coastal Policy, and any enactments, planning schemes or other matters that the Secretary considers relevant in the circumstances.<sup>102</sup> The Secretary must not make a determination in respect of a shack site unless satisfied that waste water from the site can be effectively treated or disposed of and the granting of the lease or sale will not restrict or eliminate reasonable public access to, and use of, coastal foreshore or lake or river frontage.<sup>103</sup> An appointed Shack Site Commissioner hears and determines appeals against determinations in accordance with appeal provisions in the Act.<sup>104</sup>
- 3.41 If a lessee or licensee does not wish to purchase the shack site, the Minister may offer the person a lease of the shack or serve a removal notice on the lessee or licensee.<sup>105</sup> The sale may be subject to easements, covenants and may involve a strata plan.<sup>106</sup> The sale price of the shack site is to be comprised of:<sup>107</sup>
- the land value of the shack site, as assessed by the Valuer-General;

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<sup>99</sup> Section 3, *Crown Lands (Shack Sites) Act 1997* (Tasmania).

<sup>100</sup> Section 4, *Crown Lands (Shack Sites) Act 1997* (Tasmania).

<sup>101</sup> Section 5 of the *Crown Lands (Shack Sites) Act 1997* (Tasmania).

<sup>102</sup> Section 6(1), *Crown Lands (Shack Sites) Act 1997* (Tasmania).

<sup>103</sup> Section 6(1)(g), *Crown Lands (Shack Sites) Act 1997* (Tasmania).

<sup>104</sup> Parts 3 and 4, *Crown Lands (Shack Sites) Act 1997* (Tasmania).

<sup>105</sup> Section 29, *Crown Lands (Shack Sites) Act 1997* (Tasmania).

<sup>106</sup> Sections 32 to 34, *Crown Lands (Shack Sites) Act 1997* (Tasmania).

<sup>107</sup> Section 25, *Crown Lands (Shack Sites) Act 1997* (Tasmania).



- the cost of providing any infrastructure that has been or, in the reasonable opinion of the secretary, will have to be provided by the Crown in relation to the shack site; and
- the administrative costs, or such part of the administrative costs as the Minister determines is reasonable in the circumstances.

3.42 The Standing Committee on Public Accounts report noted that the ‘*revenue per shack site*’ was between \$1 058 and \$107 678.<sup>108</sup> (Some shacks were at high value locations such as Coles Bay and Bay of Fires).<sup>109</sup>

3.43 Shacks had to comply with regulations, such as sewage disposal and grey water management.<sup>110</sup>

#### *The Model Conversion Criteria*

3.44 Schedule 2A of the *Crown Lands (Shack Sites) Act 1997* (Tas) sets out the ‘Model conversion criteria’, that is, the criteria for assessing shacks. Essentially, Schedule 2A provides that ‘other than in exceptional circumstances’ a shack should be removed if certain conditions are met. However, the information provided by Hon David O’Byrne MP, Minister for Environment, Parks and Heritage, advised that only 54 of the 1 160 shacks assessed are to be removed (see below).<sup>111</sup>

3.45 Schedule 2A provides:

#### *a) Removal*

1. *Other than in exceptional circumstances, a shack should be removed if -*
  - a. *the removal of the shack is necessary for the due protection of an Aboriginal site, or a relic as defined under the Aboriginal Relics Act 1975; or*
  - b. *the shack is located in an actively mobile dune.*
2. *Other than in exceptional circumstances, a shack should be removed where the continued occupation of the shack, either alone*

<sup>108</sup> Parliament of Tasmania, Parliamentary Standing Committee of Public Accounts, *Administration of the Crown Lands (Shack Sites) Act 1997*, 18 November 2008, pp21-22.

<sup>109</sup> Sue Neales, ‘Shack tax shock relief promise: Fears for humble huts in posh spots’, *The Mercury*, 11 December 2009.

<sup>110</sup> Mocatta G, ‘Environmental upgrades for Tassie Shacks’, *Australian Geographic*, Issue 73, 1 January 2004, pp20-22, p20.

<sup>111</sup> Letter from Hon David O’Byrne MP, Minister for Environment, Parks and Heritage, 3 August 2010, p1.

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*or together with other shacks, would, or would be likely to, give rise to significant -*

- a. land management costs or land management difficulties for the Crown or any public authority; or*
  - b. environmental degradation.*
- 3. Other than in exceptional circumstances, a shack should be removed where the continued occupation of the shack, either alone or together with other shacks, would, or would be likely to, significantly -*
- a. impair the ability of natural or physical resources on or near the site to meet the reasonable foreseeable needs of future generations; or*
  - b. harm, or interfere with the due protection of, ecological, geomorphological or geological features of conservation value; or*
  - c. harm, or interfere with the due management of, aquatic environments of conservation value; or*
  - d. harm, or interfere with the due management of, important coastal wetlands, or impair the potential of such wetlands to be managed for nature conservation and public benefit; or*
  - e. compromise the diversity of native flora or fauna or their habitats, including seagrass and seaweed beds, spawning and breeding areas; or*
  - f. interfere with the due protection of migratory species and the due protection and recovery of rare, vulnerable or endangered species.*

***b) Lease or Sale***

- 1. Other than in exceptional circumstances, a shack should not be sold if the shack site is within any of the following areas:*
- a. The Tasmanian Wilderness World Heritage Area;*
  - b. the Southwest National Park;*
  - c. the Southwest Conservation Area;*

- d. *Mount William National Park;*
  - e. *Waterhouse Conservation Area.*
2. *Where a shack site is not covered by any of the preceding criteria, the preferred course will ordinarily be the sale of the shack site to the existing lessee or licensee, unless factors special to the case make it desirable to issue a lease, for instance because it is considered necessary to impose conditions of the kind referred to in section 16(2).*

### Outcome of Assessment of Shacks

- 3.46 The Standing Committee on Public Accounts report noted that the Government policy has been to encourage the sale of shacks. The report stated that *'the Minister wanted as many people as possible to be able to purchase their shack site'*.<sup>112</sup>
- 3.47 Hon David O'Byrne MP, Minister for Environment, Parks and Heritage, informed the Committee that the Shack Sites Project closed on 31 December 2008. Of the 1 160 Crown land shack sites (in over 30 settlements)<sup>113</sup> across the State assessed:
- 1 013 shacks were offered for sale to shack owners;
  - 93 sites were offered for lease; and
  - 54 sites were determined as unsuitable for either and the shacks situated on those sites are to be removed.<sup>114</sup>
- 3.48 The Minister informed the Committee that:<sup>115</sup>
- all lots that were determined for sale have been released for sale to the shack owners and sales have been completed on all but a handful of shack sites;
  - leases for those sites determined for lease have been issued, either under the *Crown Lands Act 1997* (Tas) or the *National Parks and Reserves Management Act 2002* (Tas); and

<sup>112</sup> Parliament of Tasmania, Parliamentary Standing Committee of Public Accounts, *Administration of the Crown Lands (Shack Sites) Act 1997*, 18 November 2008, p16.

<sup>113</sup> Parliament of Tasmania, Parliamentary Standing Committee of Public Accounts, *Administration of the Crown Lands (Shack Sites) Act 1997*, 18 November 2008, at page 9 states that the Shack Sites Project in Tasmania involved 39 sites. The location of the sites is noted on the map at page 10.

<sup>114</sup> Letter from Hon David O'Byrne MP, Minister for Environment, Parks and Heritage, 3 August 2010, p1.

<sup>115</sup> *Ibid.*

- about half of the shacks determined for removal have been removed. Removal of the rest has been put on hold pending finalisation of the Joint Parliamentary Standing Committee on Environment, Resources and Development's Inquiry into Shack Sites.<sup>116</sup>

3.49 The Committee noted that while Schedule 2 provides that '*other than in exceptional circumstances*' a shack should be removed if a number of criteria were met, less than five per cent of shack sites assessed were determined for removal. The Committee also noted the Government's commitment to the Shack Sites Project over a number of years, delays in implementing shack conversion (it is now over 12 years since the legislation was passed) and the commitment to meeting standards as part of this process.

### SOUTH AUSTRALIA

3.50 In South Australia shack sites are regulated by the *Crown Land Management Act 2009* (SA). The Department of Environment and Natural Resources is responsible for regulating shack sites on public land.<sup>117</sup>

3.51 The policy in South Australia is that shack owners may hold freehold title providing the freeholding criteria are met (see below for further detail).<sup>118</sup>

3.52 Information provided demonstrates that shack regulation in South Australia has a quite different history than that in Western Australia, with a significant history of life tenure and freehold ownership of shack sites.

3.53 The history of the establishment of shacks in South Australia and their regulation reveals a number of distinctions between South Australia and Western Australia.

3.54 Hon Paul Caica MP, Minister for Environment and Conservation, provided the Committee with a number of reports and documents which detail the history of shack sites and shack regulation in South Australia, including the Shack Sites Freeholding Committee (**SSF Committee**) report *Freeholding of shack sites on Crown Land (the Committee report)* dated November 1994.

<sup>116</sup> Parliament of Tasmania, Joint Standing Committee on Environment, Resources and Development conducted a further inquiry into shack sites with terms of reference to inquire into the implementation of the *Crown Lands (Shack Sites) Act 1997*. This Committee's interim report dated July 2009 found that '*a strong prima facie case exists to suggest that the Crown Lands (Shack Sites) Act 1997 has been administered in such a way as to cause some shack-site owners material disadvantage due to a denial of some of their fundamental common law rights, including denials of natural justice and procedural fairness*'. The Committee recommended, *inter alia*, that the Government should immediately halt all scheduled shack site evictions and demolitions for a period of not less than 12 months pending the Government's response to the outcome of an independent inquiry: Parliament of Tasmania, Joint Standing Committee on Environment, Resources and Infrastructure, *Shack Sites Reference: Interim Report*, July 2009, quote at p6, recommendations at pp6-7.

<sup>117</sup> Letter from Hon Paul Caica MP, Minister for Environment and Conservation, 31 August 2010, p1.

<sup>118</sup> *Ibid.*

- 3.55 The Committee report provided a comprehensive background of the policy and regulation applying to shacks sites since 1900.
- 3.56 The report notes that in 1900 it ‘*again*’ became policy in South Australia to withhold from alienation and long term lease a strip of land 150 links (approximately 100 feet) wide along the coastline and banks of the River Murray. Shack areas in South Australia are generally located in the area known as the ‘150 link reserve’. Annual renewable licences permitting entry and occupation of land for 12 months were issued.
- 3.57 Between 1917 and 1945, licences generally authorised camping use on the licensed sites. In 1945 it became the practice to issue a shack site licence in place of a camping licence.
- 3.58 Between 1945 and 1960, upon request from local government councils, it became common practice to issue annual licences to individual councils for shack areas. In relation to irrigation areas in South Australia, prior to 1953, annual licences were issued for residential purposes within the 150 link reserve providing the structures were removed. In 1953, when it became evident that the structures were being used for permanent occupation and were restricting public access and the use of the reserve, the Minister of Lands directed that no further licences would be issued for residential purposes in the 150 link reserve within River Murray Irrigation Areas. In 1960, the Government’s Shack Policy was modified to allow new areas to be licensed to councils for shack sites. This transfer occurred between 1960 and 1965. However, as some councils were not prepared to accept control of all shacks, the management of some shacks remained with the Department of Lands.
- 3.59 There were a number of reviews, developments and amendments to shack policy between 1973 and 1993. The 1973-1974 review developed criteria to determine those areas of shack occupation that fell within non acceptable sites and acceptable sites (areas broadly in accordance with design standards set by the State Planning Office).
- 3.60 In 1979, the Government announced its Shack Site Policy which included an undertaking that a review would be made of all non acceptable shack sites. The most important aspects of this policy were:
- In acceptable areas, individual shack owners were able, upon request, to apply for a freehold title to their site.
  - In non acceptable areas, some shack owners were issued a 10 year lease. Persons who were owners of shacks as at 5 November 1979 were given an undertaking that they may retain their shacks for the remainder of their life time plus the life time of any surviving spouse.
  - Upon the deaths of the present shack owners and any surviving spouse the shack is to be removed.

- 3.61 The 1983, Department of Lands review involved review of approximately 4 200 shacks on Crown land reserve, 894 of which had been classified as 'acceptable' and 3300 as 'non acceptable'. The 1983 review recommended a creation of three classifications for shack sites: acceptable sites, 30 to 40 year miscellaneous lease sites and life tenure sites. The review's recommendations resulted in 12 per cent of shacks being recommended as acceptable for freeholding, 18 per cent to be classified as suitable for 30 to 40 year leases, 69 per cent suitable for life tenure (with 31 per cent having the potential to be reclassified for freeholding) and 1 per cent not being classified. The 30 to 40 year lease was not accepted and shack areas were classified into acceptable and non acceptable.
- 3.62 On 6 November 1989, the Government announced a change in policy for shack sites held under terminating tenure. Unacceptable Crown lease shack sites held under terminating tenure would be granted non-transferable life tenure effective from 4 November 1989. There were two categories of shack sites on Crown land - environmentally acceptable sites that could be converted to freehold and environmentally unacceptable sites from which shacks would eventually be removed. Environmentally unacceptable sites were also divided into two types of life tenures. A seven volume report in 1991 report assessed coastal shack site areas categorised as unacceptable.

**The Liberal Party Policy and Shack Site Freeholding Committee *Freeholding of shack sites on Crown Land Report* (November 1994)**

- 3.63 In December 1993, the Liberal Party of South Australia released its shack site policy. The policy promised that, if elected, the Liberal Party would offer most shack owners the opportunity to have freehold title over their shacks thereby promising to end the uncertainty that shacks would be removed. The policy noted that a typical lease for a shack had increased from \$150 to \$890 per year.
- 3.64 The policy promised that a Liberal Government will conduct the freeholding process through the Minister of Environment and Land Management based on recommendations put forward by a newly constituted Shack Site Freeholding Committee. The policy stated that the Liberal party believes that the freeholding of shack sites should be done on a 'user pays principle' and the basis for establishing the purchase price will be the unimproved land value as determined by the Valuer-General. The policy also stated that freeholder would not be granted unless sub-standard and derelict dwellings were improved to a minimum standard and the Liberal Government would allow a time limit in which to comply with improvement requirements. The Liberal Party formed Government after the December 1993 election.
- 3.65 The SSF Committee was formed in March 1994 after the Liberal Party formed Government to undertake a review of all shack sites located on Crown land on the

coast, the River Murray and Glenelg River. The Committee's terms of reference included making recommendations on appropriate methods of freeholding shack sites which reflect the Liberal Government's policy.

3.66 It is important to note that the SSF committee report specifically excluded shack sites on national parks.<sup>119</sup> Shack sites on national parks and reserves are not within the scope of the policy and could not be made freehold. Occupants of shack sites on parks were offered non-transferable life tenure leases. These shacks will be removed at the expiry of the lease. The report noted that:

- Shack site owners may hold freehold title providing the freeholding criteria are met.
- Shack sites not suitable for free holding are granted non-transferable life tenure leases. On the death of the last surviving lessee registered on the lease, it is the estate's/trustee's responsibility to complete the removal of all improvements upon the land, before it is returned to the Crown.

3.67 As coastal protection from flooding and erosion has been an issue for shack sites, shack owners were required to sign a Land Management Agreement acknowledging coastal risks.<sup>120</sup>

3.68 The SSF Committee developed six criteria that enabled it to address the major issues in the terms of reference. The report noted that in some cases owners may find it difficult, if not impossible, to comply with the criteria and therefore will be unable to be offered freehold title. The report stressed that the criteria should not be modified to make it easier to freehold to the detriment of acceptable health and legal standards.

3.69 The Public Health requirement reiterated the current requirements of the South Australia Health Commission and Local Government for wastewater/effluent disposal and ensures the maintenance of proper standards of public and environmental health. The criteria creating freehold allotments emphasised the need for compliance with planning requirements (and the reality that it may not be possible for allotments to comply with policies in Development Plan).

3.70 On the issue of erosion and flooding, the SSF Committee noted that it will be a requirement that before a freehold title will be issued, the lessee should sign a legally binding agreement that indemnified the Crown and local government against any future claim resulting from erosion or flooding. The Committee also found that legal access to each shack site should be possible or, if it is not possible for direct access to a public road to be obtained, then freeholding should not be approved.

<sup>119</sup> Shack sites at Black Point and Blanch Harbour, Port Augusta (covered by a proposed Management Plan) were also specifically excluded from the review.

<sup>120</sup> It is a condition of sale of specified land that the shack owner enters into a Land Management Agreement.

- 3.71 The environmental criteria were not given detailed attention by the SSF Committee and were left for the implementation group to consider. The public access to waterfront criterion sought to ensure that there is suitable public access to the waterfront by providing a reserve along the waterfront and ensuring there is public access to the beach.
- 3.72 The SSF Committee did not examine each shack but considered shack site areas. The Committee recommended, based on this approach, that the following number of shacks be recommended for freeholding, subject to compliance with all criteria and satisfactory resolution of all the issues discussed in this report:

*Number of shack sites in the review*

*Coastal shack sites* 257 (from 93 shack areas)

*River Murray shack sites* 669 (from 57 shack areas)

*Total* 1926 (from 150 shack areas)

*Number of shack sites recommended for freeholding* 1664

*Number of shack sites not recommended for freeholding* 262

- 3.73 During the inquiry the SSF Committee identified a number of issues that could have a significant impact on the freeholding process. One issue raised was building standards (which the Committee decided it was not in a position to adequately address). The SSF Committee accepted that there were currently many shacks that are substandard and noted that indications were that 90 to 95 per cent of shacks on Crown land along the River Murray do not comply with the *Building Code of Australia*. The Committee noted that to require these to be upgraded would require almost every shack to be demolished and rebuilt. The Committee noted that there was still significant work required by Government, local councils and the shack owners before a shack site reaches a stage where freehold can be approved and therefore recommended that an Implementation Working Party be established to provide the necessary advice and assistance in the freeholding process.

### **Outcome of Freeholding Process**

- 3.74 The Department of Environment and Nature Resources found that, of the 1 664 shacks recommended as suitable for freeholding, their best estimate is that 97 per cent have now been made freehold. Shacks deemed unacceptable and therefore not recommended for freehold are on non-transferable life tenure miscellaneous leases.<sup>121</sup>

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<sup>121</sup> Letter from Mr Jack Nicolaou, Manager, Public Land Administration Branch Policy, Department of Environment and Natural Resources, 11 November 2010, p1.



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**COMMITTEE COMMENT**

- 3.75 States throughout Australia have pursued a variety of policy and regulatory approaches to shacks on public land. Policies have varied from enforcing a policy of removing shacks, to issuing short or long term leases to shack owners, to affording shack owners the opportunity to purchase freehold over the shack site, or a combination of these approaches. Government policy in each State has been influenced by the particular history and circumstances of the shacks in that State, as well as political and other considerations and pressures. While shacks remain and have tenure in other States, many shacks on public land have been removed. (The information in this report is perhaps partial in that Ministers from other States essentially advised how shacks that have been retained are regulated, rather than focusing on how many shacks have been removed in the past).
- 3.76 The policy and regulation of shacks has been a contentious, complex and difficult issue throughout Australia, sometimes leading to lengthy disputes between the Government and shack owners. It appears that retaining shacks and formalising these arrangements may increase shack owners' expectations of retaining the sites and may create issues in the future. Experience in other States suggests that leasehold tenure may create expectations among shack owners and long term leasehold tenure may create an argument and expectation over time that the State should provide freehold tenure.
- 3.77 Once leasehold (especially long term) tenure has been provided to shack owners, arguments about shack owners' rights and tenure arise and Governments appear to find it increasingly difficult to remove shacks or maintain the status quo. The experience in South Australia in particular demonstrates the above.
- 3.78 A review of States that have retained shacks also reveals that a common issue has been the need for shacks to comply with certain building, health and/or environmental standards to reduce the risks posed by shacks.
- 3.79 A review of policies in other States, and the number of changes in policies in some States, demonstrates to the Committee that it is important for this Government to carefully consider a policy, clearly state the policy and then enforce the policy.
- 3.80 There are a number of differences between the history of shack sites and their regulation in other States and in Western Australia. An understanding of shack policy and regulation in other States may assist when considering shack policy and regulatory options.
- 3.81 On considering the information obtained, the Committee formed the view that Western Australia should not adopt the detail of any other State's policy and regulation to all shack sites in Western Australia. However, details of how shacks are

regulated in other States, including the terms and conditions of leases, may be of interest.

3.82 The Committee considers that the preferred approach is for Western Australia to pursue a shack policy and regulation to reflect the unique circumstances of shack sites in Western Australia. Further, differences between shack sites in Western Australia must be considered when determining the future of that site.

3.83 The Committee is of the view that a unique Western Australia policy and regulatory framework is required to reflect Western Australian circumstances.

**Finding 8: The Committee finds that shack policy and regulation throughout Australia differ, from a policy of removing shacks, leasing shacks and affording shack owners the opportunity to purchase freehold tenure.**

**Finding 9: The Committee finds that a review of shack policy throughout Australia demonstrates that it is important for the Government to carefully consider shack policy, clearly state that policy and then enforce the policy.**

**Finding 10: The Committee finds that the Government should pursue a unique Western Australian shack policy to reflect the circumstances of shack sites in Western Australia.**

## **CHAPTER 4**

### **ISSUES RELEVANT TO SHACK POLICY AND REGULATION IN WESTERN AUSTRALIA**

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#### **SHACK SITES ARE NOT THE SAME**

- 4.1 During the course of the inquiry it became clear to the Committee that shacks and shack sites throughout Western Australia differ in many important and significant respects. These differences, and the environmental conditions at each site, create different issues and impacts at each site.
- 4.2 The shacks themselves differ in style and construction both within each site and, more dramatically, between shack sites. Shacks vary in their look, structure, size and composition, within each shack site and between shack sites. As previously noted, while some shacks have the appearance of a shanty built from whatever material was available (such as some shacks at Wedge and Grey), others appear from outside observation to be well constructed small houses (such as shacks at Peaceful Bay). The locations of the sites are an important difference with some being quite isolated and accessible only by boat (the Donnelly River and Dampier Archipelago shacks) and other shack sites being closer to Perth and easily accessible to thousands of motorists per day (Wedge and Grey). Further differences between the shacks sites include the standards of the shacks, risks posed by the shacks, compliance with health, safety and building standards and requirements, and whether the site has the support of local government or the managing authority (such as DEC). Also, some sites have a known tourism potential, such as Wedge and Grey and the Blowholes (near Carnarvon).
- 4.3 Other important differences between shacks sites include the history of the establishment of the site, how the shacks are regulated, and the history of the policy and regulation at the site. Some shack sites have a long history of formalised regulation (leasehold tenure), particularly shacks vested in local governments decades prior to the Squatter Policy, while at other sites along the Central Coast (such as Wedge and Grey) there was no such regulation.
- 4.4 There are notable differences between the circumstances under which shack lease agreements were entered into. The Wedge and Grey shack lease was issued in 1995 on the clear understanding that the shacks would be removed and the Squatter Policy enforced, while local governments have granted long term leasehold tenure (such as the 21 year leases at Peaceful Bay) or annual leases (such as Naval Base). The terms of shack lease agreements differ between sites. The current Peaceful Bay lease is comprehensive and includes conditions to improve standards and the Dampier Archipelago six year lease (issued to community groups) also sets shack standards and

provides for an increase in standards as well as providing for the non-exclusive use of the shacks. On the other hand, other leases or agreements are short documents, approved on an annual basis, and expressly subject to revocation.

- 4.5 The degree of active management of the shack sites also varies considerably. For example, the Shire of Denmark provides facilities and services, has a presence at Peaceful Bay and is committed to working with the shack community, whereas other management authorities do not share this commitment.
- 4.6 In the Committee's view, it is important that a shack policy acknowledge differences between shack sites. Shack site regulation should reflect and consider the reality that shack sites differ from each other in significant respects.

**Finding 11: The Committee finds that there are significant differences between shack sites in Western Australia for a number of reasons, including the accessibility of the shack site, number of shacks at the site, construction of the shacks, policy and regulatory history at the site, and the terms of lease agreements entered into by shack occupiers. Further, shack site managers have demonstrated various levels of commitment to work with shack communities.**

**Finding 12: The Committee finds that there are important historical, regulatory and factual differences between shack sites managed by local government (which were vested in local governments prior to the Squatter Policy) and shack sites managed by the Department of Environment and Conservation (such as Wedge and Grey).**

**Finding 13: The Committee finds that when shack owners at a few shack sites entered into lease agreements it was known that leases were not transferable, the shack could be removed at any time and, in the case of Wedge and Grey, that the lease was an interim measure until shacks were removed in accordance with the Squatter Policy.**

**Finding 14: The Committee finds that a 'one size fits all' policy is not appropriate and decisions regarding a particular shack site should reflect the circumstances relevant to that shack site.**

#### **EQUITY AND EXCLUSIVITY**

- 4.7 The shacks in Western Australia considered in this report are, and always have been, situated on public land. It is a fundamental and powerful principle that public land belongs to the public and should be available for members of the public to access and use. (The Victorian Government shack policy of removal is predicated on this one principle).

- 4.8 The objective of the *State Coastal Planning Policy* is to ‘provide for public foreshore areas and access to these on the coast’.<sup>122</sup> The existence of shacks on the coast appears to be inconsistent with the following public interest principles in that policy:

*Local and regional planning strategies, structure plans, schemes, subdivisions, strata subdivision and development applications, as well as other planning decisions and instruments relating to the coast should:*

*Public Interest*

- (i) Ensure that adequate opportunity is provided to enable the community to participate in coastal planning and management. Including the support and guidance of activities undertaken by voluntary coast care groups.*
- (ii) Maintain and enhance public enjoyment of the coast where this is consistent with the objectives under this Policy.*
- (iii) Require the provision of public access to the coast that is consistent with the values and management objectives of the area including, the interests of security, safety and protection of coastal resources, as well as the recreational opportunities, both on and offshore, of that section of coast.*
- (iv) Support public ownership of the coast, including where appropriate the provision of a coastal foreshore reserve and accommodation of regional and local recreational needs.*
- (v) Support the removal of existing unlawful dwellings (squatter shacks) on coastal Crown land as per the Cabinet endorsed State Government Squatter Policy (July, 1989 and January, 1999).<sup>123</sup>*

- 4.9 The exclusive use by shack occupiers of shacks on public land is considered inequitable for the reasons noted below.

### **Equity of Access and Public Use of Public Land**

- 4.10 Shacks are often located in beautiful, idyllic and prime locations (such as Wedge and Grey). Shacks preclude the public from using public land. As Tourism Western Australia stated:

<sup>122</sup> Western Australian Planning Commission, *State Coastal Planning Policy*, Clause 4: [www.planning.wa.gov.au/Plans+and+policies/Publications/139.aspx](http://www.planning.wa.gov.au/Plans+and+policies/Publications/139.aspx) (viewed on 9 November 2010).

<sup>123</sup> *Ibid*, Clause 5.1.

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*For all intents and purposes squatter shacks are a form of private residence ... the ordinary 'person on the street' cannot secure a booking to a shack.<sup>124</sup>*

- 4.11 It is understandable that shack sites are seen as exclusive vacationing sites on public land. Wedge and Grey shack owners have submitted that their sites are 'open sites', the public has access to the sites, the sites are widely used and are not exclusive. However, it is clear the public will not have access to the entire site if shacks leased to shack owners remain at the site. A shack owner permitting others to stay in a shack does not amount to those shacks being open to the public. As one submission stated:

*I fail to see why a privileged few should be allowed to squat on this land to the exclusion of others. Surely it would be much more equitable for these shacks to be removed so all Australians can enjoy this special part of Australia. ... This is Crown/Government land is it not, so why should a select few enjoy privileges (sic) that others are denied.<sup>125</sup>*

## **Financial Advantage**

### *Long Term Leasehold Tenure Rewards Shack Owners*

- 4.12 The Squatter Policy (1989) notes, and other submissions also comment, that rewarding squatters rights through long term tenure is rewarding those who have broken the law (those who built on public land) and penalising those who have complied with the law.<sup>126</sup> The advantage provided to the shack occupiers has also been referred to as an 'unjust enrichment', where a person obtains benefit from a situation for which they are not entitled.<sup>127</sup>
- 4.13 Shack owners are rewarded as they retain the right to use the shack located for the term of the lease. For the price of a lease (Wedge and Grey lessees pay a fee of \$942 per year) the lessee, their families and anyone they choose to authorise to use their shack, can spend family weekends and vacations on any day of the year on prime public land. The view has been expressed that shack owners have '*benefitted from illegal squatting for too long now*'.<sup>128</sup>

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<sup>124</sup> Submission No 46 from Tourism Western Australia, 7 July 2010, p3.

<sup>125</sup> Submission No 27 from Ms Jan Markby, 29 June 2010, p1.

<sup>126</sup> Government of Western Australia, Government Policy for the Administration of Coastal Squatter Shacks, 1989, p2.

<sup>127</sup> Department of Environment and Conservation, *Future Management of Shacks at Wedge and Grey Issues Paper (Draft)*, October 2010, p9.

<sup>128</sup> Submission No 111 from Cervantes Ratepayers and Progress Association, 21 July 2010, p1.

- 4.14 It is also considered inequitable that shack owners sell these shacks for significant profit. The Committee was made aware that the sale of shacks at various sites is common, even when this is not permitted. The Shire of Dandaragan advised that shacks sold at Wedge and Grey sold for up to \$40 000 or \$50 000. WIPA and GCCA advised that the average price was between \$5 000 and \$40 000 at Wedge and about \$5 000 and \$30 000 at Grey.<sup>129</sup>
- 4.15 Many shacks have been sold and purchased since the Squatter Policy. On this issue, on submitter commented:

*Far from hereditary rights of ownership, many of the shacks have been sold to property speculators who have hoped that their investments of a few thousand dollars can be turned into a real estate goldmine, should the Government ever be swayed from its long, and I might add well publicised, decision to remove the shacks with the opening of the new road.*<sup>130</sup>

*Long Term Leasehold Tenure is Likely to Significantly Increase the Price of Shacks*

- 4.16 Compounding the concern about shack owners making an unfair profit from selling shacks, providing long term leasehold tenure is likely to significantly increase the market price of shacks. This seems a logical consequence of security of tenure.
- 4.17 The Shire of Dandaragan advised of this concern:

*It is understood that, prior to the endorsement of Windy Harbour<sup>131</sup> squatting shacks, shacks sold for about \$50,000. These same shacks are now selling for \$500,000. It seems grossly unfair that illegal structures can allow the lessee to profit from a sale.*<sup>132</sup>

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<sup>129</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p12, and Mr Robert Tuene, Vice President, Grey Conservation and Community Association, *Transcript of Evidence*, 3 August 2010, p12.

<sup>130</sup> Submission No 35 from Dr Niall Barrett, 30 June 2010, p1.

<sup>131</sup> Windy Harbour was referred to during the course of the inquiry. For example, the Committee was advised that the lease agreement at Peaceful Bay is based on the Windy Harbour lease. Windy Harbour is not included on the list of shack sites provided by the Department of Environment and Conservation: Submission No 47 from Department of Environment and Conservation, 6 July 2010. The *Windy Harbour Management Plan 2007-2017* notes that Windy Harbour consists of approximately 220 huts situated amongst 190 hectares of an A Class Reserve and surrounded by National Park. The settlement was informally established in the early 1900s by local timber mill workers. Individual leasehold arrangements were formally established in 1957. Most huts are leased for 20 years: [www.manjimup.wa.gov.au/policies\\_and\\_documents/Documents/whmp\\_2007\\_2017/whmp](http://www.manjimup.wa.gov.au/policies_and_documents/Documents/whmp_2007_2017/whmp) (viewed on 4 November 2010).

<sup>132</sup> Mr Ian Rennie, Deputy Chief Executive Officer, Shire of Dandaragan, *Transcript of Evidence*, 3 August 2010, p3.

- 4.18 The Shire of Denmark (which manages the shacks at Peaceful Bay) and City of Cockburn (which manages Naval Base) also raised this as a concern. The Shire of Denmark advised that their concern is the *‘ever increasing prices that shack lease are being sold for (\$280-320K)’* as leaseholders do not own the land. They added that the more expensive the leases become, the greater the development pressures will become and there will be greater anxiety and argument.<sup>133</sup>

**It is Inequitable for Shacks to Remain when nearly 700 Shacks were Removed in accordance with the Squatter Policy**

- 4.19 As previously noted, local governments enforced the Squatter Policy along the coast where Wedge and Grey are situated on unvested reserves. Government policy dictates that Wedge and Grey now be removed.
- 4.20 It would be inequitable if the policy was enforced to remove those nearly 700 shacks but the Government does not enforce its own policy at Wedge and Grey. The policy should apply to all shacks equally.
- 4.21 Mr Peter Driscoll, Regional Manager for the Central Coast Region, Department of Planning and Urban Development between 1987 and 1995, advised the Committee that one of the most important aspects of the program to remove the shacks was the commitment by successive State governments that they would apply the same program (to remove shacks) to State reserves and remove, for example, Grey and Wedge. Mr Driscoll says that he stood in front of angry crowds presenting the Government’s commitment to remove shacks and that he and hundreds of people who had to remove their shacks feel badly let down by Government who have not yet removed the shacks they manage (such as Wedge and Grey).<sup>134</sup> (See paragraph 6.86 for further on Mr Driscoll’s evidence).
- 4.22 The Shire of Dandaragan asks how will the Government respond to the lessees of shacks that were removed and what claims may be made against Government? The council enforced the State policy, why should the State not enforce its own policy?

**Shack Owners do not Comply with the Same Rules**

- 4.23 It has been raised that it is inequitable that shack sites operate outside the usual rules and regulations application to residences, buildings and other holiday and tourist facilities. The President of the Cervantes Chamber of Commerce (and owner of Pinnacles Caravan Park) submitted that shack sites should comply with the same rules and regulations that they have to in their business.<sup>135</sup>

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<sup>133</sup> Submission No 113 from Shire of Denmark, 26 September 2010, p4.

<sup>134</sup> Submission No 33 from Mr Peter Driscoll, Principal Planner, Landvision, 1 July 2010, p2.

<sup>135</sup> Submission No 91 from Ms Leslee Holmes, President, Cervantes Chamber of Commerce, and Owner/Manager, Pinnacles Caravan Park and Seashells Café, 15 July 2010, p1.



**Committee Comment**

- 4.24 The Wedge and Grey Chapter of this report (Chapter 6) deals with the ‘co existence’ model proposed at these sites (which is said to address equity issues) and the Committee’s view on this model.
- 4.25 The Committee is of the view that many shack owners have taken as a right what others can not - the right to stay on public land. Some submissions imply that shack owners have a right to stay on public land and there is no reason to remove them. This view is contrary to the history of policy and regulation at sites such as Wedge and Grey, where the shack owners have been aware for over 20 years of a Government policy to remove the shacks on public land.
- 4.26 In the Committee’s view, a significant principle in shack policy is that public land should be available for members of the public to access and use. In the Committee’s view, an important principle is that public land should be managed for the public, not a select few.

**Finding 15: The Committee finds that the exclusive use by shack occupiers of shacks on public land is inequitable.**

**Finding 16: The Committee finds that a significant principle in shack policy is that public land should be available for members of the public to access and use. Public land should be managed in the interests of the public, not a select few.**

**COMPLIANCE WITH PLANNING, HEALTH, SAFETY AND BUILDING REQUIREMENTS**

- 4.27 As previously noted, the Squatter Policy is consistent with State planning policies. The location of the remaining shacks conflicts with a number of planning policies in relation to the provision of services, location relative to existing settlements, coastal setbacks and protection of environmental and natural resource values and their location is not consistent with the provision of recreational and coastal facilities for the wider population in a planned, orderly and lawful way.<sup>136</sup>
- 4.28 Shacks generally do not meet health and safety standards and requirements.<sup>137</sup> The *Health Act 1911* contains requirements that apply to all habitable dwellings. These relate to standards for human health and amenity, including air and ventilation, potable water supply, approved sewerage systems, refuse disposal and safety. DEC provided the following overview:

<sup>136</sup> Submission No 45 from Department of Planning, 6 July 2010, p2.

<sup>137</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p5. Many submissions noted these concerns.

*Illicit waste disposal has occurred at many shack communities and there are illegal and unplanned refuse sites at these communities. Scattered debris and refuse from shack activities are often present, including materials such as asbestos, loose metals, car bodies, broken glass and concrete, plastics, spilt oils and fuels. None of the disposal sites have the required environmental controls or checks in place. All are unlined and therefore risk contaminating groundwater with leachates, creating the potential for human disease, injury and other problems created with uncovered refuse.*

*The provisions of the Health Act 1911 are not met by the shack settlements. As such, if shacks were to remain, long-term plans for these areas would need to incorporate health controls for water supplies, sewerage and refuse disposal.*<sup>138</sup>

- 4.29 A number of submissions to the inquiry noted that shacks do not comply with planning schemes, health and safety standards, the Building Regulations 1989<sup>139</sup> and the *Building Code of Australia*.<sup>140</sup> For example, the Shire of Dandaragan advised that the Wedge and Grey shacks do not comply with the Shire of Dandaragan Local Planning Scheme No 7, the *Health Act 1911* (the effluent systems are not approved by Council or the Department of Health) or the *Building Code of Australia*. It is important to note that standards and codes exist to minimise risks to occupants and the public. Over recent years there has been a move to increase building and health standards to reflect modern practices and avoid risk to occupiers and the public.
- 4.30 There are differences in the standard and condition of shacks at shack sites and the enforcement of standards (or otherwise) by the managing authority or under shack leases. For example, unlike the situation at other shack sites, the Shire of Denmark has set standards and appears committed to improving the standard and condition of the shacks at Peaceful Bay. The terms of the 21 year lease entered into by shack owners reflect this commitment. Further, shack sites demonstrated varying levels of commitment to addressing health and safety concerns and risks (including efforts directed towards addressing concerns relating to fire risk, building standards, rubbish collection, groundwater and environmental risks).

<sup>138</sup> *Ibid*, pp5-6.

<sup>139</sup> Regulation 5, Building Regulations 1989 adopts the *Building Code of Australia* subject to exceptions noted in the regulations.

<sup>140</sup> The *Building Code of Australia* is a uniform set of technical provisions for the design and construction of buildings and other structures throughout Australia. The goal of the *Building Code of Australia* is to 'enable the achievement of nationally consistent minimum necessary standards of relevant health, safety (including structural safety and safety from fire), amenity and sustainability objectives efficiently': Australian Government and Governments of all States and Territories, Australian Building Codes Board, *Building Code of Australia 2010*, Volume 1, p7.

- 4.31 The issue of compliance with building standards was raised in a number of submissions. DEC advised:

*It is considered that most of the shacks in their current condition would not comply with the structural requirements of the Building Code of Australia (BCA). For example, in terms of compliance with the BCA, the majority of shacks at Wedge and Grey are built from low value recycled materials including tin and asbestos sheeting. This presents hazards associated with falling structures, asbestos materials, loose tin, contaminants and fire. The BCA is applicable to the shack settlements and any future plans that consider shack retention need to include compliance with the code to ensure public safety and amenity. In some cases, upgrading of shacks to meet BCA requirements would mean that it is necessary to totally rebuild shacks due to their dilapidated state. If new shacks were to be constructed rather than upgrading existing shacks, consideration would need to be given to native title rights and interests and coastal setbacks as well as broader planning policies.*<sup>141</sup>

- 4.32 The Shire of Dandaragan is of the view that the shacks at Wedge and Grey do not comply with the *Building Code of Australia* and is doubtful that the majority of shacks could be modified to comply with *Building Code of Australia* standards.<sup>142</sup> Shack owners raised the issue of shacks complying with the shed standards in the *Building Code of Australia*. For example, the WIPA submitted that '[m]ost [Wedge] shacks would be classified as shed construction'<sup>143</sup> and '[i]t is a different type of building and therefore a different building code should apply. So long as it satisfies the health and safety issues, it is entirely appropriate to use a code with the standard that is relevant to shed construction'.<sup>144</sup> However, as officers from the City of Cockburn (which manages the Naval Base shacks) noted, shed standards apply only to non-habitable buildings:

*A class-10, non-habitable outbuilding, which is your typical residential shed—the important bit being “non-habitable”. We could allow sheds to be established, but as soon as someone sets foot inside the shed for habitation purposes, essentially an illegal situation occurs. The BCA is very clear in having that restriction.*<sup>145</sup>

<sup>141</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p6.

<sup>142</sup> Submission No 18 from Shire of Dandaragan, 25 June 2010, pp3 and 4.

<sup>143</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, p3.

<sup>144</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p11.

<sup>145</sup> Mr Andrew Trosic, Manager, Strategic Planning, City of Cockburn, *Transcript of Evidence*, 3 August 2010, p7.

**Finding 17: The Committee finds that shacks generally do not meet planning, health, safety and building standards and requirements.**

### Public Liability Exposure

- 4.33 Non-compliant shacks represent a public liability risk to the shack managers. In particular, officers from the City of Cockburn (which manages the Naval Base shacks) have raised this issue as a major concern. They consider that it is only by sheer good fortune that the shacks have not caused injury, or worse, to occupiers or members of the public visiting the site and add:

*The City's (sic) is exposed to potential liability for death, injury, damage or loss currently, as the shacks have not been subject to any robust building assessment regime, as discussed previously. The shacks also present a very real fire risk, as they are unable to be fitted with smoke detectors due to an absence of mains electricity. There is a high level of risk that death or injury could occur to a tenant, due to a shack being potentially unsafe. The shacks have not been assessed from a health and/or sanitation perspective, creating a significant liability for the non performance of regulatory functions under the Health Act 1911. Further, the City could be held liable for the extent to which it could or should have prevented any death, injury, damage or loss as a result of its current management regime.*<sup>146</sup>

- 4.34 While some shack owners hold public liability insurance as required by the managing authority (such as some Donnelly River hut owners and the Dampier Archipelago licensees), other shack owners do not have public liability insurance.

### Committee Comment

- 4.35 Community expectations of health, building and safety standards increase over time. It is unlikely that some shacks can be upgraded to comply with standards. Many shacks will have to be largely rebuilt to comply with standards.

### ENVIRONMENTAL MANAGEMENT

- 4.36 Shacks sites cause environmental damage and represent an environmental risk. The lack of management at sites is contrary to sustainable land management principles. While national parks are subject to considered and detailed management plans, shack sites such as Wedge and Grey are presently not managed under any environmental plan. While it is clear that human pressure and behaviour is causing environmental damage, the future risk that the current approach represents is of great concern.

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<sup>146</sup>

City of Cockburn, Council Meeting Minutes, 12 August 2010, Agenda Item 14.8, p88.

4.37 DEC expressed their environmental concerns as follows:

*Environmental issues arise due to the human pressures which impact on the natural environment. The scale of environmental impacts is generally proportional to the size of the shack site community and the sensitivity to the environment in which the shacks are located.*

*Impacts on vegetations and landforms are caused by the footprint of shacks, the use of off-road vehicles and foot tracks. This causes loss of habitat for flora and fauna, fire management issues, and the spread of pest plants and animals. Rehabilitation to repair environmental damage has been necessary in some instances.*

*Along with human health implications, long-term unplanned, unserviced and unmanaged human habitations has led to sewage and leachate contamination of groundwater.<sup>147</sup>*

- 4.38 Tasmanian shack site legislation provides that shacks should be removed, other than in exceptional circumstances, if they harm or interfere with the environment, dunes, compromise native flora and fauna, the ability of natural or physical resources on or near the site to meet the reasonable foreseeable needs of future generation or cause environmental degradation.<sup>148</sup>
- 4.39 Environmental issues differ between shack sites. (Environmental issues relevant to particular shack sites are detailed at Chapters 6 to 11).
- 4.40 At Wedge and Grey, septic systems are left in the ground and when full, another one is put in the ground.<sup>149</sup> Motorbike and vehicle use was also noted by many submitters as a concern. A range of track issues have occurred. There may be four or five serious off-road vehicle accidents at Wedge per annum.<sup>150</sup> The Committee received complaints about erosion and widespread vegetation loss from four wheel drives, litter, and 'hooning' up and down the beach.<sup>151</sup> The Kwelena Mambakort Wedge Island Aboriginal Corporation, who represent the Yued people, submitted that the environmental non-management of the traditional Yued country at Wedge is of serious concern to the Elders of their community.<sup>152</sup>

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<sup>147</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p6.

<sup>148</sup> Schedule 2A, *Crown Lands (Shack Sites) Act 1997* (Tasmania).

<sup>149</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p8.

<sup>150</sup> Mr Stephen Meyerkort, Project Manager, Department of Environment and Conservation, *Transcript of Evidence*, 3 August 2010, p9.

<sup>151</sup> Submission No 35 from Dr Niall Barrett, 30 June 2010, p1.

<sup>152</sup> Submission No 34 from Kwelena Mambakort Wedge Island Aboriginal Corporation, 30 June 2010, p2.

- 4.41 Shack owners at Wedge and Grey and other shack sites have also submitted that they are environmental custodians of their area, citing examples of planting shrubs and revegetating the area as an example of the environmental work they undertake.<sup>153</sup>

### Committee Comment

- 4.42 The environmental impact of shacks and shack occupiers differs from site to site. Shack sites, particularly unregulated and unmanaged shack sites, cause environmental damage and represent an environmental risk that should be appropriately managed.
- 4.43 The real risk of fire at shack sites was evidenced by the December 2010 fires in the D'Entrecasteaux National Park, where the Donnelly River huts are located. The positioning of shacks among shrubs, such as at Wedge and Grey, is also a concern.

### FISHING INDUSTRY

- 4.44 Professional fishers continue to use shacks for the purposes of their profession. The Committee understands that a small percentage of the shacks the subject of this inquiry are used by professional fishers.
- 4.45 As previously noted, professional fisher shacks are recognised in the Squatter Policy as an exemption to the policy of removing shacks and '*generally are permitted to remain*'.<sup>154</sup> Mr James Sharp, DEC, confirmed that DEC follows the Squatter Policy; commercial fishers have a right of access to pursue their commercial activities and DEC has always understood that this would be the case.<sup>155</sup> After the Squatter Policy was implemented, the importance of the local fishing industry was recognised by the issuing of transitional leases for shacks used by professional fishers fishing in local waters.<sup>156</sup> The intention was that at the end of the transitional period lessees would be allowed to move into designated development nodes.<sup>157</sup>
- 4.46 The Government Policy *Professional Fisher Shack tenure along the Central Coast of Western Australia*<sup>158</sup> (**Professional Fisher Shack policy**) (administered by the

<sup>153</sup> For example, Submission No 95 from the Simons family, 15 July 2010 (regarding Grey) and evidence of Mr Fred Cavanough, Member, Naval Base Holiday Park Residents' Association, *Transcript of Evidence*, 3 August 2010, p2.

<sup>154</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p2.

<sup>155</sup> Mr James Sharp, Deputy Director General, Parks and Conservation, Department of Environment and Conservation, *Transcript of Evidence*, 3 August 2010, p4.

<sup>156</sup> Submission No 114 from Department of Regional Development and Lands, 8 November 2010, p3.

<sup>157</sup> Mr James Sharp, Deputy Director General, Parks and Conservation, Department of Environment and Conservation, *Transcript of Evidence*, 3 August 2010, p4.

<sup>158</sup> Department of Regional Development and Lands, *Professional Fisher Shack Tenure along the Central Coast of Western Australia*, Policy No 12.8.1, August 1999.

Department of Regional Development and Lands)<sup>159</sup> establishes guidelines and criteria for the management and lease of professional fisher shacks along the Central Coast. The Professional Fisher Shack policy defines a professional fisher to be a person who has a particular licence under the Fish Resources Management Act 1994 Regulations. The Professional Fisher Shack policy is attached at Appendix 5.

- 4.47 Professional fishers want to retain the right to use shacks, and support Government policy that continues to exempt professional fishers from any policy to remove shacks. The Western Australian Fishing Industry Council (**WAFIC**), who surveyed their members on this issue for the purposes of their submission to the Committee, advised that shacks are ‘*widely used*’ by a number of commercial fishing license holders in various parts of the State.<sup>160</sup> WAFIC advised that shacks at the following locations (in brackets) are used to fish in the following fisheries: Western Rock Lobster Managed Fishery (Abrolhos Islands and mid west coast at collection depots), South Coast Salmon Managed Fishery (south coast, east and west of Albany), South Coast Wetline Fishery (Windy Harbour shacks), Spanish Mackerel Managed Fishery (Blowholes/Point Quobba, near Carnarvon), and South Coast Estuarine Managed Fishery (Esperance to Augusta). Many of these sites are not covered by this inquiry (which is based on the number and location of shacks on public land as advised by DEC).
- 4.48 It appears that further to the shacks advised by DEC, other fisher shacks exist throughout the State. Regarding Wedge and Grey, the Committee understands that Wedge is home to the crew of four professional rock lobster boats and support staff between November and June.<sup>161</sup> Tourism Western Australia observed that shacks are used for crayfishing.<sup>162</sup>
- 4.49 WAFIC advised that the shacks allow commercial fishers to operate within fisheries in regional and remote parts of Western Australia, provide some comfort and respite for fishers rather than living on board their vessels, reduce on land and at sea travelling costs to and from fishing grounds, and provide financial relief to otherwise expensive accommodation arrangements. WAFIC considers that the use of the shacks is integral to their fishing operations by providing temporary accommodation in remote fisheries and safe moorings close to their fishing grounds. The industry continues to supply local seafood at affordable prices and this is dependent on matters such as maintaining

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<sup>159</sup> With the exception of managing commercial fisher shacks at the Abrolhos Islands (which the Department of Environment and Conservation did not identify as a shack site) the Department of Fisheries has no role in developing or administering policy or regulating or managing fisher shacks in coastal Western Australia: Letter from Mr Stuart Smith, Chief Executive Officer, Department of Fisheries, 3 February 2011, p1.

<sup>160</sup> Submission No 102 from Western Australian Fishing Industry Council, 16 July 2010. All comments attributed to WAFIC are sourced from this submission.

<sup>161</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, p1.

<sup>162</sup> Submission No 46 from Tourism Western Australia, 7 July 2010, p2.

close proximity to the resource. WAFIC added that there is a heritage and cultural aspect to retaining commercial fisher shacks as they provide a living cultural history and serve as a reminder of people carving out livelihoods on the brink of existence; livelihoods which are hard to imagine in an age of convenience and leisure. Fisher shacks are also deeply rooted in family history with many fishers tracing their ancestry back over generations at a particular shack site (some over six generations). The Committee also received a number of submissions from members of the fishing industry. A summary of these submissions is attached at Appendix 6.

- 4.50 WAFIC advised that it is their expectation that professional fishers will be able to continue to operate in the future from their shacks without exclusion, disruption or destruction of their shack as it *'is vital from our perspective that access to these shacks be maintained'*.<sup>163</sup>

### Committee Comment

- 4.51 Evidence indicates that the Government and managing authorities do not maintain detailed information on the ownership and use of professional fisher shacks at shack sites.
- 4.52 The Committee recommends that the ownership and use of professional fisher shacks (on shack sites and otherwise) be reviewed. A review could determine, for example, to what extent fisher shacks are being used to support professional fishing activities. In the Committee's view, this review should inform and be part of a wider review of the Professional Fisher Shack policy.

**Recommendation 1: The Committee recommends that the responsible Minister audits the ownership and use of fisher shacks and then reviews the Professional Fisher Shack policy.**

### VISUAL IMPACT OF SHACKS

- 4.53 It has been submitted that some shacks are ugly and unsightly and detract from the natural beauty of the area. A number of submissions raised this issue in relation to Wedge and Grey where the shacks are located near stunning beaches and the public now has access to the sites. For example, the Turquoise Coast Tourism Association submitted that the shacks are *'dilapidated and unsightly'*.<sup>164</sup>
- 4.54 On the other hand, some submitters have commented on the rustic nature and visual charm of shack sites.<sup>165</sup> Shack owners have advised that long term leasehold tenure would encourage people to upgrade their shacks.<sup>166</sup>

<sup>163</sup> Submission No 102 from Western Australian Fishing Industry Council, 16 July 2010, p3.

<sup>164</sup> Submission No 55 from Turquoise Coast Tourism Association, 5 July 2010, p1.

<sup>165</sup> For example, Lower Donnelly River Conservation Association, Proposal to List the Donnelly River Mouth - Hut Precinct as a Place of Cultural Heritage, 3 May 2006, p5.



## HERITAGE

- 4.55 Shack owners are of the view that shack sites are of cultural heritage significance and, therefore, must be retained.
- 4.56 The National Trust found that Wedge and Grey are places of cultural heritage significance. (Heritage issues relating to Wedge and Grey are also dealt with in Chapter 6 of this report). This section deals with comments on the heritage issues relevant to shack sites generally but includes a few comments on Wedge and Grey.
- 4.57 The Heritage Council of Western Australia has statutory responsibility for heritage matters in this State and is charged with the compilation of the State Register of Heritage Places under the *Heritage of Western Australia Act 1990*. The Heritage Council has not assessed Wedge and Grey.<sup>167</sup> Local governments also maintain heritage inventories which may (as in the case of the Naval Base shacks) or may not (in the case of Wedge and Grey) list shack sites.
- 4.58 The Heritage Council of Western Australia and DEC have consulted over heritage issues and agreed that the heritage issues relating to shacks in Western Australia are best examined on a case by case basis.<sup>168</sup> DEC at a hearing stated that they have consulted with the Heritage Council of Western Australia about how heritage is best maintained, and they are aware that the National Trust has an interest and will take into account its views in terms of how DEC goes forward and how heritage values are managed.<sup>169</sup>
- 4.59 The National Trust, which manages over 100 places of cultural heritage significance for and on behalf of the community and State government, advised:
- The National Trust of Australia (WA) does not support the unplanned and uncontrolled development of human settlements on public land and recognises the potential adverse impact these settlements may have on the fragile environments on which they are situated.*<sup>170</sup>
- 4.60 The National Trust noted in its submission that the *State of the Environment Report 2007* recognised in its key findings on heritage that there was a systemic failure in the recognition of cultural heritage value and therefore in the effective protection and management of those values. It expressed its concerns as follows:

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<sup>166</sup> For example, Mr Fred Cavanough, Member, Naval Base Holiday Park Residents' Association, *Transcript of Evidence*, 3 August 2010, p2.

<sup>167</sup> Submission No 36 from Heritage Council of Western Australia, 2 July 2010, p3.

<sup>168</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p7.

<sup>169</sup> Mr James Sharp, Deputy Director General, Parks and Conservation, Department of Environment and Conservation, *Transcript of Evidence*, 3 August 2010, p4.

<sup>170</sup> Submission No 76 from National Trust of Australia (Western Australia), 14 July 2010, pp1-2.

*The National Trust is particularly concerned about the failure of the [Squatter Policy] to consider cultural heritage values of existing settlements and to establish processes by which these values can be considered alongside other important issues, such as building compliance, demand for services, environmental impact and other issues of health, equity and access...*

*Any future policy should establish processes which would allow consideration of the cultural heritage values of the place in determining the appropriate action to be taken. This should include a heritage assessment of the individual settlements and the development of a management plan to guide future activity. ...*

*Any redevelopment [of Wedge and Grey] ... must incorporate the conservation of the cultural heritage values of these places, as well as meeting the desired outcome of creating a sustainable eco-tourism activity.<sup>171</sup>*

- 4.61 The Heritage Council of Western Australia noted that Australia has a long history of informal/illegal occupation of vacant Crown land and, from a cultural heritage perspective, coastal shack settlements represent a distinctive Australian outdoor way of life characterised by simple, low scale informal development where the design and construction of the shacks demonstrate the resourcefulness, versatility and creativity of builders and their occupants.<sup>172</sup> It further advised that the Squatter Policy has made it difficult to conserve examples of this distinctive aspect of Western Australia's history, as registration would be contrary to the Squatter Policy.
- 4.62 The heritage and cultural significance of shack sites was expanded on in the submission from Dr Reena Tiwari, Faculty of Built Environment, Art and Design, Curtin University. Dr Tiwari submitted that shack communities represent an alternative to suburban life in an age of planned, regulated and organised developments and these communities are a unique aspect of Australian culture.<sup>173</sup> Dr Tiwari is of the view that retaining shack sites enriches our understanding of our Australian identity, noting that the squatter settlements at Wedge and Grey are important as physical expressions of our Australian cultural identity and squatting has a long history in Australia. Squatters were an admired group symbolising Australian self reliance, resourcefulness, courage and disregard of hardship. These attributes overlaid with a disrespect of authority has informed our national identity and cultural

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<sup>171</sup> *Ibid*, pp2 and 5.

<sup>172</sup> Submission No 36 from Heritage Council of Western Australia, 2 July 2010, p1.

<sup>173</sup> Submission No 92 from Dr Reena Tiwari, Associate Professor, Architecture and Urban Design, Faculty of Built Environment, Art and Design, Curtin University of Technology, 16 July 2010, p1.

consciousness. In Dr Tiwari's view, the values and attitudes of Australian cultural identity impels people to establish shack communities.<sup>174</sup>

- 4.63 Regarding Wedge and Grey, Dr Tiwari is of the view that there is a cultural meaning and value in these sites which offers a domestic lifestyle that is different to the one projected in suburbia. There is no infrastructure and Wedge and Grey require active participation from the people who visit. Necessity for survival, which shack site community demand, helps cement community relations. The social exchange at 'The Point', where shack occupiers gather close to the tide to watch the setting sun and socialise, stimulates community spirit. Dr Tiwari's submission adds that the underlying value and attributes of the shack communities produce a distinctive folk life - of shack architecture, cooking arrangements, pastimes, and so forth that contribute to the sense of belonging to a shared lifestyle and the tangible aspects of shack culture are held together by the intangible sense of belonging to a community, to a place and persistence over time.<sup>175</sup> In her view, the State wants standard treatment or 'suburbanisation' at Wedge and Grey. She questions if wiping out the shacks is necessary for any kind of tourism development. In Dr Tiwari's view, the *'built environment at Wedge and Grey is evidence of a particular resilient community dynamic and has the potential to become a tool to understanding an important part of our culture and identity'*.<sup>176</sup>
- 4.64 Dr Selwood, University of Winnipeg, also raised the historical social value of shack sites and the uniqueness of these sites in his submission supporting retaining shacks.<sup>177</sup> In his view, these sites not only have considerable historical social value but their distinctive physical building and informal layouts create landscapes that are unique. Dr Selwood adds that shacks are magnificent examples of vernacular architecture with considerable heritage value as symbols of the average working class Australian - the 'Aussie Battler' and they portray a simple, self sufficient lifestyle reminiscent of the past.<sup>178</sup> He notes that he has witnessed declining opportunities for those who have a desire to *'get away from it all'* and enjoy a more rudimentary lifestyle. Dr Selwood is convinced that with appropriate heritage designation, development restrictions and sympathetic management planning, Wedge and Grey can function as traditional, informal style, holiday venues and shack owners can retain the lifestyle they earnestly crave.<sup>179</sup>

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<sup>174</sup> *Ibid*, p2.

<sup>175</sup> *Ibid*, p4.

<sup>176</sup> *Ibid*, p5.

<sup>177</sup> Submission No 54 from Dr John Selwood, Senior Scholar, Department of Geography, University of Winnipeg, 10 July 2010. Dr Selwood advised in his submission that he has been a frequent visitor to Western Australia over the past 45 years and has studied the development of tourism in the State as well as the evolution and characteristics of holiday communities and their clientele.

<sup>178</sup> *Ibid*, p1.

<sup>179</sup> *Ibid*.

- 4.65 A number of other submissions dealt with heritage issues. The following submission, which related mainly to the Donnelly River huts, is one example of comments made:

*The modern world is about commercial outcomes, bureaucratic regulations, judgmental decisions, resourcing and political agendas. ... We as a global community have forgotten some of the principles that are core to the Australian lifestyle and the opportunities created by our forefathers. We should maintain a balance where the achievements of our past are not destroyed by regulations that are placed to address the small minority whilst recognising that past practices need to improve to maintain current standards.*<sup>180</sup>

#### Committee Comment

**Finding 18:** The Committee finds that the National Trust of Australia (Western Australia) is particularly concerned about the failure of the Squatter Policy to consider the cultural heritage values of settlements and establish processes by which these values can be considered alongside other important issues. The National Trust of Australia (Western Australia) is of the view that any future policy should establish processes which would allow consideration of the cultural heritage values of the place in determining the appropriate action to be taken.

**Finding 19:** The Committee finds the National Trust of Australia (Western Australia) has found that Wedge and Grey are places of cultural heritage significance.

**Finding 20:** The Committee finds that the Department of Environment and Conservation and Heritage Council of Western Australia have agreed that the heritage issues relating to shacks in Western Australia are best examined on a case by case basis.

**Finding 21:** The Committee finds that the Heritage Council of Western Australia is of the view that coastal shack settlements represent a distinctive Australia outdoor way of life and the Squatter Policy has made it difficult to conserve examples of this distinctive aspect of Western Australia's history.

- 4.66 The Committee accepts that the social heritage of shack sites is important. The social heritage arises from spending time with family and enjoying and sharing the simple pleasures of nature-based vacations at a particular site with family and/or friends as well as the bonds and friendships that may be formed with others at the site at that time.

<sup>180</sup>

Submission No 51 from Mr Rod McNamara, 9 July 2010, p1.

**Finding 22: The Committee finds that the social heritage of shack sites is important.****‘SENSE OF PLACE’, LIFESTYLE, FAMILY AND SOCIAL BENEFITS**

- 4.67 Shack owners also advised of the social, family, community, lifestyle and other benefits of shacks. Wedge and Grey shack owners in particular often commented on the unique ‘sense of place’ at these sites, the community spirit and ‘sense of belonging’, and submitted that the Government should not end this ‘way of life’.
- 4.68 Many submitters outlined the personal benefits of shack communities, getting back to nature and getting away from the pressures and realities of modern living. Many shack owner submissions provided personal accounts of what their shack and the shack site community means to them and why they should be retained. (A summary of the submissions from Wedge and Grey shack owners is attached at Appendix 8 and shack occupier views on these issues are raised throughout this report).

**Committee Comment**

- 4.69 The Committee understands the desire to experience cheap affordable nature-based holidays, to ‘get away from it all’, escape the pressures of modern life and experience the freedom of a simpler weekend or holiday experience. The Committee also understands the desire to spend time with family and friends in locations that are not overly managed and regulated.

**TOURISM, CARAVAN AND CAMPING GROUNDS AND LOW IMPACT ACCOMMODATION**

- 4.70 Tourism issues, and the availability and demand for caravan and camping grounds and low impact,<sup>181</sup> nature-based accommodation is relevant to shack policy as shack sites could alternatively be used to provide these facilities to the public and tourists. For example, it has been proposed that caravan and camping facilities or low impact, nature-based accommodation replace the shacks at Wedge and Grey, Naval Base and the Blowholes (near Carnarvon) (see Chapters 6, 10 and 11 respectively for further information). The availability of low impact, nature-based accommodation and caravan and camping facilities for public use is an important consideration where evidence demonstrates that a shack site is a potential tourist site (for example, at the Wedge and Grey and the Blowholes sites).
- 4.71 Tourism Western Australia, who supports the Squatter Policy, recommended to the Committee that the Government support detailed examination of shack sites for their underlying tourism development potential. Tourism Western Australia advised the Committee that:

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<sup>181</sup> In this report, low impact means low environmental impact.

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*[There] is a lack of good quality coastal locations for high quality nature-based and ecotourism development in Western Australia.*<sup>182</sup>

4.72 Tourism Western Australia considers that the Wedge and Grey reserves in particular have ‘*highly significant tourism potential*’ and, if developed appropriately, ‘*have the capacity to add immense value to the development of Australia’s Coral Coast tourism region and enhance the Indian Ocean Drive as a premier tourist drive*’.<sup>183</sup> (See paragraph 6.36 for further on this issue). Tourism Western Australia’s recommendations to the Committee include:

- The Committee note that the Squatter Policy provides a set of reasonable guidelines that will lead to orderly and proper administration of Crown lands.
- The Government create certainty and equity in the market place by confirming the existing policy and supporting its ongoing implementation.
- The Government confirm a preference for orderly redevelopment of Wedge and Grey as environmentally sensitive nature-based tourist sites.
- The Government support detailed examination of other sites for their underlying tourism development potential.
- That Committee note that subject to additional resources being allocated that these outcomes could be achieved through the Government’s Landbank/Naturebank program.<sup>184</sup>

4.73 Submissions from Wedge and Grey shack occupiers noted the number of people that use the shacks (WIPA and GCCA advised that they are used by 15 000 occupiers per year)<sup>185</sup> and other submissions stated that shacks could become affordable coastal family holiday destinations and their ‘*potential as tourism assets is considerable*’.<sup>186</sup>

4.74 Tourism Western Australia disagrees with such assertions:

*The extent to which these sites have realised their full potential as tourism development is highly questionable. For all intents and purposes squatter shacks are a form of private residence. Access to a shack is a closed market. That is, the ordinary ‘person on the street’ cannot secure a booking to a shack. Notwithstanding, the shacks in*

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<sup>182</sup> Submission No 46 from Tourism Western Australia, 7 July 2010, p1.

<sup>183</sup> *Ibid.*

<sup>184</sup> *Ibid.*, pp5-6.

<sup>185</sup> See footnote 235.

<sup>186</sup> Submission No 59 from Simon Trouché, 9 July 2010, p1 (Twenty seven nearly identical submissions from other shack owners were also submitted to the Committee).

*their current form would never meet the accommodation and building code standards required of an open market ... suggestions that shacks represent a marketable alternative tourism product are erroneous and misleading.*<sup>187</sup>

4.75 The existence of shack sites denies tourism opportunities and public use and enjoyment of public land. Further, the Committee noted that shacks are often used on weekends and during vacations. This use potentially excludes the public from using the sites on any day of the year as could occur if public accommodation replaced shacks.

4.76 In relation to caravan and camping grounds, the Legislative Assembly Economics and Industry Standing Committee (**Economics and Industry Committee**) report on its 2009 Inquiry into the Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia<sup>188</sup> commented on the social and economic benefits that caravan parks and camping grounds provide to local communities and the State as a whole.<sup>189</sup> The report noted:

*[DEC] strongly believes that a broad mix of caravanning and camping experiences is of considerable benefit to the public and that such experiences encourage recreation and an appreciation of the State's natural environment.*<sup>190</sup>

4.77 The report added that the Department of Sport and Recreation was of the view that:

*caravanning and camping are significant and affordable recreational activities for a wide range of Western Australians and provide an initial and vital link to further recreational pursuits, e.g. bush walking, fishing, surfing, hiking. These activities also provide significant access to experiential learning opportunities.*<sup>191</sup>

4.78 Caravans are being purchased and used for vacationing purposes at an unprecedented rate. For example, a recent media report noted that Department of Transport statistics show the number of registered caravans in Western Australia has nearly doubled over

<sup>187</sup> Submission No 46 from Tourism Western Australia, 7 July 2010, p3.

<sup>188</sup> Legislative Assembly, Standing Committee on Economics and Industry, *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, Report No 2 in the 38<sup>th</sup> Parliament, 15 October 2009, Part 2, pp7-11. The inquiry did not specifically deal with shack sites. The Economics and Industry Committee made 57 recommendations across ten portfolios in a two part 440 page report. The Government responded to the report in May 2010. The report can be accessed at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au), select Committees/Current Committees/Economics and Industry Committee/Reports (viewed on 25 February 2011).

<sup>189</sup> *Ibid*, p6.

<sup>190</sup> *Ibid*, p7 quoting Submission No 69 from Department of Environment and Conservation, 19 May 2009, p3.

<sup>191</sup> *Ibid*, p7 quoting Submission No 74 from Department of Sport and Recreation, 25 May 2009, p2.

the past five years and by the end of 2009-2010, there were 58 485 registered caravans in Western Australia, about one for every 40 people.<sup>192</sup> These figures do not include interstate travellers who caravan around this State. The Economics and Industry Committee observed that data at that time indicated that visitors to caravan parks can be divided in the categories of tourist/travellers and holiday makers, including the ‘grey nomads’ (which account for 40 per cent of the visitors), ‘winter drifters’ (older age group) (21 per cent), families (who have a single caravan park as their destination) (13 per cent), freedom seekers (13 per cent) and intrastate holiday makers (10 per cent).<sup>193</sup> The Economics and Industry Committee commented that:

*[the] importance of caravanning and camping to tourism in Western Australia is well recognised, as is their role in providing affordable holiday accommodation for families, and economic and social benefits to local communities and the state as a whole.*<sup>194</sup>

- 4.79 The findings, recommendations and Government Response to the Economics and Industry Committee’s report *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia* are relevant to this inquiry for a number of reasons. They highlight demand and supply issues relevant to caravanning and camping grounds and nature-based tourism and recreation. For example, the Committee found:

Finding 7

There is considerable evidence to suggest an increase in demand for caravanning and camping accommodation across the state.

Finding 17

There is a growing demand in Western Australia for the nature-based camping experience, made more accessible by the rise of the ‘self-contained’ vehicle.

Finding 34

Given the increase in demand for nature-based camping, future supply must cater to this trend.

Finding 77

Unless the Department of Environment and Conservation allocates portions of its existing estate and/or future estate to caravanning and

<sup>192</sup> Kent Acott, ‘WA falls for holiday life in caravans’, *The West Australian*, 1 November 2010, p12.

<sup>193</sup> Legislative Assembly, Standing Committee on Economics and Industry, *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, Report No 2 in the 38<sup>th</sup> Parliament, 15 October 2009, Part 2, p36 quoting Tourism Western Australia, *Understanding the Caravan Industry in WA: Fast Facts for Caravan Park Operators*: [www.tourism.wa.gov.au/Publications%20Library/Research/Fast%20Facts%20for%20Caravan%20Park%20Operators.pdf](http://www.tourism.wa.gov.au/Publications%20Library/Research/Fast%20Facts%20for%20Caravan%20Park%20Operators.pdf). (viewed on 26 March 2009).

<sup>194</sup> *Ibid*, Part 1, pxix.



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camping there will be a continuing shortage of caravan and camping sites.

- 4.80 Further, the Government Response to the Committee's recommendations outlines the Government's commitment to providing public facilities under the Naturebank program, through Royalties for Regions funding and Tourism Western Australian's Landbank program.<sup>195</sup> For example, in response to the recommendation that the Department of Environment and Conservation take a lead role in identifying and making available land on its estate that could be used for nature-based caravan parks and camping grounds, the Government responded that on 8 October 2009, the Minister for Tourism and Minister for Environment announced the Naturebank program aimed at identifying and releasing investor ready land for low impact visitor accommodation within the State's protected areas. This includes land suitable for caravan and camping parks to a nature-based standard.
- 4.81 In response to the Recommendation 18, that the Government identify land suitable for the development of caravan parks and camping grounds and vest this land in local government authorities, the Government noted Tourism Western Australia's Landbank program, which was created to ensure an adequate supply of tourism development sites (including caravan parks). Through this program a number of investigations with local authorities have been undertaken to develop new caravan park sites.
- 4.82 In response to Recommendation 21, the Government responded that among DEC's camping grounds are two safari camps which are operated under leases (at Woody Island Nature Reserve<sup>196</sup> near Esperance and Savannah Camp at Karijini National Park). In addition, there are eight caravan and camping parks leased to private commercial operators, and four commercial safari camps operated pursuant to licences, and the Naturebank program will identify and release land for low impact visitor accommodation within the State's protected areas. The Government also noted that (as announced in the 2010-11 Budget) \$20 million over four years will be allocated through Royalties for Regions to expand nature-based recreation and tourism industries. (This is DEC's \$40 million parks and tourist roads improvement program). Further extracts from the report and Government Response are attached at Appendix 7.
- 4.83 Hon Bill Marmion MLA, Minister for Environment, recently confirmed the Government's commitment to the Naturebank Program:

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<sup>195</sup> The Government Response to the report can be accessed at [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au), select Committees/Current Committees/Economics and Industry Committee/Reports (viewed on 25 February 2011).

<sup>196</sup> Woody Island is an eco tourism retreat located in the '*unique island wilderness*' on the only island in the Recherche Archipelago (near Esperance) available to visitors. Visitors can stay in safari huts or pre-erected tents: [www.woodyisland.com.au](http://www.woodyisland.com.au) (viewed on 25 February 2011).

*The Naturebank program is a state government initiative to provide greater access to Western Australia's world-class park system while protecting conservation values and providing local economic benefits and encouraging sustainable, commercial tourism accommodation. That initiative is well worth supporting, and is certainly one that I support.*<sup>197</sup>

- 4.84 WIPA and GCCA submitted that the Economics and Industry Committee findings and recommendations are relevant to the shack site user group as the '*fundamental underlying drivers are similar to the shack site clientele*'.<sup>198</sup> However, the Committee is of the view that the findings and recommendations support an argument that further caravan and camping grounds and low impact nature-based accommodation should be made available for public use where possible. Exclusive use of public land denies the public the opportunity to vacation on that land.

### Committee Comment

- 4.85 While shack community members believe shacks provide substantial tourism opportunity and potential, Tourism Western Australia is of the view that shack sites are essentially a 'closed shop' and the sites represent an attractive tourism opportunity for the public. The development potential of shack sites could be achieved through established Government programs such as the Naturebank program.

**Finding 23: The Committee finds that there is a lack of good quality coastal locations for high quality nature-based and ecotourism development in Western Australia.**

**Finding 24: The Committee finds that there is a demand in Western Australia for nature-based camping experiences and a real need for low impact, affordable family holiday accommodation in attractive locations.**

**Finding 25: The Committee finds that shack sites have the potential to provide low impact, nature-based, affordable family accommodation in prime locations to more people and accommodation available to all Western Australians.**

### ESTABLISHING AND ENFORCING GOVERNMENT POLICY AND MANAGEMENT PLANS

- 4.86 The Committee is of the view that now is the time for the Government to make difficult decisions on shack policy and the management of shacks sites and enforce

<sup>197</sup> Hon Bill Marmion MLA, Minister for Environment, Legislative Assembly, *Parliamentary Debates (Hansard)*, 22 February 2011, p802.

<sup>198</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, p26, and Submission No 109 from Grey Conservation and Community Association, 23 July 2010, p35.

those decisions. As the Wheatbelt Development Commission submitted (in relation to Wedge and Grey):

*It is paramount that the State Government form a clearly stated position promptly in order for all parties to formulate plans for the future uses of these sites.*<sup>199</sup>

- 4.87 In the Committee's view, the Government should seek to adopt or enforce a considered long term policy, rather than take a short term, more convenient policy or management option. While decisions must take into account particular stakeholder views, it is vital to consider broader issues such as the interests of all West Australians.
- 4.88 The history of shack policy in other States in Australia demonstrates the importance of determining a clear policy and enforcing that policy. There have been complaints about the Government's delay in establishing management plans for particular shack sites.<sup>200</sup>
- 4.89 Delay in enforcing a policy or establishing management plans creates problems. Other than shack owner anxiety caused by the delay, delay may increase shack owners' hopes and expectations and, conversely, their potential sense of grievance if adverse decisions are ultimately made.
- 4.90 Another issue is that over time shack owners' expectations and demand for services may increase.<sup>201</sup> The Naval Base shack owners who appeared at a hearing demonstrated how the repeated renewal of annual leases may, over time, result in an expectation of ongoing tenure. Submissions relating to Wedge and Grey also commented on the lack of 'return' and services for their lease payments, their being 'forced' into leases among other similar complaints<sup>202</sup> arguably inconsistent with the fact that the sites are on public land. When the Squatter Policy was adopted, the Government noted that it was a 'serious concern' of squatter development that squatters petition for formal recognition of their settlements which leads to a demand for services and improved access.
- 4.91 The Shire of Denmark, which manages the Peaceful Bay shacks (under 21 year leases) noted that an issue arising from shacks is that the community is requesting more

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<sup>199</sup> Submission No 43 from Wheatbelt Development Commission, 29 June 2010, p1.

<sup>200</sup> For example, the Shire of Manjimup's submission noted the delay in the Shannon and D'Entrecasteaux National Parks Management Plan: Submission No 17 from Shire of Manjimup, 21 June 2010, p1.

<sup>201</sup> A number of submitters from Wedge and Grey commented that they pay annual leases fees but are not provided with services. The lease entitles the shack owner to occupy the site.

<sup>202</sup> For example, Submission No 7 from Mr Greg Simpson, 9 July 2010 and Submission No 99 from Mr Craig Farrow, 12 July 2010.

services and infrastructure and the provision and the maintenance of these services will place an additional burden on the Shire's resources.<sup>203</sup>

**Finding 26: The Committee finds that now is the time for the Government to implement long term and considered shack policy.**

**Finding 27: The Committee finds that ongoing tenure of shacks may increase shack occupiers' expectations and demand for services.**

#### ACTIVE MANAGEMENT OF SHACK SITES

- 4.92 The lack of active management at shacks sites was raised during the inquiry. A number of submissions noted that management authorities, both DEC and local government, did not actively manage the shack sites and had a limited presence at the sites. One notable exception is the Shire of Denmark's management of Peaceful Bay (see Chapter 9). A number of submissions relating to Wedge and Grey stated that the shack sites are largely left to regulate themselves and DEC needs to be present more, especially with the imminent influx of tourists to Wedge and Grey.
- 4.93 The absence of active management appears to be contrary to modern conservation and land management practices and is of particular concern because shacks do not comply with State or local government planning, environmental, building and public health requirements. The lack of management may result in risks not being identified and addressed. To give one example, when asked about the groundwater at Wedge and Grey, the Shire of Dandaragan was unable to advise whether groundwater was measured.<sup>204</sup> (Septic tanks are used at Wedge and Grey, '*when one is full, it is left and you put in another one*').<sup>205</sup> Active management at these sites necessarily imposes on State and local government resources.
- 4.94 The lack of active management and policing at shack sites may be partly responsible for a number of shack owners and lessees not complying with the terms of their leases. Shacks and shack leases at a number of sites are being sold or transferred, when leases specifically prohibit such action. For example, Wedge and Grey submitters note that shacks have been purchased since 1995, despite the lease providing that the lease shall not be re-assigned. Shacks at Naval Base are also being sold when the lease prohibits transfer of the lease. Anecdotal evidence suggests that some shack owners

<sup>203</sup> Submission No 113 from Shire of Denmark, 26 September 2010, p4.

<sup>204</sup> Mr Ian Rennie, Deputy Chief Executive Officer, Shire of Dandaragan, *Transcript of Evidence*, 3 August 2010, p4.

<sup>205</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p8.

permanently occupy their shack or occupy their shack for a period longer than permitted in the lease.

- 4.95 It appears that there is little available information on shack occupancy at a few sites, which have largely been left to self manage (such as Wedge and Grey).

### **Committee Comment**

- 4.96 The Committee is of the view that management authorities, either DEC or local government, should ensure that shacks sites are actively managed and the managing authority maintains a presence to appropriately address concerns and risks at the site.

### **ABANDONED SHACKS**

- 4.97 During the course of the inquiry, the Committee was made aware that some shacks may not be occupied. For example, the Committee is aware of a number of abandoned shacks at Naval Base and GCCA advised that one aspect of their site specific model proposal (for Grey) is the upgrading of abandoned shacks.<sup>206</sup>
- 4.98 The existence of genuinely abandoned shacks (rather than shacks that are rarely used) may be the result of the lack of active management.
- 4.99 The Committee is of the view that managing authorities should conduct comprehensive inquiries to determine whether each shack is being used by the owners or another person permitted to use the shack. Inquiries should ascertain whether a shack is genuinely abandoned, rather than rarely used.

**Recommendation 2: The Committee recommends that the responsible Minister and/or managing authority of each shack site conducts a review of shacks to ascertain whether the shack is being occupied by the owner (leaseholder) or another person permitted to use the shack.**

**Recommendation 3: The Committee recommends that the responsible Minister and/or managing authority immediately remove any abandoned shack unless there is a decision to actively manage the shack for public use or another public purpose.**

### **NO MORE SHACKS**

- 4.100 The Committee is concerned by reports that shacks are still being erected on public land and are not being removed. The Squatter Policy clearly provides that '*no new illegal shacks will be permitted on reserved or vacant Crown land along the State's coastline*'. This policy should be enforced.

<sup>206</sup>

Submission No 109 from Grey Conservation and Community Association, 23 July 2010, p19.

4.101 The Shire of Northampton advised that new shacks have recently been erected in its municipality. When the Shire advised the Department of Regional Development and Lands, the Department took no action to remove the shacks. The new shacks have angered local families who claim to also have a right to be in the area. The Shire is concerned that further shacks will be erected.<sup>207</sup>

**Recommendation 4: The Committee recommends that the Government confirm the policy that no new shacks will be permitted on public land, and the responsible Minister or appropriate managing authority should ensure that any unauthorised new shack erected is immediately removed.**

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Submission No 28 from Shire of Northampton, 17 June 2010, p2.

## CHAPTER 5

### ABORIGINAL CULTURE AND HERITAGE

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- 5.1 Aboriginal culture and heritage considerations may impact on shack site policy and regulation where an Aboriginal heritage site is situated on or a near shack site, a native title claim exists over a shack site or other cultural concerns are raised about the policy, regulation and impacts of shacks.
- 5.2 The Committee's inquiry did not encompass a comprehensive survey of all heritage sites or an investigation of native title claims that may impact on shack policy and regulation in Western Australia. This Chapter does not report, for example, on what shack sites (other than Wedge and Grey) may fall under the South Western Native Title claim being pursued. The Committee did not consider it appropriate to inquire into the status of the negotiations for this claim.

#### ABORIGINAL HERITAGE SITES

- 5.3 The *Aboriginal Heritage Act 1972* recognises Aboriginal peoples' strong relationship to the land, which may go back many thousands of years, and protects places and objects that may be of importance and significance to people of Aboriginal descent in Western Australia. These places and objects may be identified as a site and recorded on the Register of Aboriginal Sites (**Register**). All sites are protected under the *Aboriginal Heritage Act 1972*, whether they are recorded on the Register or not.<sup>208</sup>
- 5.4 It is an offence under the *Aboriginal Heritage Act 1972* to disturb a site.<sup>209</sup> A person disturbs a site if they excavate, destroy, damage, conceal or in any way alter an Aboriginal site without prior authorisation from the Registrar of Aboriginal Sites or the Minister for Indigenous Affairs.
- 5.5 A significant Aboriginal heritage site is situated at Wedge Island, known as Wetj Boya to the local Yued people. There are a number of registered heritage sites on, and in close proximity to, Wedge Island.
- 5.6 The Kwelena Mambakort Wedge Island Aboriginal Corporation, which represents the Yued people, advised of its serious concerns about the lack of protection of the sites at Wedge.<sup>210</sup> (Further detail about the Aboriginal heritage concerns at Wedge are noted in paragraphs 6.88 to 6.100).

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<sup>208</sup> Letter from Mr Patrick Walker, Director General, Department of Indigenous Affairs, 30 September 2010, p1.

<sup>209</sup> Section 26, *Aboriginal Heritage Act 1972*.

<sup>210</sup> Submission No 34 from Kwelena Mambakort Wedge Island Aboriginal Corporation, 30 June 2010.

- 5.7 The Department of Indigenous Affairs, which administers the *Aboriginal Heritage Act 1972*, maintains a database containing more than 29 000 Aboriginal heritage places, ‘many of which may also have shacks located on or near them’.<sup>211</sup> During the course of the inquiry, the Committee was not made aware of Aboriginal heritage sites on or near any particular shack site, other than Wedge, but heritage sites may be situated near shack sites.
- 5.8 The Department of Indigenous Affairs advised that Aboriginal people have ‘raised concerns with the leasing arrangements for shacks and the subsequent use of shacks and surrounds by leaseholders damaging Aboriginal heritage’,<sup>212</sup> and:

*A number of these concerns would be addressed by reflecting the requirements of the AHA [Aboriginal Heritage Act 1974] in any leases granted by the State through the Department of Environment and Conservation. For example, a leasing requirement that the AHA provisions are addressed in any development and maintenance of a shack and its surrounds would assist in reducing damage to Aboriginal sites. Leaseholders being made aware of Aboriginal heritage in the local area and the requirement to avoid damage to sites by such activities as graffiti would assist in reducing the number of complaints made about damage to Aboriginal heritage.*<sup>213</sup>

- 5.9 A lease issued to a shack owner may have native title implications and the provisions of Part 2, Division 3 of the *Native Title Act 1993* (Cth) must be considered.

**Finding 28: The Committee finds that there are Aboriginal heritage sites located on, and in close proximity to, Wedge, and there may be Aboriginal heritage sites located on, or in close proximity to, other shack sites in Western Australia.**

## NATIVE TITLE

- 5.10 Shack policy and regulation may have native title implications. There is a native title claim by the Yued people (represented by the South West Aboriginal Land and Sea Council) over the Wedge and Grey shack site reserves.<sup>214</sup> The Committee is not aware

<sup>211</sup> Letter from Mr Patrick Walker, Director General, Department of Indigenous Affairs, 30 September 2010, p1.

<sup>212</sup> *Ibid*, p2.

<sup>213</sup> *Ibid*.

<sup>214</sup> Native title claims WC97/71, WAD6192/98. The Yued native title claim was first made on 22 August 1997 and was accepted for registration on 21 July 1999. On 17 December 2009, the Western Australian Government announced it had signed a Heads of Agreement with the South West Aboriginal Land and Sea Council that aims to negotiate a settlement to resolve all native title claims represented by South West Aboriginal Land and Sea Council in the State’s south-west region (from Jurien Bay in the north to the south coast near Hopetoun). Negotiations are confidential.



if there are native title claims over other shacks sites in Western Australia, but this is possible.

5.11 The *Native Title Act 1993* (Cth) recognises and protects native title and provides that native title cannot be extinguished contrary to the Act. The *Native Title Act 1993* (Cth) covers acts affecting native title and how to determine whether native title exists (it may have been extinguished by past acts) and compensation for acts affecting native title. Two kinds of acts affect native title—past acts and future acts. Future acts are acts done after the Act’s commencement that either validly affect native title or are invalid because of native title. The *Native Title Act 1993* (Cth) deals with future acts (and past acts) validity, their effect on native title and compensation. Once a claim is made, the claimant has procedural rights under the Act. If native title is surrendered by claimants, then compensation is the issue.

5.12 Issuing longer term leases for shacks in Western Australia or allowing new structures to be built to meet health, safety and building requirements may be considered a future act under the *Native Title Act 1993* (Cth).<sup>215</sup> Mr Peter Sharp, DEC, advised:

*the provisions of the native title act will apply [to the Wedge and Grey reserves] ... created in 1995. The native title act came into being in 1993, so there is a requirement for any future actions, whether they be leases or amalgamation of the reserve into the national park, to comply with the native title act under the future acts provision of the native title act. Currently, some quite complex legal issues are being considered by the state.*

5.13 DEC further advised in relation to Wedge and Grey that shacks being permitted to remain in the long term may be deemed a future act under the *Native Title Act 1993* (Cth) and consent from native title claimants may need to be sought through an indigenous land use agreement. Similarly, if developments under the Naturebank program or some alternative arrangement occur, they must comply with the future acts provisions of the *Native Title Act 1993* (Cth). DEC understands that if the reserves are incorporated into Nambung National Park (as proposed in the *Wedge and Grey Masterplan*), an indigenous land use agreement or, alternatively, compulsory acquisition will be required. Further, compensation liabilities may exist if it is found that native title is completely or partially extinguished.<sup>216</sup>

# COMMITTEE COMMENT

5.14 The Committee is of the view that protecting Aboriginal heritage should be an important consideration when considering shack policy and regulation.

<sup>215</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p7.

<sup>216</sup> Letter from Mr Peter Sharp, Director, Parks and Visitor Services, Department of Environment and Conservation, 9 September 2010, p1.

- 5.15 The Tasmanian legislation seeks to protect Aboriginal heritage sites. Clause 1(a), Schedule 2A of the *Crown Lands (Shack Sites) Act 1997* (Tas) provides that:

*Other than in exceptional circumstances, a shack should be removed if ... the removal of the shack is necessary for the due protection of an Aboriginal site, or a relic as defined under the Aboriginal Relics Act 1975.*

- 5.16 The Committee is of the view that DEC or the local government authority managing a shack site should make comprehensive inquiries to determine whether an Aboriginal heritage site is located on, or in close proximity to, the shack site they manage. If so, the management authority should take action and precautions to ensure that the shacks and shack occupants do not pose any threat or risk to an Aboriginal heritage site. Where any risk of damage to a heritage site exists, leases issued to shack owners should include conditions that ensure the protection of Aboriginal heritage. The management authority should consider the lease conditions proposed by the Department of Indigenous Affairs in paragraph 5.8.
- 5.17 Evidence before the Committee indicates that active management of Aboriginal heritage sites has not occurred at Wedge. At Wedge, there are concerns that rules (such as road rules) are being ignored and the lack of DEC management of the site to date has contributed to the risks at these sites. (Details on Aboriginal culture and heritage concerns at Wedge are noted at paragraphs 6.88 to 6.100 of this report).
- 5.18 The Committee is not in a position to comment on the native title implications (including compensation implications) of pursuing various policy options at Wedge and Grey, including removing shacks or leasing shacks. The Committee understands that the Government is considering these complex issues.

**Finding 29: The Committee is concerned about the lack of management and protection of Aboriginal heritage sites located on, or in close proximity to, Wedge.**

**Finding 30: The Committee finds that protecting Aboriginal heritage located on, or in close proximity to, a shack site should be an important consideration when determining the policy applicable to the shack site, including whether shacks should be removed or retained.**

**Recommendation 5: The Committee recommends that where an Aboriginal heritage site is located on, or in close proximity to, a shack site, the responsible Minister and/or the managing authority should take action to ensure that the shacks and shack occupants do not pose any threat or risk to the Aboriginal heritage site.**

## CHAPTER 6

### WEDGE AND GREY

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#### THE SHACKS AND REGULATION OF THE SHACKS

- 6.1 The Wedge and Grey shack sites north of Perth are the most well known shack sites in Western Australia. The Committee received a large number of submissions relating to these two sites, including many submissions from Wedge and Grey shack owners.
- 6.2 DEC manages an estimated 320 shacks at Wedge and 130 shacks at Grey.<sup>217</sup> Wedge and Grey are situated between Lancelin and Cervantes, in the Shire of Dandaragan. This area of the Central Coast is also known as the Turquoise Coast. Wedge is approximately 150 kilometres north of Perth and Grey approximately 170 kilometres north of Perth. Wedge Island, known as Wetj Boya to the local indigenous people, is home to the Yued people and contains a number of Aboriginal heritage sites.
- 6.3 The shacks at Wedge are located on unvested, unclassified Reserve 43283 and the shacks at Grey on unvested Reserve 43284. In 1995, these areas were reserved for the purpose of parkland, recreation and the letting of cottages. It is important to note that these reserves were created as a temporary measure to enable the implementation of the Squatter Policy,<sup>218</sup> and with the intention that they would be added to the adjoining reserves managed by DEC under the *Conservation and Lands Management Act 1984* after the removal of the shacks.<sup>219</sup> In February 1995, with the approval of the then Minister for Lands and Minister for the Environment, the Governor placed these unvested reserves with CALM. Wedge is surrounded by Wanagarren Nature Reserve and Grey by Nambung National Park. DEC leases the shacks under a lease that is due to expire on 30 June 2011.
- 6.4 A few shacks were erected at the sites during the 1930s and 1940s when pastoralists and their families holidayed at the coast.<sup>220</sup> These settlements were also used by cray

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<sup>217</sup> As previously noted, shack numbers in this report are based on information provided in Submission No 47 from the Department of Environment and Conservation unless otherwise noted. Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p2, and Submission No 108 from Wedge Island Protection Association, 23 July 2010, p1 state that there are 350 shacks at Wedge. DEC also advised that there are 420 leased shacks at Wedge and Grey, 300 leased shacks at Wedge and 120 at Grey: Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 22 December 2010, p2 and *Future Management of Shacks at Wedge and Grey Issues Paper (Draft)*, October 2010.

<sup>218</sup> Department of Conservation and Land Management (for the National Parks and Nature Conservation Authority), *Wedge and Grey Masterplan*, 2000, p1.

<sup>219</sup> Submission No 114 from Department of Regional Development and Lands, 8 November 2010, p3.

<sup>220</sup> The National Trust of Australia (Western Australia), *Historic Places Assessment Form (Wedge Island Settlement)*, 2001, p2, notes that Bob Wedge established his shack at Wedge in 1931.

fishers from the 1950s so they could base themselves closer to their fishing grounds.<sup>221</sup> By the mid 1950s, families from the farming areas travelled to the coast after harvest. Other people came from suburbia.<sup>222</sup> Shack numbers increased significantly in the 1970s as families sought a holiday destination that offered a laid back lifestyle. The unregulated nature of shack development has resulted in a duplication of tracks at the sites.<sup>223</sup> The shacks are laid out in an ad hoc manner among the sand dunes.<sup>224</sup> Permission was not obtained to erect any of these structures on public land. Shacks were constructed from mostly recycled materials (such as corrugated iron clad) and adapted to the environment and conditions.<sup>225</sup> The popularity of the places grew as the use of four wheel drives increased and more people could access the areas.<sup>226</sup> The Committee members who visited Wedge observed unsightly rubbish dumped on each side of the spur road. Photographs of Wedge and Grey follow.<sup>227</sup>



<sup>221</sup> National Trust of Australia (Western Australia), *List of Classified Places: Heritage Assessment (Grey Shack Community)*, March 2009, p3, and *Historic Places Assessment Form (Wedge Island Settlement)*, 2001, p2.

<sup>222</sup> National Trust of Australia (Western Australia), *Historic Places Assessment Form (Wedge Island Settlement)*, 2001, p2.

<sup>223</sup> Department of Conservation and Land Management (for the National Parks and Nature Conservation Authority), *Wedge and Grey Masterplan*, 2000, p9.

<sup>224</sup> National Trust of Australia (Western Australia), *Historic Places Assessment Form (Wedge Island Settlement)*, 2001, p1.

<sup>225</sup> National Trust of Australia (Western Australia), *List of Classified Places: Heritage Assessment (Grey Shack Community)*, March 2009, p3.

<sup>226</sup> *Ibid*, p6.

<sup>227</sup> The photographs were taken in September and October 2010.





- 6.5 The Committee received a number of submissions from shack owners whose shack had been in the family for generations. Others submitters stated that they had purchased or taken over abandoned shacks as late as the 1990s<sup>228</sup> and 2000s. WIPA<sup>229</sup> advised that shacks have regularly changed hands.<sup>230</sup> As previously noted, shacks sell for \$40 000 to \$50 000. WIPA and GCCA advised that the average price was between \$5 000 and \$40 000 at Wedge and about \$5 000 and \$30 000 at Grey.<sup>231</sup> There is a waiting list for shacks.<sup>232</sup> WIPA noted that a person can buy the chattels but not the lease.<sup>233</sup> It is not known how many original leaseholders still hold leases over shacks at Wedge and Grey.
- 6.6 The shacks are largely used for weekends and seasonal holiday visits<sup>234</sup> by people who live in metropolitan Perth. That is, the sites are largely used by people living in Perth, but are still not available to everyone. The Committee has received a number of estimates regarding how many people occupy shacks at Wedge and Grey. WIPA and GCCA combined submitted that an estimated 15 000 individuals stay at Wedge and Grey each year and 3 500 occupy shacks during peak periods.<sup>235</sup> It has been submitted that the site is an ‘*open site*’ as many more people than shack owners stay there.<sup>236</sup>
- 6.7 There are fisher shacks at Wedge. WIPA advised the Committee that Wedge is home to the crew of four professional rock lobster boats and support staff between

<sup>228</sup> For example, Ms Rachel Coleman refers to her father taking over an abandoned shack at Wedge in 1997: Submission No 110 from Ms Rachel Coleman, 16 July 2010, p1.

<sup>229</sup> The Wedge Island Protection Association, who represent Wedge shack owners, was established in 1968. The Grey Conservation and Community Association represents Grey shack owners. The Wedge Island Protection Association’s Charter is to act in the best interest of the Wedge environment, the community and to maintain their members’ access to recreational facilities. They have campaigned for formal site management and long term tenure since the 1970s: Mr Peter Marr, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p2.

<sup>230</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, p2.

<sup>231</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p12, and Mr Robert Tuene, Vice President, Grey Conservation and Community Association, *Transcript of Evidence*, 3 August 2010, p12.

<sup>232</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p12.

<sup>233</sup> *Ibid.*

<sup>234</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, p18.

<sup>235</sup> The Wedge Island Protection Association submitted that Wedge shacks are used by 10 000 individuals annually and at peak holiday periods support 2 500 people: Submission No 108 from Wedge Island Protection Association, 23 July 2010, p1. Grey Conservation and Community Association submitted that the shacks at Grey are used by an estimated 5 000 individuals annually and at peak holiday periods support 1 000 people: Submission No 109 from Grey Conservation and Community Association, 23 July 2010, p1. In evidence Mr Knowles said around 14 000 to 15 000 people use the site but ‘*You will not see any of that data, because it has never been measured*’: Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p2.

<sup>236</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p5.

November and June.<sup>237</sup> DEC advised that there may be four or five fishing boats used by commercial fishers at Wedge and they are quite keen to keep their shacks.<sup>238</sup> (The *Wedge and Grey Masterplan* (2000) noted that (at that time) there were five professional rocklobster fishers and their families and deck hands occupying a number of shacks at Wedge which are generally close together and have associated storage and maintenance structures).<sup>239</sup> The Committee understands that the number of professional fishers using the shacks has decreased in recent times due to the rationalisation of the fishing industry and because larger more mobile boats are being used.<sup>240</sup> Fisher shacks are regulated the same way other shacks at Wedge and Grey are regulated (under a lease).<sup>241</sup> (See paragraphs 4.44 to 4.52 for further information on the fishing industry). The *Wedge and Grey Masterplan* notes that careful planning, design and management will be required to minimise the impact of the development of Wedge (after shacks are removed) on the fisher shacks.<sup>242</sup> The *Nambung National Park Management Plan 1998-2008* adds:

*The Central Coast Regional Strategy (1996) proposes that fishermen should be allowed suitably located sites (not necessarily their existing sites) which fishermen could lease. ... [After the removal of shacks] Fishermen's shacks could be accommodated within recreational developments subject to identifying suitable sites and setting minimum building standards. Other conditions concerning the management of fishing operations in the Park, such as the use of access tracks, should be investigated and incorporated into license arrangements.*<sup>243</sup>

- 6.8 A number of people permanently reside at Wedge and Grey. It is not known exactly how many people permanently reside at Wedge and Grey, as DEC does not record this information. However, DEC estimates that ‘probably’ around 12 shacks at Wedge are lived in permanently and ‘maybe’ three or four shacks at Grey are lived in permanently, but adds that there are more likely to be less than more than these

<sup>237</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, p1.

<sup>238</sup> Mr Stephen Meyerkort, Project Manager, Department of Environment and Conservation, *Transcript of Evidence*, 28 January 2011, p11.

<sup>239</sup> Department of Conservation and Land Management (for the National Parks and Nature Conservation Authority), *Wedge and Grey Masterplan*, 2000, p9.

<sup>240</sup> Shire of Dandaragan, Answers to Questions on Notice, 3 August 2010, p3. Submission No 12 from Ms Amanda Dawe, 24 June 2010, and Submission No 34 from Kwelena Mambakort Wedge Island Aboriginal Corporation, 30 June 2010, note that members of these families continue to use shacks at Wedge and Grey.

<sup>241</sup> Mr Stephen Meyerkort, Project Manager, Department of Environment and Conservation, *Transcript of Evidence*, 28 January 2011, p11.

<sup>242</sup> Department of Conservation and Land Management (for the National Parks and Nature Conservation Authority), *Wedge and Grey Masterplan*, 2000, p12.

<sup>243</sup> Department of Conservation and Land Management, *Nambung National Park Management Plan 1998-2008*, p47.

numbers of shacks permanently resided in.<sup>244</sup> On the other hand, WIPA advised the Committee that ‘*generally one or two people are there [at Wedge] fairly regularly, partly for security reasons*’.<sup>245</sup> Two submitters advised the Committee that they permanently reside in their shack at Grey.<sup>246</sup> While the Wedge and Grey shack lease does not state that a person can not reside permanently in a shack, Government policy since the Squatter Policy (1989) (reinforced in the *Wedge and Grey Masterplan*) has provided that the shacks are to be removed (with the opening of the Indian Ocean Drive being a trigger for this to occur), and the original shack leases were an interim measure entered into based on the understanding that the shacks would be removed.

- 6.9 The Shire of Dandaragan does not provide any services to the sites such as power, roads and drainage, water or sewer services.<sup>247</sup> The site communities have generated essential services such as fire fighting equipment and rubbish management, first aid provision and social facilities.<sup>248</sup> (The amount of rubbish piled up around Wedge and Grey is an issue). Effluent disposal is unregulated and the majority of shacks use individual septic systems or bore hole toilets.<sup>249</sup> Septic tanks are used at Wedge and Grey and when one is full, it is left in situ and another one is put in.<sup>250</sup> ‘Hooning’, the use of vehicles on the beaches and anti social behaviour at the site has been raised as a concern.<sup>251</sup>
- 6.10 After the adoption of the Squatter Policy in 1989, which was directed at removing shacks from this part of the coast, 678 shacks from shack areas from Dongara to Wedge were removed, the last being the Jurien shacks which were removed in 2001.
- 6.11 In 1995, the Wedge and Grey reserves were placed under the management of CALM (now DEC) pursuant to section 33(2) of the *Conservation and Land Management Act 1984*. Interim lease arrangements (pending the removal of the shacks) were entered into until such time as either the section of the Indian Ocean Drive linking Lancelin to

<sup>244</sup> Mr Stephen Meyerkort, Project Manager, Department of Environment and Conservation, *Transcript of Evidence*, 28 January 2011, p9. The Shire of Dandaragan understands that a 1991 census noted that six or seven people were permanent. The Shire has no evidence of the current number of permanent residents but ‘*assume*’ based on visual inspection that there are three or four times that number at the sites: Letter from Mr Tony Nottle, Chief Executive Officer, Shire of Dandaragan, 4 March 2011, p1.

<sup>245</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p3.

<sup>246</sup> Submission No 20 from HN Quinn, 24 June 2010, p2, and Submission No 64 from Ian and Marion Davidson, 27 June 2010, p1. Both live at Grey.

<sup>247</sup> Submission No 18 from Shire of Dandaragan, 25 June 2010, p3.

<sup>248</sup> Submission No 109 from Grey Conservation and Community Association, 23 July 2010, p3.

<sup>249</sup> Department of Conservation and Land Management (for the National Parks and Nature Conservation Authority), *Wedge and Grey Masterplan*, 2000, p10.

<sup>250</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p8.

<sup>251</sup> For example, Submission No 34 from Kwelena Mambakort Wedge Island Aboriginal Corporation, 30 June 2010.



Cervantes was completed or a chosen developer commenced work on the sites at Wedge and Grey for redevelopment of these areas. A five year lease was granted in 1995. (Leases are not transferable, although this is occurring when shacks are sold). In 2000, after a consultation process, the *Wedge and Grey Masterplan* was released outlining the development of the area after shacks were removed (see paragraphs 6.27 to 6.44). The *Nambung National Park Management Plan 1998-2008* proposes to incorporate Wedge and Grey into the Park after the shacks are removed.<sup>252</sup> The removal of the shacks and implementation of the *Wedge and Grey Masterplan* was delayed until the extension to Indian Ocean Drive was completed. An extension of the 1995 lease was granted for the period 1 July 2001 to 30 June 2006. A Wedge and Grey Task Force ceased shortly after being established in 2008.<sup>253</sup> The 'trigger' for the removal of the shacks, the opening of the Indian Ocean Drive between Jurien and Cervantes, occurred on 19 September 2010. The current lease, which commenced on 1 July 2006, is due to expire on 30 June 2011,<sup>254</sup> but under its terms may be terminated at any time with 90 days notice.

- 6.12 Essentially, for the last 20 years Government policy has provided that shacks on unvested reserves such as Wedge and Grey shall be removed.<sup>255</sup> The former Minister for Environment has visited the Wedge and Grey shacks and the Government is currently considering the future of these shacks.
- 6.13 The removal of the shacks at Wedge and Grey is consistent with a number of Government policies. The *Central Coast Regional Strategy* supports the implementation of the Squatter Policy at Wedge and Grey and the *Nambung National Park Management Plan 1998-2008* and *Wedge and Grey Masterplan* provide for the removal of shacks at Wedge and Grey consistent with the Squatter Policy.
- 6.14 WIPA, GCCA and other submitters advised that site management has been an increasing concern.<sup>256</sup> WIPA and shack owners submissions received (prior to September 2010) complain about the lack of active management and limited presence of DEC officers at Wedge and Grey and expressed their concern that problems would

<sup>252</sup> Department of Conservation and Land Management *Nambung National Park Management Plan 1998-2008*, pp7 and 47. This plan considers Wedge and Grey one of the key issues relevant to the management of the Reserve, p3.

<sup>253</sup> Wedge Island Protection Association and Grey Conservation and Community Association seek the reactivation of the Wedge and Grey Task Force. The Government has advised the associations that the Task Force will not be reactivated.

<sup>254</sup> Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 1 October 2010, p1.

<sup>255</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p2.

<sup>256</sup> For example, Submission No 108 from Wedge Island Protection Association, 23 July 2010, p12. The Wedge Island Protection Association also submitted that while the Department of Environment and Conservation has a no camping policy in the area, they unable to enforce the policy and these activities go unchecked due to staffing constraints: Submission No 108 from Wedge Island Protection Association, 23 July 2010, p24.

be compounded by the increased number of visitors to these sites as a result of the opening of the Indian Ocean Drive.<sup>257</sup>

**Finding 31: The Committee finds that the Department of Environment and Conservation manages an estimated 450 shacks at Wedge and Grey (situated between Lancelin and Cervantes). The shacks are located on unvested reserves. The reserves were created as a temporary measure to enable the implementation of the Squatter Policy and the removal of the shacks. Shack leases were entered into on the understanding that this Government policy would be enforced.**

#### ACCESS TO WEDGE AND GREY - THE IMPACT OF THE OPENING OF INDIAN OCEAN DRIVE BETWEEN LANCELIN AND CERVANTES

- 6.15 The extension to Indian Ocean Drive linking Lancelin to just south of Cervantes was officially opened on 19 September 2010, during the course of the inquiry.<sup>258</sup> This road is a very significant development in this area as the road has opened up this part of the coast, provides easy access to Wedge and Grey and has resulted in an influx of visitors to this part of the Central Coast.
- 6.16 In the past, Wedge and Grey were only accessible by four wheel drives<sup>259</sup> passing through tracks, sand and often vegetation. The sealed Indian Ocean Drive and spur roads to Wedge and Grey allow two wheel drive vehicles easy access to the sites. The trip from Grey (north of Wedge) to Perth now takes less than two hours.<sup>260</sup>
- 6.17 When the road was opened, Hon Colin Barnett MLA, Premier, and Hon Simon O'Brien MLC, then Minister for Transport, noted the importance of this road in the following terms:

*the new road would not only significantly improve road connectivity along the central-west coastline but also play an important part in the future development of the region. ...*

*The construction of this impressive 56km high-standard road, linking Lancelin to Cervantes, provides a safer, shorter route for tourists and other light vehicle road users, away from the heavy freight traffic on Brand Highway ...*

<sup>257</sup> For example, Submission No 108 from Wedge Island Protection Association, 23 July 2010, pp12, 23-24.

<sup>258</sup> The Committee understands that the road was being used, to some degree, prior to its official opening.

<sup>259</sup> 'Wedge is only accessible via a four wheel drive': National Trust of Australia (Western Australia), *Historic Places Assessment Form (Wedge Island Settlement)*, 2001, p2. However, two wheel drives had on occasions previously accessed the site over four wheel drive terrain.

<sup>260</sup> It has been suggested the trip now takes around one and a half hours, which is possible. The time taken would depend on a number of factors including the point of departure, destination suburb, the level of traffic and the vehicle's speed.

[The road, part of a \$95 million project] *will significantly enhance business, tourism and economic opportunities for the central coast region, one of the most popular destinations for West Australians as well as interstate and overseas visitors.*<sup>261</sup>

- 6.18 The opening of Indian Ocean Drive between Lancelin and Cervantes has resulted in a dramatic increase in the volume of traffic to this part of the coast.
- 6.19 Main Roads Western Australia has advised that an average of 1 660 vehicles per day travelled in both directions<sup>262</sup> on Indian Ocean Drive (just north of Wedge) during a minimum one month period after the opening of the road from Lancelin to Cervantes. (This was an increase 1 086 per cent from the one month prior to the opening of the road when 140 vehicles per day were using the road, even though the road had not been officially opened).<sup>263</sup> During the one month period after the opening of the road in September 2010, an average of 360 vehicles per day travelled on the spur road (from Indian Ocean Drive) to the Wedge shacks and 160 vehicles travelled on the spur road to Grey shacks.<sup>264</sup>
- 6.20 Between October 2010 and January 2011, 1 000 to 4 700 vehicles per day travelled on Indian Ocean Drive, with a trend of generally higher use of the road in January 2011 (when use only occasionally fell below 1 500 vehicles per day).<sup>265</sup> (Between 1 000 to 2 800 vehicles per day travelled on Indian Ocean Drive on days that were not public holidays or long weekends). Traffic volumes increase significantly during weekends and, in particular, over public holiday long weekends. For example, over the public holiday weekend from 25 to 27 September 2010, between approximately 3 200 (on the Saturday) and 4 700 (Monday) vehicles per day travelled on the Indian Ocean Drive (north of Lancelin Road).<sup>266</sup> Over the eight days between 27 December 2010 and 3 January 2011, between 3 500 and 4 500 vehicles per day travelled on this part of

<sup>261</sup> *Ministerial Media Statement*, Hon Colin Barnett MLA, Premier, and Hon Simon O'Brien MLC, Minister for Planning, 19 September 2010, p1.

<sup>262</sup> Traffic volume refers to traffic travelling in both directions.

<sup>263</sup> Letter from Mr Gerald Morey, Regional Manager, Wheatbelt North Region, Main Roads Western Australia, 19 November 2010, Attachment, 'Indian Ocean Drive Traffic Study Before and After the Opening'.

<sup>264</sup> *Ibid* and attached chart 'Indian Ocean Drive Traffic Study Before and After the Opening'.

<sup>265</sup> Letter from Mr Gerald Morey, Regional Manager, Wheatbelt North Region, Main Roads Western Australia, 4 February 2011, Attachment, 'Change in Traffic Volume on Indian Ocean Drive (North of Lancelin Road) due to the opening of the Indian Ocean Drive'. The traffic counter is on the road north of Lancelin. Mains Roads Western Australia data also notes a decrease in traffic volumes on the Brand Highway (east of Indian Ocean Drive) from September 2010 to January 2011.

<sup>266</sup> Letter from Mr Gerald Morey, Regional Manager, Wheatbelt North Region, Main Roads Western Australia, 26 November 2010, Attachment, 'Change in Traffic Volume on Indian Ocean Drive (North of Lancelin Road) due to the opening of the Lancelin and Cervantes Sections of Indian Ocean Drive'.

Indian Ocean Drive.<sup>267</sup> On each Sunday (not part of a public holiday long weekend) since the opening of the road in September 2010, between approximately 2 000 and 2 800 vehicles per day have travelled on this road.<sup>268</sup> In October 2010, DEC observed that it is anticipated that up to 3 500 vehicles per day will drive past Wedge and Grey.<sup>269</sup>

- 6.21 Prior to the opening of the road, the Shire of Dandaragan advised that it was expected a lot of the increase in traffic will be generated from the coastal suburbs north of the City of Perth.<sup>270</sup> DEC advised at a hearing in August 2010 that based on their expectation that there was going to be a dramatic change in the level of public visitation to this part of the coast DEC invested approximately \$7 million on major upgrades in Nambung National Park and put in a major visitor centre.
- 6.22 The dramatic increase in visitors to the region is placing significant pressure on the sites. DEC has advised that as a result of the opening of Indian Ocean Drive there are ‘several immediate and ongoing environmental management issues at Wedge and Grey’ and the increased visitation to the sites create an urgent need to manage access, public safety, and provide camping and other visitor facilities.<sup>271</sup> With increased visitation to the sites, the number of public inquiries regarding camping at the site has increased.<sup>272</sup> People are camping at the sites.<sup>273</sup>
- 6.23 The increase in visitors is also exposing the lack of management and inadequate public services and facilities at the sites. As one Wedge shack owner submitted:

*With no designated parking areas, limited signage and no ablution facilities, the extra visitors to the areas are ill-informed and present a risk to safety and the environment.*<sup>274</sup>

<sup>267</sup> Letter from Mr Gerald Morey, Regional Manager, Wheatbelt North Region, Main Roads Western Australia, 4 February 2011, Attachment, ‘Change in Traffic Volume on Indian Ocean Drive (North of Lancelin Road) due to the opening of the Indian Ocean Drive’. Mains Roads Western Australia data also notes a decrease in traffic volumes. Charts provided also note a decrease in the traffic volumes on the Brand Highway (east of Indian Ocean Drive) from September 2010 to January 2011, and an increase in change in traffic volumes on Wanneroo Road (North of Old Yanchep Road) due to the opening of the Lancelin and Cervantes Section of Indian Ocean Drive.

<sup>268</sup> Letter from Mr Gerald Morey, Regional Manager, Wheatbelt North Region, Main Roads Western Australia, 15 March 2011, Attachment, ‘Change in Traffic Volume on Indian Ocean Drive (North of Lancelin Road) due to the opening of the Indian Ocean Drive’.

<sup>269</sup> Department of Environment and Conservation, *Future Management of Shacks at Wedge and Grey Issues Paper (Draft)*, October 2010, p9.

<sup>270</sup> Submission No 18 from Shire of Dandaragan, 25 June 2010, p4.

<sup>271</sup> For example, Department of Environment and Conservation, *Future Management of Shacks at Wedge and Grey Issues Paper (Draft)*, October 2010, p10.

<sup>272</sup> Mr Stephen Meyerkort, Project Manager, Department of Environment and Conservation, *Transcript of Evidence*, 28 January 2011, p13.

<sup>273</sup> *Ibid.*

<sup>274</sup> Submission No 2 from Mr Mick Kontoolas, 11 July 2010, p2.

- 6.24 In WIPA's view, the major management issues at Wedge as a result of 'significant'<sup>275</sup> increase in visitor to the site, are the control of camping, elimination of hoon behaviour, rubbish management and the provision of public toilets.<sup>276</sup> WIPA noted in January 2011 that a massive amount of rubbish has built up through uncontrolled camping activity, the domestic rubbish tip site is full, the scrap metal dumping area is being exposed to the public and the significant rubbish volumes that will continue to be generated through to Easter will potentially cause huge environment and health impacts.<sup>277</sup> In January 2011, about 80 trailer/ute loads of rubbish were estimated to remain (and this has since increased due to campers).<sup>278</sup> WIPA consider that there is an immediate need for the establishment of an effective rubbish management plan at Wedge. WIPA are of the view that DEC should implement management controls to address these issues.<sup>279</sup>

**Finding 32: The Committee finds that the opening of the Indian Ocean Drive between Lancelin and Cervantes in September 2010 has dramatically increased access to Wedge and Grey and the number of visitors to this coastal region. The Wedge and Grey sites are no longer isolated sites. Between October 2010 and January 2011, 1 000 to 4 700 vehicles per day travelled (in both directions) on Indian Ocean Drive. Between 27 December 2010 and 3 January 2011, 3 500 to 4 500 vehicles per day travelled on Indian Ocean Drive.**

**Finding 33: The Committee finds that the opening of Indian Ocean Drive between Lancelin and Cervantes has resulted in more people looking to enjoy the social experience of visiting and holidaying in this part of the coast.**

## THE LEASE

- 6.25 As noted in paragraph 6.11, shack owners were granted the lease (and extensions) as an interim measure until the extension to Indian Ocean Drive was opened. When leases were established they were not transferable and shack purchasers (since then) have known that the shack could be removed at any time. The lease fee is \$942 per annum.<sup>280</sup>
- 6.26 The lease between DEC and shack owners (lessees) includes the following terms:
- The lessee shall pay annual rent.

<sup>275</sup> Letter from Mr Peter Marr, President, Wedge Island Protection Association, 10 February 2011, p2.

<sup>276</sup> Letter from Mr Peter Marr, President, Wedge Island Protection Association, 25 January 2011, p1.

<sup>277</sup> *Ibid*, p3.

<sup>278</sup> *Ibid*, p4.

<sup>279</sup> Letters from Mr Peter Marr, President, Wedge Island Protection Association, 25 January 2011 and 10 February 2011.

<sup>280</sup> Letter from Mr Peter Sharp, Director Parks and Visitor Services, Department of Environment and Conservation, 7 February 2011, p1.

- The lessee shall not assign, underlet or part with possession of or mortgage or otherwise encumber the leased premises.
- The lessee shall not use or permit the premises to be used for any purpose other than for a private dwelling unless authorised in writing.
- the lessee shall comply with and obey the provisions of all lawful and valid regulations, notices, orders and by-laws which may be made or given under the *Health Act 1911*, the *Local Government Act 1960*, the *Bushfires Act 1954*, the *Environmental Protection Act 1986* or other Acts and or regulations.
- The lessee shall indemnify and keep indemnified the Executive Director, the Department, the Crown in right of the Commonwealth and the State and statutory person and authorities against all liability to any person in respect of death, injury, loss of damage to properly occurring on the premises whether the result of negligence, occupiers' liability or otherwise.
- The lessee shall not build any structure upon the premises or add to any structure.
- Where at any time prior to the expiry of the lease term the Executive Director, the Department, the Shire, the Crown in right of the State or the Commonwealth or any agent or instrumentality of the Crown, or any other statutory person or authorities require the premises for any purpose whatsoever, the Executive Director may terminate the lease by serving on the lessee not less than 90 days notice in writing. If the shack is not removed by the lessee at or prior to the expiration or sooner termination of the lease term the Executive Director may at his absolute discretion take possession, demolish and remove the property and recover his costs and expenses from the lessee.
- No implied right arises on the part of the lessee under this lease for the provision of services to the lessee by the Executive Director, the Department, the Shire, the Crown in right of the State or the Commonwealth or any other person or authority or their respective servants or agents.<sup>281</sup>

**Finding 34: The Committee finds that the lease agreements at Wedge and Grey were entered into in 1995 (and have been renewed) as an interim measure until shacks were removed pursuant to the Squatter Policy. It was understood that this interim measure was to continue until the extension of Indian Ocean Drive between Lancelin and Cervantes was completed.**

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<sup>281</sup>

Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 5 October 2010, Attachment, Wedge and Grey lease. The above notes extracts of the 17 page lease.

**Finding 35: The Committee finds that when leases at Wedge and Grey were entered into in 1995 the shacks were not transferable and shack purchasers have known that the shacks could be removed at any time.**

### WEDGE AND GREY MASTERPLAN

- 6.27 It is notable that Wedge and Grey are subject to a considered and strategic masterplan, the *Wedge and Grey Masterplan*, which is consistent with Government policies and provides guidelines and planning for the development of visitor facilities at Wedge and Grey after the shacks are removed. The *Wedge and Grey Masterplan* is the current guiding document for the management of Wedge and Grey.<sup>282</sup>
- 6.28 The *Wedge and Grey Masterplan* was prepared by CALM's Wedge and Grey Planning Team, assisted by a consultative group (which included WIPA and GCCA representatives), funded by Coastwest/Coastcare program and coordinated by the Coastal Management section of the Ministry for Planning.<sup>283</sup> The *Wedge and Grey Masterplan* notes that the sites will be incorporated into Nambung National Park. The Squatter Policy, *Central Coast Regional Strategy* and *Nambung National Park Management Plan 1998 - 2008* pave the way for the masterplan to be implemented.
- 6.29 The purpose of the *Wedge and Grey Masterplan* is:
- [To] provide a framework to guide future planning, development and management of recreation and tourism development and management of recreation and tourism opportunities and facilities, so that visitors can enjoy the areas' special values, particularly the natural attractions and landscapes, in a sustainable manner.*<sup>284</sup>
- 6.30 The vision of the *Wedge and Grey Masterplan* is that Wedge and Grey will achieve best practice standards in environmentally sustainable development, providing for socially acceptable and equitable uses which are economically sustainable and rely on the use, conservation and enhancement of natural resources.
- 6.31 The *Wedge and Grey Masterplan* essentially provides that the shacks will be replaced with a range of low key nature-based recreational facilities and visitor accommodation

<sup>282</sup> Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 22 December 2010, p2. The preparation of a management plan for Wedge and Grey is a requirement contained in the agreements made between the then Minister for Lands and the Minister for Environment, for the management of the reserves by DEC under the State Government Squatter Policy 1989: Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 22 December 2010, p2.

<sup>283</sup> The Committee understands that the *Wedge and Grey Masterplan* is technically an amendment to the *Nambung National Park Management Plan 1998-2008*.

<sup>284</sup> Department of Conservation and Land Management (for the National Parks and Nature Conservation Authority), *Wedge and Grey Masterplan*, 2000, p1.

types including camping, caravanning and eco lodge style accommodation, available to all members of the public. The masterplan envisages that Wedge and Grey will provide nature-based recreation and tourism opportunities for day visitors and short stay holiday makers, and cater to a wide range of interests and budgets. The emphasis will be on providing affordable accommodation and a holiday destination for Western Australian families. Unserved bush camp sites, basic self-contained cottages for families, group accommodation for budget travellers and special interest groups and some remote-style accommodation with a higher standard of amenity are envisaged.

- 6.32 A network of walk and cycle trails will also be developed connecting facilities and features at both sites. The *Wedge and Grey Masterplan* adds that the development and management of Wedge and Grey aims to achieve high standards of environmental awareness and protection and the natural environment will be an integral part of the visitor experiences and facilities.
- 6.33 The *Wedge and Grey Masterplan* notes that the removal of the shacks offers an excellent opportunity to rehabilitate and develop existing disturbed land for much needed nature-based recreation and accommodation facilities on the Turquoise Coast and the expansion of Perth's northern and north-eastern growth corridor will significantly contribute to the demand for access, facilities and accommodation on the Central Coast.<sup>285</sup>
- 6.34 It is proposed that Government will undertake rehabilitation and landscape protection works and provide basic amenities. The *Wedge and Grey Masterplan* also proposes to advertise for expressions of interest from prospective developers to provide accommodation and other visitor services. In 2001, there was a publicly advertised call for expression of interest for development. There were a number of applicants, including the shack associations. In 2005, due to the uncertainty about the date of completing Indian Ocean Drive, DEC terminated this process with the agreement of the Minister for the Environment, and the concurrence of the Minister of Planning and Infrastructure and the Minister for Heritage. They agreed that once there was greater certainty, the process could take place.<sup>286</sup> The shack associations and other developers will be able to participate in this process.

### **Support for the *Wedge and Grey Masterplan***

- 6.35 Evidence before the Committee indicates that the facilities and accommodation development proposed by *Wedge and Grey Masterplan* may prove very popular and the removal of the shacks represents an opportunity to provide tourist facilities in a prime location available to all Western Australians (see also paragraphs 4.70 to 4.85 and Findings 23 to 25, regarding tourism issues).

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<sup>285</sup> *Ibid*, p4.

<sup>286</sup> Submission No 46 from Tourism Western Australia, 7 July 2010, p4.



- 6.36 Tourism Western Australia supports the Squatter Policy and the plan to create nature-based tourist sites at Wedge and Grey. Tourism Western Australia advised the Committee that there is '**highly significant tourism potential**' which has the capacity to add '**immense value to the development of the region**' [Committee emphasis] for the reasons noted below:

*The Wedge and Grey sites and the surrounding landscapes offer a high quality beach experience with spectacular sand dunes, swimming, fishing and access to a beautiful coastal environment. These contribute significantly to the tourism values of the area. ...*

*The Masterplan proposal allows for the development of low impact, built accommodations (wilderness lodge, camping and caravan facilities) to cater of the general public and the increased number of visitors ... it is expected these reserves will become subject to significant levels of visitation due to their proximity to Perth and the natural attraction of these locations ... The Central Coast Strategic Tourism Planning Strategy ... also supports the development of this area for tourism purposes ...*

*Tourism WA is of the view that Wedge and Grey have highly significant tourism potential and, if developed appropriately, have the capacity to add immense value to the development of Australia's Coral Coast tourism region and enhance the Indian Ocean Drive as a premier tourist drive. These locations offer very high quality nature based tourism opportunities within good proximity to the Perth market that would be of interest to interstate and international investors. Development would provide genuine public access to this stretch of Western Australia's coastline where there is currently a lack of quality accommodation and the opportunity exists to provide such facilities at this scenic location. ...*

*This approach is supported by important planning documents, include the Central Coast Planning Strategy, the Nambung National Park Management Plan, and the Wedge and Grey Master Plan and has a long history ... Significantly, as this is Crown land the Government can ensure the provision of a range of accommodation options consistent with the DEC master plan, including low cost options such as caravan parks. These would be protected in perpetuity for tourism uses, and the implementation of the squatter policy could offer accommodation options not currently provided in the region.<sup>287</sup>*

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*Ibid*, pp4-5.

- 6.37 Tourism Western Australia disputes the assertion made by shack owners that shacks are or have potential as a tourism asset and is of the view that '*suggestions that shacks represent marketable alternative tourism are erroneous and misleading*'.<sup>288</sup> Tourism development at Wedge and Grey is consistent with the Government endorsed Landbank project. Tourism Western Australia's recommendations relating to Wedge and Grey follow:

*[The Squatter Policy] provides a set of reasonable guidelines that will lead to orderly and proper administration of Crown lands ...*

*The Government create certainty and equity in the market place by confirming the existing policy and supporting its ongoing implementation ...*

*The Government confirm a preference for orderly re-development of Wedge and Grey ... as environmentally sensitive nature based tourist sites ...*

*The Standing Committee note the proximity to Perth, unique coastal location and nature based experiences available provide a significant opportunity to attract interstate and international investment to develop Wedge and Grey for tourism purposes ....*

*The Expression of Interest process for Wedge and Grey be recommended as envisaged upon completion of the Indian Ocean Drive extension ... noting the termination clause to this effect is included in the shack owners leases to implement this. ...*

*The shack owners and their associations be invited to participate in the tendering process for Wedge and Grey ...*

*The Standing Committee note that subject to additional resources being allocated that these outcomes could be achieved through the Government's Land/Naturebank program.*<sup>289</sup>

- 6.38 The *Nambung National Park Management Plan 1998-2008* also notes that Wedge and Grey have high recreational values and potential exists for multifaceted developments which could include a range of accommodation, food services, day use activities, fishing excursions and other recreational tours and commercial pursuits and picnicking and camping once the Squatter Policy has been implemented.<sup>290</sup>

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<sup>288</sup> *Ibid.*, p2.

<sup>289</sup> *Ibid.*, p1.

<sup>290</sup> Department of Conservation and Land Management *Nambung National Park Management Plan 1998-2008*, pp9, 36 and 40.

6.39 The Shire of Dandaragan considers that the development proposed by the *Wedge and Grey Masterplan* development ‘will prove extremely popular with the general public’,<sup>291</sup> as the Sandy Cape development has proven. (The Shire of Dandaragan’s comments in support of the masterplan are noted from paragraph 6.71 of this report). DEC considers that ‘*Wedge and Grey are attractive coastal locations that have a great deal of potential for recreational use and future tourism development*’.<sup>292</sup>

6.40 DEC advised at a hearing that the public development of the sites would involve caravan park, camping and chalets, ‘*those sorts of facilities*’. Mr James Sharp, DEC, advised of Government’s commitment to the Naturebank program, which identifies and releases investor ready land for low impact visitor accommodation such as development proposed in the *Wedge and Grey Masterplan*:

*the state government has committed to a Naturebank program that we are pursuing in national parks, where we are making available sites for commercial developers based upon the state providing some of the base infrastructure—roading, water and power. It would be that sort of model of development where that tries to make the sites investor ready. So you would have public amenity and you would have that commercial amenity as well.*<sup>293</sup>

6.41 A DEC officer who was involved in the *Wedge and Grey Masterplan* added that at that time there was a known demand for these tourist options but developers preferred to await the completion of the extension to Indian Ocean Drive.<sup>294</sup>

6.42 The Urban Development Institute, a peak body representing the property industry, support the *Wedge and Grey Masterplan* and the Shire of Dandaragan implementing areas of the Masterplan which fall under its jurisdiction and its *Concept Plan of Coastal Nodes North of Jurien Bay*. In its view, the 2007 Western Australian Planning Commission Award for Local Government Excellence in Coastal Planning and Management awarded to the Shire of Dandaragan (for the Sandy Cape development) is a clear endorsement of the merit of the Masterplan and the application of relevant policy. The Urban Development Institute considers that the Masterplan seeks to improve environmental, social and economic outcomes for the people of Western Australia and supports the equitable and consistent application of planning and environmental policies.<sup>295</sup>

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<sup>291</sup> Submission No 18 from Shire of Dandaragan, 25 June 2010, p4.

<sup>292</sup> Department of Environment and Conservation, *Future Management of Shacks at Wedge and Grey Issues Paper (Draft)*, October 2010, p8.

<sup>293</sup> Mr James Sharp, Deputy Director General, Parks and Conservation, Department of Environment and Conservation, *Transcript of Evidence*, 3 August 2010, p2.

<sup>294</sup> *Ibid*, p10.

<sup>295</sup> Submission No 40 from Urban Development Institute of Australia (Western Australia), 30 June 2010, p3.

- 6.43 Further submissions also supported family and nature-based camping and low impact eco friendly accommodation being provided at this site after shacks are removed.<sup>296</sup> In a paper supporting the retention of shacks, Dr Selwood, University of Winnipeg, noted that a greater degree of public consultation and input was involved in drafting the *Wedge and Grey Masterplan* and the draft plan and its contents more closely reflect the holiday environment currently envisaged at the squatter community.<sup>297</sup>
- 6.44 The Committee observed that the low key nature-based tourist facilities proposed by the *Wedge and Grey Masterplan* reflect the values expounded by many shack owners in their submissions when they comment on the benefits of returning to nature and enjoying the beauty of the great outdoors.

**Finding 36: The Committee finds that the *Wedge and Grey Masterplan* provides that the shacks at Wedge and Grey will be removed and replaced with a range of low key, nature-based recreational facilities and accommodation available to all members of the public.**

**Finding 37: The Committee finds that Wedge and Grey have a highly significant tourism potential and the capacity to add immense value to the development of the region. The development of recreational nature-based, affordable accommodation available to all members of the public is likely to be very popular and will maintain and continue the social heritage of Wedge and Grey.**

### Legal Issue

- 6.45 WIPA and GCCA have submitted that the Wedge and Grey reserves cannot be subject to a management plan under the *Conservation and Land Management Act 1984*. WIPA and GCCA have submitted, based on legal advice they obtained, that the authority to implement a management plan on the reserves does not reside within the *Conservation and Land Management Act 1984* as this land is not CALM land and the *Wedge and Grey Masterplan* is not a management plan within the meaning of Part V of the *Conservation and Land Management Act 1984*, nor is it binding on CALM (DEC) pursuant to section 33 of that Act.<sup>298</sup> They also submit that in order for a ‘management plan’ within the meaning of the *Land Administration Act 1997* to be created for the orderly and proper planning of the reserve, the care, control and management of the reserve would have to be vested in some other person or persons

<sup>296</sup> For example, Submission No 29 from Ms Dianne Brown, 29 June 2010.

<sup>297</sup> Dr J Selwood and A May, ‘Research Note; Resolving Contested Notions of Tourism Sustainability on Western Australia’s ‘Turquoise Coast’: The Squatter Settlements’, *Current Issues in Tourism*, Vol 4, Nos2-4, 2001, pp381-391 at p389.

<sup>298</sup> See Submission No 108 from Wedge Island Protection Association, 23 July 2010, p31, and Submission No 109 from Grey Conservation and Community Association, 23 July 2010, p41.

pursuant to section 46 of that Act.<sup>299</sup> The Committee is not in a position to comment on this legal view, or on what legal process should be followed to develop this public land.

**WEDGE ISLAND PROTECTION ASSOCIATION (WIPA), GREY CONSERVATION AND COMMUNITY ASSOCIATION (GCCA) AND SUBMISSIONS FROM SHACK OWNERS**

- 6.46 WIPA, GCCA and many shack owners accept that change is required at Wedge and Grey. WIPA and GCCA consider that a co-existence management model which enables long term tenure of shack sites simultaneously with formalised public access facilities should be implemented. As one Wedge shack owner submitted:

*We do not wish to put our head in the sand and hope that everybody leaves us alone, we accept that we have a responsibility to upgrade our shacks to required standards, we accept that affordable accommodation should be provided and available for the general public. We hold true to the point that the Wedge environment should be protected and nurtured. However we also believe that we have a well established social heritage with a strong community and sense of place and it can be retained and co-exist within a future development.*<sup>300</sup>

- 6.47 WIPA and GCCA made the following recommendations in their submissions to the Committee:

1. *That a full investigation be conducted of the Tasmanian Crown Land (Shack Sites) Act 1997 and its implementation, as well as NSW and SA models, to identify best practice that could be applied to effect a balanced long term tenure regime for remaining shack sites in Western Australia.*
2. *The Committee direct a review of the current State Government Squatter Policy under a lead agency to enable retention of existing shack site settlements.*
3. *The Committee appoint the Department of Regional Development and Lands as lead agency for the review of policy.*
4. *Any review of policy relating to shack sites establishes a protocol for future site use and takes into account competing demands including those between government agencies.*

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<sup>299</sup> *Ibid.*

<sup>300</sup> Submission No 8 from Mr Peter Marr, 27 April 2010, p2.

5. *Research is undertaken by the Committee of the management practice of shack sites outside of the Central coast area of WA to identify best practice in the regulation of those sites and its application to other sites.*
  6. *The issue of availability of adequate resources to manage shack sites in WA be investigated.*
  7. *That DEC be directed to progress development of a co-existence management model at Wedge and Grey which enables long term tenure of shack sites simultaneously with formalised public access facilities.*
  8. *That DEC be directed to address the immediate need of an operational management regime at Wedge and Grey that will control the increasing visitor numbers at both sites due to the ease of access via the Indian Ocean Drive.*
  9. *In considering what constitutes legitimate use of Public Land the issue of equity is applied equally to shack leaseholders as it is intended to be for current non-users of the sites.*
  10. *Shack sites where leases are due to terminate and are subject to the application of the policy review are brought into a standard short term lease extension of 3 years pending finalisation of site specific management plans.*
  11. *That an Economic and Social Impact Study be commissioned urgently to verify the projected value of the Wedge and Grey shack sites to the region. WIPA and GCCA have offered to contribute to the cost of such a study to expedite the outcome of this study.*
  12. *The process to formally assess and develop heritage conservation plans for Wedge and Grey be accelerated. Both shack associations, WIPA and GCCA, have indicated preparedness to contribute financially to a timely result.*<sup>301</sup>
- 6.48 WIPA and GCCA (their submissions to the Committee are very similar) recommend a two-tiered policy change to allow for the retention of shacks, site specific management plans for each shack site (rather than a unilateral model applied to all sites) and the development of shack specific guidelines relating the shack standards. They submitted that the definition of standards for shacks should aim to meet public health and safety requirements for short term occupancy patterns and the *Building Code of Australia* provisions are ‘not relevant to Shack Architecture’.<sup>302</sup>

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<sup>301</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, piii and Submission No 109 from Grey Conservation and Community Association, 23 July 2010, pvi. The submissions contained the same recommendations. WIPA expanded on recommendations 7, 8 and 12 in their submission dated 10 February 2011.

<sup>302</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, p11.

- 6.49 The WIPA submission states that '[m]ost shacks would be classified as shed construction'<sup>303</sup> and at a hearing they added that 'We are talking about basically shed construction. It is a different type of building and therefore a different building code should apply. So long as it satisfies the health and safety issues, it is entirely appropriate to use a code with the standard that is relevant to shed construction'.<sup>304</sup> (As noted in paragraph 4.32 of this report, *Building Code of Australia* shed standards apply only to non-habitable structures).
- 6.50 It is submitted that examples exist of how to achieve workable solutions in Western Australia if the political will is evident for it to be realised.<sup>305</sup>
- 6.51 In relation to the co-existence management model proposed at Wedge and Grey, the GCCA submission notes that essential aspects of their site specific management model proposal include:
- *Retention of existing shacks by current leaseholders under a long term lease/license arrangement or freehold tenure similar to those in other locations and in other states.*
  - *Continuation of tenure subject to guidelines agreed with the proposed managing entity.*
  - *Abandoned shacks to be upgraded and made available to the public for short term accommodation.*
  - *An ongoing management plan for the site agreed by all stakeholders.*
  - *Ongoing development of facilities for public access. This will include public access to beach areas, parking, picnic facilities, camping and possibly caravan parking.*<sup>306</sup>
- 6.52 WIPA proposes that the management of the shack area be achieved through a single lease held by the shack management body who will sublease to shack owners.<sup>307</sup> They propose that the site specific management model involve a partnership between the land management authority and the association which may include commercial

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<sup>303</sup> *Ibid*, p3.

<sup>304</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p11.

<sup>305</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, pii.

<sup>306</sup> Submission No 109 from Grey Conservation and Community Association, 23 July 2010, p20. Further detail of the co-existence model and site specific management model proposed by Grey Conservation and Community Association and Wedge Island Protection Association is contained in their submissions to the Committee.

<sup>307</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, p18.

operators. Parties to this partnership will form a Management Council to ensure the objective and outcomes of the management plan for the site are being met. Continuation of lease tenure will be subject to rules and guidelines developed by the Management Council in consultation with stakeholders. The Management Council will be instrumental in implementing the shack management model. WIPA submit that shacks will be modified to comply with relevant health, safety and environment requirements and subleases will *'include conditions related to the relevant building code that may require shacks to be upgraded'*.<sup>308</sup> Under this proposed model, the public access areas, accommodation providers, commercial entities and tourism operators will be managed by the authority with the responsibility for management of the reserve (currently DEC) and the *'opportunity for short stay visitors can be provided through "shack stay" accommodation as temporary Club Members'*.<sup>309</sup> They submit that the site specific management model retains cultural heritage and 'sense of place' of Wedge.<sup>310</sup>

- 6.53 WIPA also propose an interim camping area to pave the way for transitional change. This interim camping area will provide *'immediate relief for those acceptable groups of Campers now able to frequent the area as a result of the construction of the new road'* and will eventually provide an overflow to the main camping ground.<sup>311</sup>
- 6.54 WIPA note that the site specific model presented is *'one approach'* for the retention of the shack community.<sup>312</sup> GCCA note that they are willing to participate in finding a way forward.<sup>313</sup> (DEC evidence regarding their discussions with WIPA and GCCA about the co-existence option is noted from paragraph 6.65 of this report). WIPA stated in evidence, in relation to the co-existence option:

*We think that the sites can in fact achieve what is now referred to by DEC as a co-existence model where shack communities can co-exist with whatever else they would want to put in there in terms of whether it is commercial tourism opportunity or simple camping or whatever. We are saying that you can have all of that, and one is not necessarily going to be to the exclusion of the other. In terms of why, we think we are a good example of the triple bottom line.*<sup>314</sup>

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<sup>308</sup> *Ibid*, p18.

<sup>309</sup> *Ibid*, p19.

<sup>310</sup> *Ibid*, p20.

<sup>311</sup> *Ibid*, p24.

<sup>312</sup> *Ibid*, p17.

<sup>313</sup> Submission No 109 from Grey Conservation and Community Association, 23 July 2010, p18.

<sup>314</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, pp9-10.



- 6.55 WIPA submits that shack sites satisfy a range of needs and could service a particular market over and above mainstream tourism or recreational markets because shack sites are a unique community experience and each site has a unique ‘sense of place’.<sup>315</sup> They hold the view that this uniqueness is a point of difference for tourists and the additional accommodation facilities of shacks ease stress on existing tourist destinations.<sup>316</sup>
- 6.56 Submissions noted that Wedge and Grey have been acknowledged as having cultural heritage significance to the extent that they represent an extremely rare cultural landscape and ‘*this provides a valuable opportunity for tourism development*’.<sup>317</sup> (Heritage issues are noted in paragraphs 6.101 to 6.107). At a hearing, WIPA also stated that the sites are tourism assets and ‘*significant tourism jewels*’.<sup>318</sup> As previously noted, Tourism Western Australia considers that the site has tourism potential after the shacks are removed and ‘*suggestions that shacks represent marketable alternative tourism are erroneous and misleading*’.<sup>319</sup> One example of a shack owner’s submission on tourism follows:
- Shack communities are capable of providing affordable coastal family holiday destinations, as well as a wide range of recreational and tourist facilities and experiences. Their potential as tourism assets is considerable, and can generate investment in facilities and tourism related businesses through increased access to and use of these sites.*<sup>320</sup>
- 6.57 The Committee received a large number of submissions from Wedge and Grey shack site owners supporting the retention of the shacks at Wedge and Grey. A summary of the issues raised in these submissions is attached at Appendix 8.
- 6.58 Shack owners at Wedge and Grey submitted that they are environmental custodians of their area citing examples of planting shrubs and the revegetation of areas as an example of the environmental work they undertake.<sup>321</sup>
- 6.59 Many shack owners advised of the ‘sense of place’ and community spirit at Wedge and Grey, of their attachment to the sites, the lifestyle, the uniqueness, nature and beauty of the sites. Many comment on how the sites have impacted on their lives and

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<sup>315</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, p4.

<sup>316</sup> *Ibid.*

<sup>317</sup> *Ibid.*, p28.

<sup>318</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, pp4-5.

<sup>319</sup> Submission No 46 from Tourism Western Australia, 7 July 2010, p2.

<sup>320</sup> Submission No 59 from Mr Simon Trouchett, 9 July 2010, p1.

<sup>321</sup> For example, Submission No 95 from the Simons family, 15 July 2010 (regarding Grey).

on the benefits of being able to ‘get away from it all’, get back to nature and leave behind the stresses of modern life. In evidence, Mr Knowles stated that life at Wedge is all about families, commented on the social value of the site and stated that ‘[this] is something that the bureaucracy has a great deal of difficulty acknowledging, because it is intangible stuff, you cannot measure it’.<sup>322</sup> A sample of submissions from shack owners follows:

*The memories I have created during the eleven years I have been going to Grey have made me the young woman I am today, independent, ambitious, enthusiastic, mature and responsible. I am certain Grey has influenced the person I have become. During my time at Grey I have experienced both frightening and joyful events, seeing snakes and sharks, catching my first fish, meeting new people and creating new friendships. What worries me the most is the thought that they will not be here in years to come for me to show my children.*<sup>323</sup>

*Wedge gives us the opportunity, not only as a family unit, but as an extended family, to have affordable regular breaks ... I would like my children to have the opportunity to be exposed to the things that I thought were important for me to experience during the formative years. I would like my children to enjoy their grandparents company in this relaxed environment and built their cherished memories for reflection later in life.*<sup>324</sup>

*[My uncle] introduced me to this wonderful place of crystal clear water, huge sand dunes, great fishing and surfing. As a young lad this was my utopia. ... Wedge Island has been a great place of learning [for my daughter]. Learning to swim, surf, fish and even drive a vehicle.*<sup>325</sup>

*My family have been holidaying in the Wedge community for the past 30 years, since I was around the age of 3. Wedge Island has been a large part of my heritage ... my cousins and I learned to swim on the beautiful calm beaches surrounding the island, as well as learning water safety and how to “read the water” ... We were taught to drive cars in the sand dunes and on the long stretches of beaches ... [we] also love the outdoors lifestyle, such as fishing, swimming, surfing,*

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<sup>322</sup> Mr Murray Knowles, Executive Committee Member, Wedge Island Protection Association, *Transcript of Evidence*, 3 August 2010, p4.

<sup>323</sup> Submission No 42 Ms Georgia Matters, 6 July 2010, p1.

<sup>324</sup> Submission No 110 from Ms Rachel Coleman, 16 July 2010, p2.

<sup>325</sup> Submission No 58 from Mr and Mrs RS Bender, 9 July 2010, p1.

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*diving and four-wheel driving. Another of our favourite things of Wedge is the community spirit of all the shack owners. There is always a mass gathering of WIPA members on the beach for summer sundowners where a few drinks and a lot of stories are shared by people with the only thing in common being our love for our shacks and way of life. We rarely miss a New Years Eve up at Wedge ... Wedge allows us all to spend quality time together without the worries of city life ... it is definitely of heritage and cultural significance to us, and we hope to be able to share this caring and carefree way of life with our own children one day.*<sup>326</sup>

- 6.60 WIPA's views on the impact of the increase in visitors to the site following the opening of the extension of Indian Ocean Drive are noted at paragraph 6.24 of this report.

#### **DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

- 6.61 A few matters raised by DEC, who manage Wedge and Grey, were of particular interest to the Committee.
- 6.62 In relation to the environment and environmental management at the sites, DEC advised that there is no specific program of regularly monitoring the environmental impacts of residents at Wedge and Grey, there is vegetation loss and erosion, there are issues about waste water and water entering into the water table, and a range of track issues have occurred.<sup>327</sup> Regarding vehicle use at Wedge, they advised that there may be four or five serious off-road vehicle accidents at Wedge each year.<sup>328</sup> The information provided by DEC on the co-existence proposal (see paragraph 6.69), demonstrates the important environmental management issues at this site.
- 6.63 As previously noted, DEC also advised that shack leaseholders can not sell or on lease the shack (as provided in the lease, see above)<sup>329</sup> but this does occur. DEC advised that if such arrangements are made the lease does not transfer, ownership does not change hands and the ownership stays with the leaseholder (the person whose name is on the lease).<sup>330</sup> The DEC project manager who deals with shack owners added:

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<sup>326</sup> Submission No 49 from Ms Nicole Reeley, 9 July 2010, p1.

<sup>327</sup> Mr James Sharp, Deputy Director General, Parks and Conservation, Department of Environment and Conservation, *Transcript of Evidence*, 3 August 2010, pp 3 and 9.

<sup>328</sup> Mr Stephen Meyerkort, Project Manager, Department of Environment and Conservation, *Transcript of Evidence*, 3 August 2010, p9.

<sup>329</sup> *Ibid*, p5.

<sup>330</sup> Mr James Sharp, Deputy Director General, Parks and Conservation, Department of Environment and Conservation, *Transcript of Evidence*, 3 August 2010, p6.

*when you are buying a shack you are buying the rights to a key. There is no land title or any property ownership or details that go with it in the normal manner ...*

*[I advise shack leaseholders] that we cannot transfer the lease because that is written into the shack policy and into the lease itself.*<sup>331</sup>

- 6.64 DEC advised that, if the Squatter Policy is not enforced and the sites developed, further options at Wedge and Grey are to explore co-existence options or retain the shacks and normalise the area as a community.<sup>332</sup>

- 6.65 Regarding the co-existence option, Mr James Sharp, DEC, advised at a hearing:

*[The] minister has indicated that she is awaiting the advice or outcomes of this committee. In the meantime, the minister has asked us to consider the propositions in relation to the potential for shacks to be retained and the prospect of public facilities and amenities to occur at the same time. We are working through the application of the policy, if you like, within the context of looking at how that might be achieved.*<sup>333</sup> ...

*The Chairman: Do you have any set views of what compromise options would satisfy the department, the state and the local government?*

*Mr James Sharp: We have worked through, when we met with the two shack communities there, what some of the principles are that would drive that and some of the issues that would need to be resolved in terms of making that work. Part of that is defining areas—how do you define where both access and egress is made by the public as such; what areas are made available for public amenity; how standards are applied? If it was just a development, you would expect a development to look at issues of waste disposal, waste water disposal, water supply, power and those sorts of things. How do you get those to work together in terms of a contribution? There are a whole range of issues and principles that we are working on.*<sup>334</sup>

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<sup>331</sup> Mr Stephen Meyerkort, Project Manager, Department of Environment and Conservation, *Transcript of Evidence*, 3 August 2010, p6.

<sup>332</sup> Mr James Sharp, Deputy Director General, Parks and Conservation, Department of Environment and Conservation, *Transcript of Evidence*, 3 August 2010, p7.

<sup>333</sup> *Ibid*, p2.

<sup>334</sup> *Ibid*, p7.

6.66 At a meeting between DEC and WIPA and GCCA representatives, 19 issues that need to be investigated with respect to considering a co-existence option were identified. DEC advised that these issues are complex and require research and legal opinion to determine if and how a co-existence option could be accommodated.<sup>335</sup> The following issues were identified:

- 1. Building Standards for shacks 'fit for purpose'. Legal and statutory requirements*
- 2. Health requirements — Public and Environmental*
- 3. Water Management*
- 4. Effluent Management*
- 5. Refuse Management*
- 6. Energy Provision*
- 7. Fire Protection*
- 8. Conservation — Landforms, Vegetation and Fauna*
- 9. Public Areas and 'Private Areas' — Planning and Management*
- 10. Heritage Issues*
- 11. Native Title Issues*
- 12. Traffic Management*
- 13. Town and Regional Planning*
- 14. Tenure*
- 15. Settlement Footprint*
- 16. Compliance — Ongoing*
- 17. Governance*
- 18. Site Management*

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<sup>335</sup> Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 22 December 2010, p2.

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19. *Income Generation.*<sup>336</sup>

- 6.67 DEC advised that an understanding has been reached that shack occupiers will need to meet the requirements of the buildings codes and the *Health Act 1911* with respect to their structures in any proposal that may involve shack retention.<sup>337</sup>
- 6.68 In relation to the issue of complying with building codes and regulations, DEC are of the view that many of the shacks at Wedge and Grey have been constructed from recycled building materials and built in a manner that does not comply with the *Building Code of Australia*.<sup>338</sup> (The Shire of Dandaragan expressed a similar view).<sup>339</sup> DEC advised that *Building Code of Australia* compliance will require a significant effort and financial commitment, and it may not be cost effective or practical to do so.<sup>340</sup> DEC have noted that the majority of the shacks will need to be reconstructed to meet the building and health standards<sup>341</sup> and in many cases, a total rebuild of shack structures rather than an upgrade of existing shack, may be required.<sup>342</sup> Some of the structural issues and requirements that must be addressed to comply with *Building Code of Australia* follow:
- an engineering report will need to be undertaken for each shack to determine its structural integrity, safety and Building Code compliance;
  - many shacks have substandard concrete footing and floor slabs (many floors are shell grit, compacted sand and layers of carpet);
  - many shacks will need major reconstruction or a complete rebuild to comply with *Building Code of Australia* minimum requirements for ceiling height, room sizes, window areas, ventilation, wall linings, and the need for cavity walls, roof framing and roof draining;

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<sup>336</sup> Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 22 December 2010, Attachment C. WIPA added the following to the list: '*Transitional Arrangements*' and '*Time Tabling - Resolution of Issues - Implementation of Works*': Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 22 December 2010, Attachment C.

<sup>337</sup> *Ibid.*

<sup>338</sup> Department of Environment and Conservation, *Future Management of Shacks at Wedge and Grey Issues Paper (Draft)*, October 2010, p2.

<sup>339</sup> Submission No 18 from Shire of Dandaragan, 25 June 2010, pp3-4, states that '*Council is unsure as to whether [the Wedge Island Protection Association] have made themselves fully aware as to the extent of remedial works required to gain full Building code compliance*' and '*Council is doubtful that the majority of shacks can be modified to achieve the relevant BCA "Deemed-to-Satisfy" criteria*'. The submission outlines actions that would be required in order to be compliant.

<sup>340</sup> *Ibid.*, p4.

<sup>341</sup> Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 22 December 2010, p2.

<sup>342</sup> Department of Environment and Conservation, *Future Management of Shacks at Wedge and Grey Issues Paper (Draft)*, October 2010, p4.

- gas and electrical safety requirements will need to be met. Most shacks' gas and electrical fittings do not meet the licensing and certification requirements and would need to be reinstalled to comply with standards;
- an assessment of the suitability of the landforms at Wedge and Grey to support the establishment of permanent dwellings needs to be undertaken, especially at Wedge which is low lying, subject to seasonal flooding and has a high water table. In some places, ground water is only one metre from the surface. Flooding of the site has occurred in the past; and
- local government will be required to assess and inspect and enforce the *Building Code of Australia* and associated building regulations.<sup>343</sup>

6.69 DEC is of the view that, '*in the main*', the shacks at Wedge and Grey also do not comply with the *Health Act 1911*. The Economic Regulation Authority requires a reticulated potable supply for the shack communities or a 92 000 litre rainwater tank for each and every shack dwelling. The 'drop hole' toilets or septic tank systems at Wedge and Grey may not comply with *Health Act 1911* regulations, the high water table at Wedge may present an obstacle with installing septic systems (in some areas of Wedge underground water is located only 0.5 metres from the ground surface), and Wedge and Grey lots are not large enough to meet required minimum lot sizes under the Health Regulations before an approve septic tank system will be permitted and therefore alternative systems need to be considered.<sup>344</sup>

6.70 DEC concludes that the '*magnitude of the task in providing infrastructure at Wedge and Grey is significant*' [Committee emphasis] and has noted that the complexity and difficulty of the task to put in place a workable shack retention model should not be underestimated and programs to retain shacks in other States have taken more than 15 years to complete.<sup>345</sup>

**Finding 38: The Committee finds that there are many significant and complex issues involved in considering shack retention and the co-existence option at Wedge and Grey. For example, to comply with building and health standards most shacks will need to be reconstructed, many shacks will need to be rebuilt and potable water and septic and sewerage infrastructure is required.**

<sup>343</sup> *Ibid*, pp4-5.

<sup>344</sup> *Ibid*, p6. The Department of Environment and Conservation advise that the cost of an aerobic treatment unit (ATU) or septic system is estimated to be up to \$10 000 per shack: *Ibid*, p7.

<sup>345</sup> *Ibid*, pp10 and 11.

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**SHIRE OF DANDARAGAN AND FURTHER EVIDENCE****Shire of Dandaragan**

- 6.71 The Shire supports the implementation of the Squatter Policy and removal of squatters and consider that this course ‘represents a once in a generation opportunity to provide appropriate coastal holiday accommodation and recreation areas capable of sustaining development’.<sup>346</sup> The Shire submitted:

*When the State Government implements the process for the removal of squatting shacks at Wedge and Grey, in accordance with the Wedge and Grey Master Plan 2000, low key development inclusive of camping, caravanning and eco lodge style accommodation would replace the squatting shacks and will prove extremely popular with the general public. The previous owners of squatting shacks will be able to utilise these facilities, along with other visitors.*<sup>347</sup>

- 6.72 The Shire of Dandaragan was awarded the Western Australian Planning Commission 2007 Local Government Excellence in Coastal Planning and Management award for their development at Sandy Cape (after removing shacks at this site).<sup>348</sup> The Sandy Cape Recreation Park, situated north of Jurien Bay (north of Grey), provides low key camping facilities at this previous shack site and is ‘extremely popular’ with locals and tourists. In their view:

*[Sandy Cape] is an indication of what can actually be done following the removal of squatting shacks and the replacement by low key camping facilities.*<sup>349</sup>

- 6.73 The Shire advises that when shacks along the Central Coast were removed the Shires of Irwin, Carnamah, Coorow and Dandaragan were extremely unpopular but after the shacks were removed ‘the issue has not been of any consequence’. After their removal the Shire adopted the *Concept Plan of the Coastal Nodes North of Jurien Bay* which provides general guidelines for coastal rehabilitation and general development.
- 6.74 The Shire of Dandaragan has noted that if the shacks are considered a tourist attraction, Wedge and Grey would be a much greater tourist attraction without the shacks. They consider that the style and standard of accommodation provided by the

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<sup>346</sup> Submission No 18 from Shire of Dandaragan, 25 June 2010, p2.

<sup>347</sup> *Ibid*, pp4-5.

<sup>348</sup> The Committee understands that the Sandy Cape shacks were removed in 2001.

<sup>349</sup> Submission No 18 from Shire of Dandaragan, 25 June 2010, p3.



*Wedge and Grey Masterplan* would be appropriate to the planning and environmental constraints of each site.<sup>350</sup>

6.75 The Shire submitted that the shacks at Wedge and Grey have no right to be located on Crown land. They note that the shacks do not comply with any relevant State or local government legislation, including *Building Code of Australia*, the Shire's *Town Planning Scheme No 7* and the *Health Act 1911*. The Shire is doubtful that a majority of the shacks can be modified to comply with the relevant building standards. They add that the shacks occupy attractive coastal locations that would otherwise be available for public use and enjoyment. The Shire submitted that squatters have gained a financial advantage through illegal activities by placing structures on land they do not own.<sup>351</sup>

6.76 In the Shire's view, three '*obvious benefits*' of removing the '*illegal squatters*' are:

- The shacks are located in a haphazard manner with no design nor compliance with current acts. If the State and Local Government is enforcing Building Codes, the *Health Act 1911* and planning legislation in town sites then why shouldn't the same legislation apply to Wedge and Grey?
- The current shacks do not have effluent disposal systems that comply with the relevant legislation. The areas surrounding Wedge and Grey are national park, nature reserve or marine park. There is almost uncontrolled use of these areas by illegal off road vehicles and police or emergency services are '*regularly*' called to these areas. '*These off-road vehicles are causing untold damage to the environment*'. The intensive use of coastal land by squatters has resulted in human pressures being placed on landforms and wildlife, with a negative impact.
- Shacks can fetch up to \$40 000 to \$50 000 and even though a shack owner is not permitted to transfer ownership [under the lease] this happens on a regular basis. Endorsing shacks will increase shack prices (as happened with the Windy Harbour shacks). '*It seems grossly unfair that illegal structures can allow the lessee to profit from a sale*'.<sup>352</sup>

6.77 The Shire is of the view that the presence and use of shacks is not environmentally sustainable and to allow the continued use of the existing shacks would not provide necessary public and environmental safeguards and puts the public and environment at risk.<sup>353</sup> The Shire noted the following environmental and health issues — effluent disposal/ground water pollution, asbestos related issues, contaminated site

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<sup>350</sup> Shire of Dandaragan, Answers to Questions on Notice, 3 August 2010, p7.

<sup>351</sup> Submission No 18 from Shire of Dandaragan, 25 June 2010, p6.

<sup>352</sup> *Ibid*, pp5-6.

<sup>353</sup> *Ibid*.

designation, waste disposal, erosion, pressure on near shore areas, competition of recreational fishers, uncontrolled beach access, fire risk and access for control, and environmental management.<sup>354</sup>

- 6.78 The shacks are not listed on the Shire of Dandaragan's Municipal Heritage Inventory.<sup>355</sup> The Council does not feel there is an alternative to the removal of the shacks.<sup>356</sup> The Shire considers that the presence of these 'ramshacked structures' located just off the road to the internationally renowned Pinnacles accessible to 300 000 per visitors per year will be an embarrassment to Western Australia and the Shire of Dandaragan.

### Shire of Coorow

- 6.79 The Shire of Coorow, north of the Shire of Dandaragan, also supports enforcing the Squatter Policy based on their experience. The Shire was one of the first shires to initiate action to remove shacks from the coast areas within the Central Coast.<sup>357</sup> The Shire submitted:

*The areas today are now more widely used than when the shacks were there due to the previous actions of the shack owners who were unfriendly to other visitors to the area and went out of their way to ensure other visitors to the area could not use the areas the shacks were situated on.*

*The benefits of shack removal are well demonstrated as can be seen by the example of the Shire of Coorow.*

*The benefits so far are:*

- *reduction of the amount of waste being left in the areas*
- *rehabilitation of the Coastal Dunes*
- *better defined access to the Coastal areas*
- *planned road networks and tracks*
- *no environmental impacts with sewerage waste.*<sup>358</sup>

<sup>354</sup> Shire of Dandaragan, Answers to Questions on Notice, 3 August 2010, p6.

<sup>355</sup> *Ibid*, p7.

<sup>356</sup> *Ibid*, p11.

<sup>357</sup> The Department of Environment and Conservation advised that 138 shacks were removed from the Shire of Coorow under the Squatter Policy: Submission No 47 from the Department of Environment and Conservation, 6 July 2010, p1.

<sup>358</sup> Submission No 39 from Shire of Coorow, 30 June 2010, p1.

**Further Evidence**

- 6.80 The Committee refers to Chapter 4 of this report which canvasses issues relevant to shack site regulation, including equity and exclusivity issues. A few comments in that Chapter apply to Wedge and Grey. This section notes further views on Wedge and Grey.
- 6.81 The Cervantes Ratepayers and Progress Association is of the view that the Wedge and Grey shack owners have benefited from squatting for too long and this should not continue:

*Cervantes Ratepayers and Progress Association members fully support the removal of the above shacks [at Wedge and Grey] (and that is what they are just “shacks”). For many years now the owners of these buildings have reaped the benefit of living - and in a lot of cases just holidaying in - a most aesthetic area on our coast at no real cost to themselves. The shacks are unsightly and dilapidated and with the soon to be opened Indian Ocean Drive bringing in more tourists we feel that these shacks will detract from the otherwise beautiful scenery.*

*The significance of the reasons these shacks were first erected related to the safe anchorage for the fishing industry, but with the settlement at Cervantes and the easy access to the boats direct from the beach, plus the establishment of an Ambulance and Fire Brigade Service in that town, plus the availability of housing and building blocks there is no need for such a settlement of ramshackle huts to exist.*

*This beautiful areas should be opened up as a holiday resort with family accommodation plus more upmarket motels etc for tourists. The folk at Grey and Wedge have benefited from illegal squatting for too long now and our Association feels that it is time for them to be removed and the areas put to much better use.<sup>359</sup>*

- 6.82 The Turquoise Coast Tourism Association, who unequivocally supports the Shire of Dandaragan’s submission, advised that they find no valid argument for supporting the continued existence of these dilapidated and unsightly huts and this aspect will become more significant with the (then) imminent opening of the extension to Indian Ocean Drive.<sup>360</sup> A member of the public wrote to the Committee to ‘state my disgust at the conditions found around the shacks at Wedge and Grey. Obviously the people

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<sup>359</sup> Submission No 111 from Cervantes Ratepayers and Progress Association, 21 July 2010, p1.

<sup>360</sup> Submission No 55 from Turquoise Coast Tourism Association, 5 July 2010, p1.

*who inhabit this area have little regard for the environment or the rights of their fellow Australians’.*<sup>361</sup>

- 6.83 The President of the Cervantes Chamber of Commerce (and owner of the Pinnacles Caravan Park) referred to ‘*enormous*’ environmental considerations, such as asbestos, no sewerage, and hazardous waste materials (these are also noted in the Kwelena Mambakort Wedge Island Aboriginal Corporation submission in particular, as noted from paragraph 6.88 of this report) and added:

*The sites are quite revolting to view and now that the road is nearly completed visitors to our region will be closer to the shacks and their squalor ...*

*The areas of concern are very ugly and the overseas visitors that come to the region get a very bad idea of how we care for our beautiful coastline.*<sup>362</sup>

- 6.84 Another submitter commented on the rubbish dumped at the sites and also raised another complaint about ‘hooning’ on the beach:

*the rubbish that has been dumped in and around these sites should not be further tolerated. The occupants of Wedge have shown contempt for their own surroundings and a lack of appreciation for the natural beauty of the bushland and beaches by dumping rusting care body carcasses (sic) and metal objects causing a danger to both people and wildlife. The beach has been used for hooning and racing 4WD vehicles and 4 wheelers with little regard to the safety of either the vehicles occupants and those on the beach. Bad behaviour should not be rewarded by further extension of leases to these shack sites.*<sup>363</sup>

- 6.85 Equity and exclusivity concerns are often raised as the primary reason to remove the shacks at Wedge and Grey. As previously noted, the principle that public land should be available to be used by the public is a simple but powerful principle. As noted in Chapter 4 of this report, there are a few aspects of equity applicable to shack sites. The views of a few members of the public on equity issues are noted below:

*I fail to see why a privileged few should be allowed to squat on this land to the exclusion of others. Surely it would be much more equitable for these shacks to be removed so all Australians can enjoy this special part of Australia. Why can’t the area be rehabilitated with*

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<sup>361</sup> Submission No 27 from Ms Jan Markby, 29 June 2010, p1.

<sup>362</sup> Submission No 91 from Ms Leslee Holmes, President, Cervantes Chamber of Commerce, and Owner/Manager, Pinnacles Caravan Park and Seashells Café, 15 July 2010, pp1-2.

<sup>363</sup> Submission No 29 from Ms Dianne Brown, 29 July 2010, p1.

*a view to accommodating eco friendly tourism including clean organised camping areas for the use of all Australians.*

*In my humble opinion the shack dwellers are long overdue for their eviction notice. This is Crown/Government land is it not, so why should a select few enjoy privileges that others are denied.*<sup>364</sup>

*What right do a few select people have to claim this beautiful pristine coast as their own, and ruin it for almost everyone else. Seems to me like the lowest of the low have reverted back to the mind set of the conquerors of this country. If Grey and Wedge are allowed to go on, I will build my own shack somewhere in WA and do what I like too ... yea long live anarchy.*<sup>365</sup>

*The current social inequity and deplorable environmental conditions are untenable. I do not see why a privileged few should have beachfront accommodation at cut rate prices when the rest of the State's citizens must pay exorbitant rates for holiday and beachfront accommodation.*<sup>366</sup>

*It would be unfair in the extreme if the shacks were to obtain freehold title of prime coastal land or even the right to squat permanently at that location.*

*Wedge Island is a place for all Western Australians, not just a select few who have acquired shacks. The way of life that they have cited as justification for staying is far from an idyll of families quietly enjoying the natural environment. Widespread vegetation loss from 4WD, litter, and hooning up and down the beach, is sadly the reality of the area now and this would worsen with improved access.*

*Far from hereditary rights of ownership, many of the shacks have been sold to property speculators who have hoped that their investments of a few thousand dollars can be turned into a real estate goldmine, should the Government ever be swayed from its long, and I might add well publicised, decision to remove the shacks with the opening of the new road.*<sup>367</sup>

- 6.86 There is also an inequity in retaining Wedge and Grey shacks when nearby shacks along the Central Coast were destroyed in accordance with the Squatter Policy. The

<sup>364</sup> Submission No 27 from Ms Jan Markby, 29 June 2010, p1.

<sup>365</sup> Submission No 26 from Mr Nick Streuli, 29 June 2010, p1.

<sup>366</sup> Submission No 29 from Ms Dianne Brown, 29 July 2010, p1.

<sup>367</sup> Submission No 35 from Dr Niall Barrett, 30 June 2010, p1.

submission from Mr Peter Driscoll, the Regional Manager for the Central Coast Region in the Department of Planning and Urban Development between 1987 and 1995 detailed the inequity of not removing the shacks at Wedge and Grey.<sup>368</sup> Mr Driscoll advised that he and a DOLA officer had to convince the local governments of Gingin, Dandaragan, Coorow, Carnamah and Irwin to accept responsibility for the removal of the shacks and prepare plans for the whole of their coastal areas and ensure that after six years shacks were removed, sites were clean and replacement development (day use and camping sites) commenced.<sup>369</sup> Mr Driscoll added:

*One of the most important aspects of this program was the commitment by successive State governments that they would apply the same program to State reserves and remove, for example, Grey and Wedge. ...*

*I feel badly let down by Government as do the hundreds of people who had to remove their shacks.*

*I stood in front of angry crowds presenting the Government's commitment and both of us were threatened and intimidated but the Government required us to press on. Consequently, there is no justification for the State to preserve Grey and Wedge—they are exclusive and inequitable and not public facilities and they compromise planning principles and policies. You will be letting down many people if you allow Grey and Wedge to be protected.*

*A weekend in a shack by the ocean may be a 'nice romantic idea' and part of our former way of life, but it is not fair they be retained in view of all that has occurred or to all the people, whose shacks have already been removed. And, it is incredibly unfair in view of the pain the Councils went through to implement the State's policy for Government to renege on the Policy because of pressure from shack owners, politicians and their friends.<sup>370</sup>*

6.87 The Cervantes Chamber of Commerce added on this issue:

*Unfair advantages [are] accorded to an elite group through draconian laws unsuited for the modern environment. ...*

*There have been many shacks forced to leave this coastline over the past years and some people have voiced the intention to sue the*

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<sup>368</sup> Submission No 33 from Mr Peter Driscoll, Principal Planner, Landvision, 1 July 2010.

<sup>369</sup> *Ibid*, p1.

<sup>370</sup> *Ibid*, p2.

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*government if this group are allowed to remain where they were made to move on.*<sup>371</sup>

## ABORIGINAL CULTURE AND HERITAGE

- 6.88 As noted in Chapter 5 of this report, Wedge is important to the Noongar people, based on the family history and heritage. (The Committee is not aware of any Aboriginal heritage issues at Grey).<sup>372</sup>
- 6.89 The Yued people have serious concerns about unsightly mess and ‘*rubbish dump environmental disaster*’ at Wedge and the threats to the many indigenous sites in the area.<sup>373</sup> The submission from the Kwelena Mambakort Wedge Island Aboriginal Corporation (on behalf of the Yued people) also noted that the ‘*environmental **Non-Management** of this traditional Yued Land has serious concerns to the Elders of this Community*’ [submission emphasis].<sup>374</sup>
- 6.90 The Department of Indigenous Affairs advised that the registered site Kwelena Mambakort - Wedge Island (known as DIA 20051) (**Site 1**) intersects with Reserve 43283 (the reserve the Wedge shacks are situated on). The sensitive nature of this site means that it is a ‘closed site’.<sup>375</sup> The public boundary of Site 1 is larger than Reserve 43283. Anyone proposing activities that may excavate, destroy, damage, conceal or in any way alter the site should first consult with the Department of Indigenous Affairs. Site 1, the Kwelena Mambakort Wedge Island heritage site, is a stretch of rocky ridge that stretches two kilometres from the Wedge Island coast to the Quindalup sand dune systems.<sup>376</sup> ‘*This particular south west site is valued as a very significant Noongar site that at all costs, should be protected*’.<sup>377</sup>
- 6.91 Another possible heritage site Chillion Kornt, Wetj Boya (DIA 26191) intersects with Reserve 43283. Three further sites on the Department of Indigenous Affairs’ database are situated north of Wedge, namely Wedge Island Camping Ground Shell Middens (DIA 20053), Wedge Island Coast Sandune Quinilup Springs/Yonga Kep Wari (DIA 20052) (**Site 2**) and Kornt Gil-Git (DIA 24731). Of these sites, only Site 2 has been assessed by the Aboriginal Cultural Material Committee and permanently placed on

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<sup>371</sup> Submission No 91 from Ms Leslee Holmes, President, Cervantes Chamber of Commerce, and Owner/Manager, Pinnacles Caravan Park and Seashells Café, 15 July 2010, p2.

<sup>372</sup> The Committee understands that there are no Aboriginal heritage issues at Grey: See for example, Dr Peter Sheppard, President, Grey Conservation and Community Association, *Transcript of Evidence*, 3 August 2010, p6.

<sup>373</sup> Submission No 34 from Kwelena Mambakort Wedge Island Aboriginal Corporation, 30 June 2010, p8.

<sup>374</sup> *Ibid*, p2.

<sup>375</sup> Letter from Ms Jo Franz, Director, Heritage and Culture, Department of Indigenous Affairs, 25 November 2010.

<sup>376</sup> A midden is an accumulation of material produced by aboriginal people collecting, cooking and eating, possibly over thousands of years. These are evidence of indigenous use of the area.

<sup>377</sup> Submission No 34 from Kwelena Mambakort Wedge Island Aboriginal Corporation, 30 June 2010, p4.

the Register. Further, the Department of Indigenous Affairs advised that there may also be sites that have not yet been reported to the Department and entered on the Register. (As previously noted, the *Aboriginal Heritage Act 1972* protects all Aboriginal heritage sites, whether known to the Department or not).

- 6.92 DEC has put no special protection in place for the Aboriginal heritage sites at Wedge. DEC advised that they are not aware of any issues relating to the management of the heritage sites.<sup>378</sup>
- 6.93 However, the *Wetj Boya (Wedge Island) Aboriginal Sites: An Action Plan* notes that increasing pressure from development and recreation, particularly the new Indian Ocean Drive, threatens the future quality and value of the sites and artifacts contained within these sites. (This Action Plan refers to three registered sites - Site 1 and Site 2, permanent registered sites, and 20053, an interim site).<sup>379</sup> None of the three sites are protected by fences or signs. The action plan noted that threats to Aboriginal heritage include a lack of rule of law and understanding of sites and taking artifacts (considered an 'imminent priority threat'), vehicle damage to artifacts, lack of recognition of sites in the *Wedge and Grey Masterplan 2000*, the unauthorised dumping of rubbish, possible groundwater pollution from designated rubbish tip into the wetland at Site 1 as well as the threats of pests, weeds, fire, possible groundwater pollution and climate change.<sup>380</sup>
- 6.94 The Yued people advised the Committee that they are very concerned about threats to heritage sites. They advised that over the years the community has been used as a meeting place for Noongar people to rediscover their cultural traditions. The Shaw family continues to live in a small shack community at Wedge, where family members are involved in eco tourism and commercial fishing.
- 6.95 The Kwelena Mambakort Wedge Island Aboriginal Corporation identified the following threats (and provided photographs to illustrate their concerns):
- 'Out of control management of shack dwellers' - holes dug by machine operations contaminate water system. A mosquito breeding environment;
  - 'Rubbish dump environmental disaster' - waste pollution to underground water system. Wastes include old tyres, oil, batteries, general rubbish, asbestos, hydrocarbons, plastics;

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<sup>378</sup> Mr James Sharp, Deputy Director General, Parks and Conservation, Department of Environment and Conservation, *Transcript of Evidence*, 28 January 2011, p9.

<sup>379</sup> *Wetj Boya (Wedge Island) Aboriginal Sites: An Action Plan*, National Heritage Trust, South West Aboriginal Land and Sea Council, and Northern Agricultural Catchments Council, September 2007, p20.

<sup>380</sup> *Ibid*, p22.



- ‘*Out of control waste management of the coastal environment*’ - camper rubbish, destroying native flora, old car bodies dumped in vicinity of Aboriginal heritage site. Fish waste and illegal netting dumped near camp spot. Camper rubbish dumped - glass, food waste (attracts feral animals), human faeces (no toilet facilities);
- pollution of burnt out car bombs - dumped near a heritage site, on fragile sand dune system, hydro carbons polluting underground water system;
- camping on the fragile dune system - causing erosion and destroying vegetation, burning native flora, motor bikes should be completely banned, ruining the sand dune coastal area; and
- disposal of asbestos building - asbestos has been dumped on our heritage site.<sup>381</sup>

6.96 The Kwelena Mambakort Wedge Island Aboriginal Corporation consider that the caretaking of the area in previous years has been inactive and the effect of this has been devastating.<sup>382</sup> Further:

*Our community has come to the conclusion that with the forthcoming Impact of more people whom are about to invade on this Reserve - - due to Ocean Drive being open to normal vehicles; there is no Authority to right this situation!!!! (sic)*<sup>383</sup>

6.97 The Kwelena Mambakort Wedge Island Aboriginal Corporation submitted that only Noongar caretakers should be in charge of protecting the heritage site’s artifacts.<sup>384</sup> They submit that immediate action needs to be taken to manage waste, water and traffic, provide toilet facilities for the public, enforce no camping, no motor bikes and no littering rules at Wedge, and enforce law and order for ‘hoon’ drivers, explosive devices, fires and ‘*scrub bashing*’.<sup>385</sup> If this action is taken ‘*maybe contamination of groundwater can be saved, flora and fauna can be saved and our beautiful groundwater coast can be preserved in the manner that it deserves for our future children’s sake*’.<sup>386</sup>

6.98 The Yued community suggest the following for any future management plan:

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<sup>381</sup> Submission No 34 from Kwelena Mambakort Wedge Island Aboriginal Corporation, 30 June 2010, pp6-21.

<sup>382</sup> *Ibid*, p22.

<sup>383</sup> *Ibid*.

<sup>384</sup> *Ibid*, p4.

<sup>385</sup> *Ibid*, p22.

<sup>386</sup> *Ibid*.

- Establishing a Community Management Program with Corporate Government Department (Local Shire, Department of Environment and Conservation) to preserve the ecosystem structure and formation that would support a rehabilitation of the disturbed coastal dune vegetation.
- Establishing a water management system to ensure the correct disposal of all rubbish so that there will be no more environmental impact.
- Establishing a hydro management program managed by our community to protect the quality of surface and groundwater.
- Regarding minimising noise, natural buffer zones could ensure that there is no impact on native fauna. Planning how many shacks should stay or not would depend on the impact of the shacks on the surrounding environment.
- The shacks should be monitored in regard to correct power and sewerage requirements under local by-laws.
- The shacks should be brought up to certain building standards and blend in with the environmental coastal landscape. Any further constructions should be a simple form to complement the natural coastal landscape and be appropriate to the scale, form, colour and texture of the environment.
- Motor bikes should be totally banned from Wedge Island. On the heritage site there is a colony of echidnas which can be harmed by frequent motor bikes riding in this vicinity. The native fauna species surrounding Wedge is unique. The Carpet Python (Morelian Spilota) is currently protected. Ospreys (eagles) have been nesting on the coastal area for years, but with the impact of the public with the shack settlement, their nesting habitat has been disturbed.<sup>387</sup>

6.99 The Shire of Dandaragan is very supportive of the retention and preservation of indigenous heritage in the area.<sup>388</sup>

6.100 Aboriginal culture and heritage matters are also discussed in Chapter 5 of this report. As noted in Finding 29, the Committee is concerned about the lack of management and protection of Aboriginal heritage sites located on, or in close proximity to, Wedge.

## HERITAGE

6.101 Shack owner submissions noted that Wedge and Grey have been acknowledged as having cultural heritage significance (see below) and often refer to Wedge and Grey's

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<sup>387</sup> *Ibid*, pp2-3.

<sup>388</sup> Shire of Dandaragan, Answers to Questions on Notice, 3 August 2010, p8.

unique ‘sense of place’. In WIPA’s view, this cultural significance ‘*provides a valuable opportunity for tourism development*’.<sup>389</sup> (Paragraph 6.36 and following notes Tourism Western Australia’s evidence to the contrary on this point). WIPA submits that community values have changed since the removal of shacks during the 1990s and there is a much greater push at many levels to preserve and protect our cultural heritage.<sup>390</sup> Shack owners often state that the ‘*strong social heritage*’ of the shacks at Wedge and Grey is a reason to retain the shacks.<sup>391</sup> (Paragraphs 4.55 to 4.66 deal with heritage considerations relating to shack sites). This section refers to heritage views directly relating to Wedge and Grey. The Committee accepts that there is social heritage at Wedge and Grey.

6.102 The National Trust found that Wedge and Grey are places of cultural heritage significance that represent ‘*an extremely rare cultural landscape*’.<sup>392</sup> (Wedge was assessed in 2000 and Grey in March 2009). In their view, future policy should establish processes which would allow consideration of the cultural heritage values of the place in determining the appropriate action to be taken. The National Trust submitted that the *Wedge and Grey Masterplan* did not consider cultural values in any substantive way. In their view DEC, proponents of the plan, may have a conflict of interest between its broader conservation responsibilities and pursuing a commercial opportunity (the development options in the plan).

6.103 The National Trust found that Grey has cultural heritage significance for the following reasons:

- It forms a rare cultural landscape due to its isolation<sup>393</sup> and enclosure by Nambung National Park.
- It is an excellent example of a coastal settlement originally established by farmers and fishermen in the 1930s to 1950s, later becoming more permanent.
- The values and attitudes reflected in the Grey community are important to understanding the development of these settlements and of Australian culture including ‘making do’, resourcefulness and sense of community.
- The community has a high social value for the leaseholders and their friends and family.<sup>394</sup>

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<sup>389</sup> Submission No 108 from Wedge Island Protection Association, 23 July 2010, p28.

<sup>390</sup> *Ibid*, p4.

<sup>391</sup> Mr Peter Marr, President, Wedge Island Protection Association, quoted in Natasha Boddy, ‘Shack owners celebrate indefinite stay reprieve’, *The West Australian*, 9 November 2010, p17.

<sup>392</sup> National Trust of Australia (Western Australia), *Historic Places Assessment Form (Wedge Island Settlement)*, 2001, and *List of Classified Places: Heritage Assessment (Grey Shack Community)*, March 2009.

<sup>393</sup> The opening of the extension to Indian Ocean Drive means that the sites are far more accessible today.

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6.104 The National Trust's Heritage Assessment of Grey concluded:

*The number of shack communities in Western Australia has been significantly reduced as a result of government policy. However it has been acknowledged in other states in Australia, that the heritage significance of these places in terms of social and historic value is high. To conserve Grey, a management plan and agreements need to be put in place, similar to those in other states (e.g. Tasmania). Strict rules governing the condition and amenity of these shacks can be implemented; increased fees can contribute to the conservation of the natural environment including stabilising sand dune systems and greater public access can be provided by allowing some shacks or other accommodation to be rented by the general public. These measures have all been carried out successfully in other states with similar situations; therefore the basis for implementing these with the cooperation of the shack lease holders would likely be a successful outcome.*<sup>395</sup>

## 6.105 The National Trust found that Wedge is of considerable cultural heritage significance for the following reasons (this list is not exhaustive):

- the shacks represent an important record of the typical ingenuity and innovation of Australians creating holiday homes;
- the development of the site in the mid west coast in the late 1930s and through the 1950s when families created a distinct family lifestyle in their home away from home;
- the site is the largest remaining of many squatter settlements that were established along the central west coast around the mid twentieth century and are now being eradicated;
- significant associations with professional fishermen who originally established the site and have continued operations;
- the unique way of life that can never be recreated due to government regulations;

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<sup>394</sup> Submission No 76 from National Trust of Australia (Western Australia), 14 July, p3. See also National Trust of Australia (Western Australia), *List of Classified Places: Heritage Assessment (Grey Shack Community)*, March 2009.

<sup>395</sup> National Trust of Australia (Western Australia), *List of Classified Places: Heritage Assessment (Grey Shack Community)*, March 2009, p1.

- the memories of holidays, special visitors and events that have taken place that contribute to the very special sense of place for generations of the community from all walks of life;
  - the site represents the evolution of the unique lifestyle in the sand hills at Wedge Island; and
  - the site is the largest remaining example of a squatter shack settlement that demonstrates a way of life for generations of families, innovation and ‘make-do’ philosophy.<sup>396</sup>
- 6.106 The Heritage Council of Western Australia has not assessed Wedge and Grey. Their heritage registration would be contrary to a Government policy. DEC advised that they consult with the Heritage Council of Western Australia in relation to heritage matters. DEC has consulted with the Heritage Council of Western Australia about how heritage is best maintained.<sup>397</sup>
- 6.107 As previously noted, Wedge and Grey are not listed on the Shire of Dandaragan’s Municipal Heritage Inventory.

#### COMMITTEE COMMENT

- 6.108 Wedge and Grey combined comprise approximately 450 of the estimated 1 060 shacks located on public land in Western Australia. DEC manage these shacks located on unvested reserves.
- 6.109 The Government policy to remove these shacks has been consistent for over two decades, since the Squatter Policy (1989). The trigger for enforcing the policy, the opening of the extension of Indian Ocean Drive between Lancelin and Cervantes (which passes near these sites), occurred in September 2010. It is important to note that Wedge and Grey are the only shack sites on unvested reserves, which the Squatter Policy directly applies to. Further, the sites are located on the Central Coast where the Squatter Policy was intended to be implemented, and where, under this policy, nearly 700 shack sites in the region were removed.
- 6.110 The Committee understands shack owners’ passion to retain their shacks, get away from the pressures of modern living and connect with nature, and their desire to enjoy a nature-based affordable holiday and the associated social heritage at Wedge and Grey.

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<sup>396</sup> National Trust of Australia (Western Australia), *Historic Places Assessment Form (Wedge Island Settlement)*, 2001, p8.

<sup>397</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p7.

- 6.111 Determining shack policy involves the application of principles, as well as considering shack owners' views and the facts and circumstances relevant to the particular shack site. In the Committee's view, the objective when considering shack policy should be to implement long term policy in the interests of all Western Australians.
- 6.112 The opening of the extension of Indian Ocean Drive and construction of the spur roads to Wedge and Grey, which now provide easy access to these sites, and the resulting dramatic increase in visitors to this region, are crucial facts to take into account when deciding the future of these sites. There have been significant and irreversible changes at these sites. Wedge and Grey are prime coastal locations situated reasonably close to Perth. Wedge and Grey are no longer isolated sites accessible only by four wheel drives. This development has created and increased a number of pressures at the sites. Now is the time to make a long term considered decision on the future of Wedge and Grey.
- 6.113 The Committee has formed the view that the shacks at Wedge and Grey should be removed, and the Squatter Policy should be enforced at Wedge and Grey.
- 6.114 The Committee is of the view that after the shacks are removed, the area should be developed to provide the public with low impact, nature-based, affordable visitor accommodation consistent with the development proposed in the *Wedge and Grey Masterplan*. Low cost camping and caravanning facilities should be provided.
- 6.115 Development providing low impact, nature-based affordable accommodation will open up the area to all Western Australians, as well as visitors to this State. The Committee has formed the view that these facilities are likely to be very popular and provide the public with a tourism asset due, in part, to the prime location of Wedge and Grey. The proposed development offers the public at large a family friendly, nature-based experience similar to the experience enjoyed by the present shack owners, without any exclusive rights over public land. The Committee is of the view that this alternative use of the area is a fair and equitable public outcome. Shack owners could continue to visit the area, and may choose to participate in any expression of interest process during the development of the area. Shack owners will have equal rights with members of the public.
- 6.116 Releasing land for low impact, nature-based accommodation is consistent with the Government's Naturebank program. Removing shacks on unvested reserves such as Wedge and Grey is also consistent with the Squatter Policy and a number of other policies and strategic plans including the *Central Coast Planning Strategy* and *Nambung National Park Management Plan 1998-2008*. The Shire of Dandaragan's award winning and popular development of Sandy Cape (north of Grey) demonstrates what can be done after removing shacks and replacing them with low key camping facilities. As proven by Naturebank and nature-based and eco tourism developments, low impact tourism can bring the great outdoors to the public.

- 6.117 The Committee has formed the view that for reasons of equity, the removal of the shacks and the proposed development of the area is the appropriate course at Wedge and Grey. It is the Committee's view, as noted in Finding 16, that public land should be available for members of the public to access and use and public land should be managed in the interests of the public. In the Committee's view, the fact an alleged 15 000 people use the sites does not amount to the sites not being exclusive. Shack owners at Wedge and Grey currently do hold exclusive rights on public land.
- 6.118 Equity principles are particularly relevant at Wedge and Grey as the sites are easily accessible, close to Perth and have a significant tourism potential for all Western Australians. The Committee accepts Tourism Western Australia's view that these sites represent a '*highly significant tourism potential*' which has the capacity to add '*immense value to the development of the region*' (see paragraph 6.36). With the construction of the Indian Ocean Drive and the spur roads to Wedge and Grey, in less than two hours city residents can arrive at this naturally beautiful and prime coastal destination. Many members of the public want to take affordable holidays with their family and friends, connect with nature, gather near the beach at sunset, swim in the waters, interact with other families, get away from the pressures of modern life and participate in other activities. As noted at paragraph 4.79, the Legislative Assembly Economics and Industry Committee found that '*There is a growing demand in Western Australia for the nature-based camping experience, made more accessible by the rise of the 'self-contained' vehicle*' (Finding 17) and '*Given the increase in demand for nature-based camping, future supply must cater to this trend*' (Finding 34).
- 6.119 Appropriate accommodation facilities at Wedge and Grey will provide the wider public with the experiences afforded to the shack owners (and their friends and families) for many years. If the proposed development occurs, the public could use the area at any time, including weekends and holidays. At present, the shacks are largely a weekend and holiday destination for Perth residents. Another equity consideration is that the Government and local governments along the Central Coast implemented the Squatter Policy (at the behest of the State Government) and nearly 700 sites north of Perth were removed under this policy. The Government should now implement its own policy over the shacks it manages in this area. The current trade of lessees 'selling' shacks located on public land for reasonable sums is of some concern to the Committee.
- 6.120 Wedge and Grey shack owners have been advised of the current policy of removing shacks on unvested reserves since the Squatter Policy was adopted in 1989, over 20 years ago. In the Committee's view, the Squatter Policy is based on sound principles. Shack owners are seeking a change in policy. The Committee sees no reason for this at Wedge and Grey. To the contrary, the Committee is of the view that recent developments have strengthened the argument that the shacks should be removed. Some shacks were purchased after the policy was announced. The shacks

were leased on understanding that this was an interim measure until they were removed. As noted in Finding 35, when leases were entered into in 1995 the shacks were not transferable, and people who have purchased a shack (since leases were issued) have known that the shack could be removed.

- 6.121 There are a number of practical and compliance issues and risks at Wedge and Grey that further indicate the imperative for change. In particular, health, safety, building and environmental management issues are of concern. As the largest shack sites in Western Australia, the footprint of these largely unregulated sites is significant. Modern land management practices require strategic plans and the sustainable management of public land. There is a need to manage risks at Wedge and Grey, particularly given the impacts of increased visitors at the sites following the opening of Indian Ocean Drive. Issues raised include the need to control camping in the area, eliminating hoon behaviour, managing rubbish and providing public toilets, to name a few. The shacks do not generally comply with the building code and health requirements. As noted in this Chapter, there are also a number of environmental issues. It would be costly, complex and difficult to bring shacks to an acceptable standard and address the issues at these sites.
- 6.122 Compounding the above issues are the Aboriginal culture and heritage concerns at Wedge and the need to protect Aboriginal heritage sites. The Committee is concerned about the lack of management and protection of Aboriginal heritage sites at, or in the proximity of, Wedge (see Finding 29) and is of the view that action should be taken to ensure that these sites are protected. DEC should ensure that any future development does not pose a threat or risk to these sites and the future regulation and management of the sites protects Aboriginal heritage.
- 6.123 While the Committee understands the heritage arguments presented, including the views of the National Trust, it has formed the view that heritage considerations do not outweigh equity considerations, without taking into account the many further considerations and concerns relevant to Wedge and Grey.
- 6.124 The Committee is of the view that there is social heritage at the sites, formed by the shared experiences of shack owners at these prime and naturally beautiful locations, but is not persuaded that there is building heritage at Wedge and Grey. The public use of low impact, nature-based affordable accommodation at these sites will continue this social heritage.
- 6.125 Wedge and Grey shack owners and their associations have proposed a 'co-existence' model at these sites. The Committee understands that DEC is currently considering the co-existence option as part of their consideration of future options for Wedge and Grey. The co-existence model proposed by WIPA and GCCA essentially proposes to retain shacks while permitting some public amenity and use on the public reserves. The Committee is of the view that this course of action at Wedge and Grey is not



appropriate and is contrary to good public policy for reasons of equity and other reasons noted above. The co-existence proposal effectively gives shack owners rights on this public land over members of the public. This proposal does not address the many concerns about the shacks noted in this report and, in particular, the inequity of 450 shacks on public land being unavailable for public use and enjoyment. Inequity arises because a shack is situated on public land and ‘permitting’ the public to vacation on another area of the broader reserve or stay in any available shacks, does not address the inequity created by continuing to permit a particular lessee to exercise exclusive rights on public land.

- 6.126 To the contrary, the Committee is of the view that the co-existence model, if implemented at Wedge and Grey, could exacerbate the inequity where shack owners have rights over parts of this public land while the public (which is now accessing this region in high numbers) is only permitted to use remaining areas of the public land. There could be understandable public dismay, particularly if shacks occupy the best locations near the coast. The public should not become second class citizens on public land.
- 6.127 Further to the above, the Committee is of the view that practical considerations clearly indicate that the co-existence proposal is not an appropriate option. Implementing a workable shack retention model, where shacks comply with appropriate health, safety and building standards and requirements, that addresses environmental concerns would be costly, complex and difficult. For example, to comply with building and health standards, most shacks will need to be reconstructed, many shacks will need to be totally rebuilt, and potable water and septic and sewerage infrastructure is required (Finding 38).
- 6.128 As noted above, in the Committee’s view the objective of considering shack policy should be to implement long term policy in interests of all Western Australians. In the Committee’s view, the co-existence proposal is not based on sound principle nor will it provide the best outcomes for the people of Western Australia given all the circumstances relevant to Wedge and Grey.
- 6.129 There are considerable differences between shack sites in Western Australia, and decisions regarding a particular shack site should reflect the circumstances relevant to that particular shack site (Findings 11 to 14). As previously noted, determining shack policy involves the application of principles, as well as considering facts and circumstances relevant to a particular shack site.
- 6.130 Further to the consideration of principles (such as equity considerations) many circumstances unique to Wedge and Grey support the conclusion that the shacks should be removed and replaced with low impact, nature-based affordable public facilities and accommodation. Of particular note is that there are 450 shacks at Wedge and Grey. Unlike all other shack sites, these large shack sites are located on unvested

reserves and there has been a long history of the Squatter Policy applying. Unlike other shack sites, the considered *Wedge and Grey Masterplan* (2000) provides guidance for future nature-based public development. The Government's Naturebank program could support such development. Another distinguishing fact is that unlike local government managed shack sites, Wedge and Grey do not have a long (pre Squatter Policy) history of leasehold tenure. Wedge and Grey leases were entered into in 1995 on the understanding that the shacks would be removed.

- 6.131 An important distinction is that, unlike a number of other isolated shack sites, Wedge and Grey are located on prime coastal land easily accessible from Perth (as previously noted). Further, unlike some sites (such as Peaceful Bay), the local Shire strongly supports removing the shacks and the development of low key public facilities at Wedge and Grey. The large number of shacks at these sites also creates a larger environmental 'footprint' than smaller shack sites, including rubbish and water table concerns and environmental and fire risks. Unlike some other sites, the Wedge and Grey shacks generally do not meet building and health standards, nor is this site capable of meeting these standards without considerable expenditure.
- 6.132 The Committee understands that it will be difficult for shack owners if the Government decides to enforce the Squatter Policy and remove the shacks at Wedge and Grey. If the Government decides to remove the shacks, the Committee is of the view that DEC should give reasonable notice to shack owners.
- 6.133 The Committee has been advised that a number of people occupy shacks at Wedge and Grey on a permanent basis. The Committee is of the view that, if the Government implements the policy to remove shacks at Wedge and Grey, assistance should be provided to relocate any person identified as being a permanent resident with no immediate accommodation alternatives.

**Recommendation 6: The Committee recommends that the responsible Minister and managing authority instruct leaseholders and shack owners to remove the shacks at Wedge and Grey and, as a priority, develop the area to provide the public with low impact, nature-based, affordable visitor facilities and accommodation, including camping and caravanning facilities.**

## CHAPTER 7

### D'ENTRECASTEAUX NATIONAL PARK (DONNELLY RIVER)

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#### THE SHACKS AND REGULATION OF THE SHACKS

- 7.1 DEC manages 62 shacks located in the D'Entrecasteaux National Park, including 43 shacks at lower Donnelly River.<sup>398</sup> Ten to fifteen shacks are located at Broke Inlet (Camfield).<sup>399</sup> Other than paragraphs 7.38 to 7.40, this Chapter deals with the Donnelly River shacks.
- 7.2 The shacks at Donnelly River, usually referred to as 'huts', were built on Crown land without legal tenure before the park was declared. It has been reported that the first huts at the mouth of the Donnelly River were built in the 1920s.<sup>400</sup> Most huts were built between 1950 and 1975.<sup>401</sup> The huts are only accessible by boat.<sup>402</sup>
- 7.3 All materials used in the construction of the huts were brought in by boat.<sup>403</sup> A few older huts were built by pastoralists who brought cattle to the coast for summer grazing and by the former Forests Department as fire lookouts or for staff involved in forest assessment or manning fire lookouts.<sup>404</sup> The huts have been described as '*reasonably scattered and discrete*',<sup>405</sup> and not imposing. Most huts become visible from the river when boaters are adjacent to them.<sup>406</sup>

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<sup>398</sup> Department of Conservation and Land Management and Conservation Commission of Western Australia, *Shannon and D'Entrecasteaux National Parks Draft Management Plan 2005*, p111.

<sup>399</sup> Department of Conservation and Land Management, *Shannon Park and D'Entrecasteaux National Park Management Plan 1989-1997*, p61.

<sup>400</sup> Department of Conservation and Land Management and Conservation Commission of Western Australia, *Shannon and D'Entrecasteaux National Parks Draft Management Plan 2005*, p75. The submission from the Lower Donnelly River Conservation Association states that the '*original huts at the mouth appear to have been built in 1934*' and the '*precinct has been a low cost family holiday destination continuously for almost 100 years*': Submission No 38 from Lower Donnelly River Conservation Association, 30 June 2010, p2 and Attachment, p2.

<sup>401</sup> Submission No 38 from Lower Donnelly River Conservation Association, 30 June 2010, Attachment, p2.

<sup>402</sup> The nearest road access is a twelve kilometre boat ride from the Donnelly River estuary: Mr Alan Lush, Local Resident, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p2.

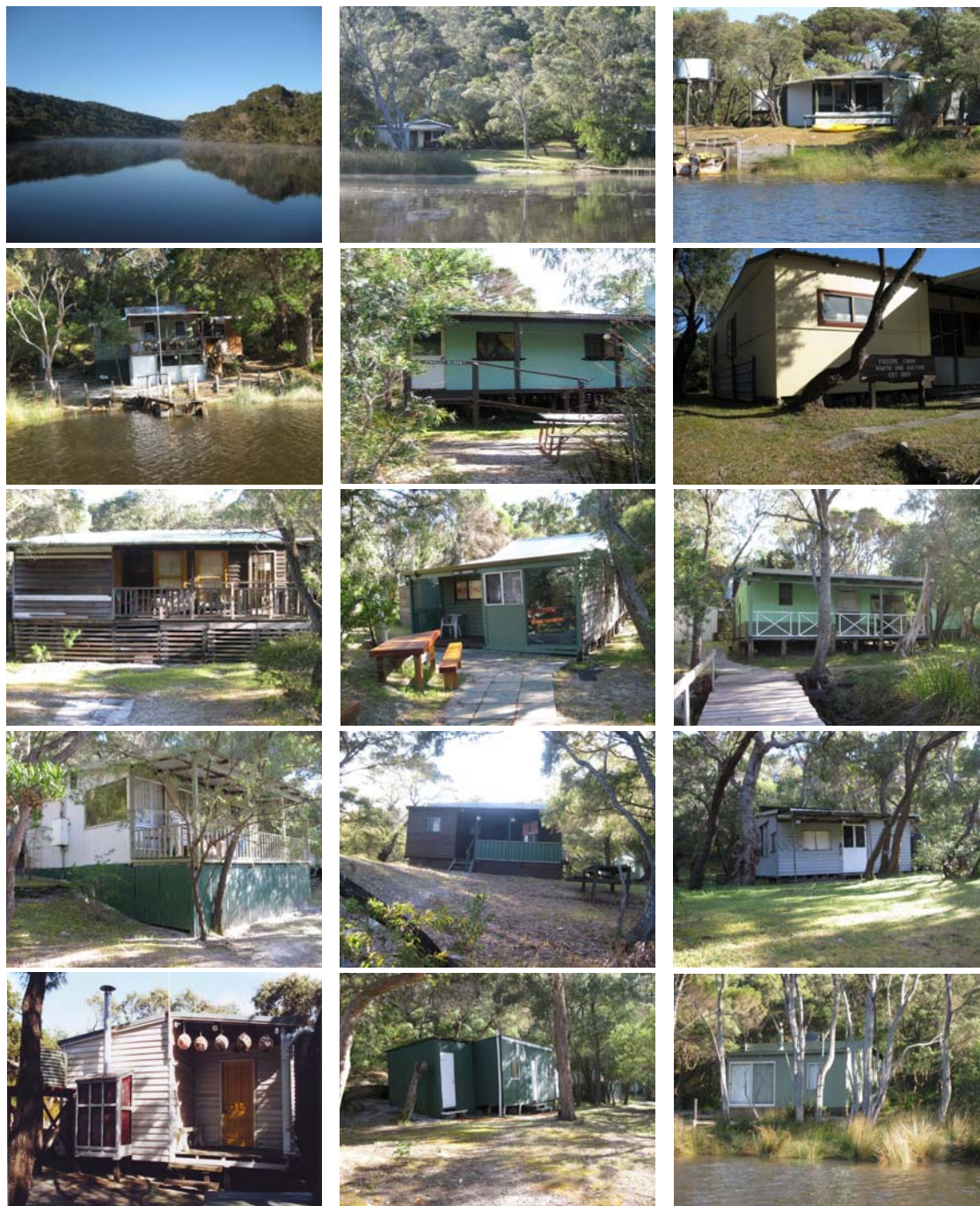
<sup>403</sup> Department of Conservation and Land Management and Conservation Commission of Western Australia, *Shannon and D'Entrecasteaux National Parks Draft Management Plan 2005*, p75.

<sup>404</sup> *Ibid*, p111.

<sup>405</sup> Mr Alan Lush, Local Resident, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p3.

<sup>406</sup> Department of Conservation and Land Management and Conservation Commission of Western Australia, *Shannon and D'Entrecasteaux National Parks Draft Management Plan 2005*, p111.

7.4 Photographs of the Donnelly River and Donnelly River huts follow:<sup>407</sup>



7.5 The huts are used by friends and family of hut owners and there is some public use of this site, although there is no wider public use of the huts themselves (see paragraphs 7.25 to 7.33 on this issue). Regarding the length of stays at the huts, the Committee

<sup>407</sup>

Photographs provided by the Lower Donnelly River Conservation Association.

has been advised that a month is a '*reasonable time*' for a person to stay in a hut at one time. No one permanently lives in a hut. There is always someone at the site.<sup>408</sup>

- 7.6 The huts are subject to an annual licence. Hut owners have been advised that an annual renewal will be granted until the proposed management plan for the National Park is released.<sup>409</sup> Hut owners advised that the huts had to comply with certain standards before owners were issued the lease.<sup>410</sup>
- 7.7 Unlike the shacks at Wedge and Grey, the shacks in D'Entrecasteaux National Park are managed by DEC pursuant to a management plan and the parks are vested in the Conservation Commission of Western Australia pursuant to section 7 of the *Conservation and Land Management Act 1984*. DEC manages these reserves in accordance with the *Conservation and Land Management Act 1984* and prepares management plans on behalf of the Conservation Commission of Western Australia.
- 7.8 The current management plan is the *Shannon Park and D'Entrecasteaux National Park Management Plan 1987-1997 (Management Plan 1987-1997)*.<sup>411</sup> The *Shannon and D'Entrecasteaux National Parks Draft Management Plan 2005 (Draft Management Plan 2005)*, remains a draft management plan as a final plan has not been finalised and gazetted.
- 7.9 In February 2011, Hon Bill Marmion MLA, Minister for Environment, advised the Committee that he is waiting to consider advice from DEC and the Committee's final report (this report) before approving the final management plan.<sup>412</sup>
- 7.10 The *Management Plan 1987-1997* states the following objectives regarding the huts:
1. *To retain huts which are useful for public purposes, have recognised historic values or are subject to a current leasing arrangement.*
  2. *To progressively remove other huts which impinge on the physical, biological or aesthetic values of the Parks.*<sup>413</sup>

<sup>408</sup> Mr Alan Lush, Local Resident, and Mr Antony Ryan, Chairman, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, pp12 and 13.

<sup>409</sup> Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 1 October 2010, p1.

<sup>410</sup> For example, degradable flush water systems and showers in all huts. Hut owners hold public liability insurance (as required by the lease): Mr Tony Serafini, Deputy Chairman, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, pp12 and 14.

<sup>411</sup> Section 55, *Conservation and Land Management Act 1984* provides that the term of a management plan will be ten years but a plan shall remain in force until a new plan is approved.

<sup>412</sup> Letter from Hon Bill Marmion MLA, Minister for Environment, 16 February 2011, p1.

<sup>413</sup> Department of Conservation and Land Management, *Shannon Park and D'Entrecasteaux National Park Management Plan 1987-1997*, p121.

7.11 The *Management Plan 1987-1997* notes that the huts were regulated by way of non transferable life leases (at that time), and includes the following provisions:

1. *All huts at the mouth of the Donnelly River are currently under life lease. These leases are not transferable. The current lessees will be permitted to remain until they surrender their leases or they die. The structures will then be removed by their successors or assessed by CALM as outlined in Prescription 2.*
2. *All other huts will be assessed in terms of their impact on the environment, historical values and usefulness for public purposes as soon as possible after approval of this plan. Huts which do not meet the assessment criteria will be removed. Huts which meet the criteria will remain and be maintained by CALM, for public use. Determination of criteria and subsequent assessment will be in consultation with representatives from the Shires of Manjimup and Nannup, AND hut-owners. As Camfield [Broke Inlet] is not part of the National Park, its huts will not be assessed and therefore may not be made available for public use.*
3. *No new huts or cabins will be constructed and no new leases issued.*<sup>414</sup>

7.12 The life-time leases were determined to not be legally possible and the hut occupiers indicated that they did not wish to be bound by the conditions outlined in the management plan as this precluded them from selling their huts or passing them onto other family members.<sup>415</sup> In 1990, the hut owners negotiated new occupancy licences. The licences were to be current for a period of seven years to 30 June 1997, with a further option of renewal to 2007.

7.13 The Committee understands that the current lease is the 1990 to 1997 lease (which was extended under option to 2007), and the lease is currently renewed annually.<sup>416</sup>

7.14 The *Draft Management Plan 2005* endorsed and reflected the terms of the Squatter Policy and raised a number of issues regarding the Donnelly River huts. The hut owners strongly objected to this draft plan.<sup>417</sup> The *Draft Management Plan 2005* essentially provided that the huts would only remain for six years following the

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<sup>414</sup> *Ibid*, p122.

<sup>415</sup> Department of Conservation and Land Management and Conservation Commission of Western Australia, *Shannon and D'Entrecasteaux National Parks Draft Management Plan 2005*, p112.

<sup>416</sup> Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 1 October 2010, p1 and Attachment, Letter from Donnelly River Huts Owners Association to the Department of Conservation and Land Management dated 14 February 1996.

<sup>417</sup> See [www.donnellyriverhuts.com/save\\_huts.htm](http://www.donnellyriverhuts.com/save_huts.htm), (viewed on 29 October 2010).

gazettal of the plan, or be demolished in 2008 if owners did not accept the terms of a six year lease. The *Draft Management Plan 2005* states:

*There are seven key management issues that should be considered relating to squatters' huts in the D'Entrecasteaux National Park:*

- ❖ *the impact of the huts on conservation values;*
- ❖ *the impact of the huts on aesthetic values;*
- ❖ *the environmental health and safety risks;*
- ❖ *financial advantage for the hut dwellers in the national park;*
- ❖ *equity for visitors to the park;*
- ❖ *the heritage values; and*
- ❖ *the role they play in providing recreational opportunities. ...*

*The majority of structures are on fragile coastal dune systems or riverbanks and this has often led to serious erosion, fire hazards and pollution of river systems. ...*

*Sewage and household waste disposal systems in the huts are often primitive and can become serious health and pollution risks to river and estuary. Further, the huts will continue to deteriorate over time and pose a safety threat, with respect to loose tin and the presence of asbestos. The huts may be a structural safety threat to the occupants as well as visitors in the vicinity of the huts.*

*The hut dwellers can also been seen to have gained financially from the current situation. Previously they did not pay rental to the Crown or local authority, but had the free use of local facilities. The huts located at the mouth of the Donnelly and Gardner rivers have a prime position and create a visual and a physical barrier to other users. This is clearly not equitable. ...*

*A State Government policy for the control of coastal squatters' huts was adopted in 1999. Under this policy, leases to a maximum of 6 years can be issued to existing hut occupiers after which the huts must be removed. The policy has been applied to the squatters' huts in the shires of Coorow, Carnamah, Irwin and Dandaragan. However, the policy excludes shacks situated on reserves subject to a management plan under the Conservation and Land Management Act, such as the huts in D'Entrecasteaux National Park. This management*



*plan proposes that the management of squatters' huts in the D'Entrecasteaux National Park be in accordance with the principles of the Government policy. ...*

### **Key Points**

- ❖ *There are 62 squatters' huts in the D'Entrecasteaux National Park which are mostly used for private purposes.*
- ❖ *The huts currently impact on the conservation and aesthetic values of the parks and pose a public safety risk and are not consistent with the principles of equitable use of the parks.*
- ❖ *Management of the huts within D'Entrecasteaux National Park needs to be in general accordance with Government policy, therefore existing occupants of the huts will be allowed to stay for up to 6 years from the gazettal of the management plan if they take up a Conservation and Land Management Act lease.*
- ❖ *Some huts may need to be removed earlier due to public safety concerns or if the occupier refuses to enter into and abide by a formal lease.*
- ❖ *Some huts may be retained and/or modified/upgraded by the Department for public use or heritage reasons.*

***The objective is to retain useful huts or huts with recognised historic value and remove others that impact on other park values.***  
 [Original emphasis]<sup>418</sup>

7.15 In July 2010, DEC advised the Committee that the '[h]uts in Shannon and D'Entrecasteaux National Parks are of a standard where they are likely to be upgraded to meet building codes'.<sup>419</sup> This could be read to imply that some huts are of a reasonable standard and some may be retained for shack owner and/or public use.

7.16 The fires in the D'Entrecasteaux National Park in December 2010 were evidence of the real risk of fire at this site.

**Finding 39: The Committee finds that the Department of Environment and Conservation manages 43 huts at Donnelly River in D'Entrecasteaux National Park, which is vested in the Conservation Commission of Western Australia.**

<sup>418</sup> Department of Conservation and Land Management and Conservation Commission of Western Australia, *Shannon and D'Entrecasteaux National Parks Draft Management Plan 2005*, pp111-114.

<sup>419</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p4.



**Finding 40:** The Committee finds that the Department of Environment and Conservation has advised that the huts in D’Entrecasteaux National Park are of a standard where they are likely to be upgraded to meet building codes.

**Finding 41:** The Committee finds that the *Shannon and D’Entrecasteaux National Parks Draft Management Plan (2005)* stated that some huts may be retained and/or modified or upgraded by the Department for public use or heritage reasons.

### THE OCCUPANCY LICENSE

7.17 The hut occupancy license includes the following provisions:

- the license is not transferable and the licensee shall not assign any interest in the license;
- the building shall be used for domestic accommodation and no other purpose;
- the licensee shall ensure that the disposal of sewage and sullage water conforms to Manjimup Shire Health Standards as prescribed in the Schedule. The Schedule details requirements for a toilet facility (each site shall have a facility as described), sullage or liquid waste disposal, and plumbing (all plumbing shall be installed in accordance with By-Laws, and relevant practices and regulations); and
- the licensee shall indemnify and keep indemnified the Crown in right of the Executive Director and the Crown in right of the State against all actions, claims, costs and demands arising out of or in connection with any act, matter or thing done or omitted to be done by the licensee or any servant or agent and shall insure against any liability for an amount of not less than \$500 000.<sup>420</sup>

### LOWER DONNELLY RIVER CONSERVATION ASSOCIATION

7.18 The Lower Donnelly River Conservation Association (Lower Donnelly Association) which represents hut owners, advised that it recognises the need for the Squatter Policy to control the proliferation of random and ragged coastal shacks, mostly along the central west coast, but considers that the policy has achieved its purpose and now needs to mature to take account of other significant community values and their ongoing management.<sup>421</sup>

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<sup>420</sup> Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 1 October 2010, Attachment, Occupancy License.

<sup>421</sup> Submission No 38 from Lower Donnelly River Conservation Association, 30 June 2010, p2.

- 7.19 The Lower Donnelly Association submits that the Donnelly River site is ‘*absolutely unique*’, noting that the area can only be accessed by boat, has a strong connection with the earliest pastoral activities and demonstrates the benefits of an effective, sustained and environmentally sensitive hut community.<sup>422</sup>
- 7.20 The Lower Donnelly Association proposes changes to the Squatter Policy and sensitive developments to the site to protect significant values whilst enabling wider public use. The association prefers that the State Government amends its existing policy, rather than scrap it, to recognise significant differences between circumstances and shacks in different locations. In their view, the Squatter Policy needs to be amended to recognise that:
- some shacks are associated with our earlier endeavours to settle and develop rural Western Australia;
  - many shacks were constructed to accommodate family recreation at a time and place when affordable holiday accommodation did not exist;
  - many existing shacks and shack locations have significant heritage value and that shack settlements provide valuable community benefit;
  - shack communities facilitate responsible and manageable protection of natural and heritage values as well as ongoing care and maintenance of their surrounding environment; and
  - shack communities facilitate an ongoing caretaking presence in isolated locations.<sup>423</sup>
- 7.21 The Lower Donnelly Association submits that Government policy needs to ensure that:
- site specific management plans are prepared in consultation with key stakeholders, endorsed by the vested authority and implemented in a cooperative and shared way;
  - construction and/or an upgrade of dwellings is undertaken to meet regulatory requirements, especially health and safety, without compromising the sense of place and original purpose;
  - the use of shack settlements is inclusive, ‘*meaning that access is available in a controlled and sustainable way to the wider public to provide equity*’;<sup>424</sup> and

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<sup>422</sup> *Ibid*, p2

<sup>423</sup> *Ibid*, pp4-5.

- heritage and other values specific to shacks settlements is communicated to all users through appropriate interpretive and or visitor information facilities.<sup>425</sup>
- 7.22 In the event that Government policy is amended to recognise and protect shack heritage and other community values, the Lower Donnelly Association proposes that:
- hut leases be continued indefinitely to maintain and protect the cultural heritage of this ‘hut settlement’ and ‘hut community’;
  - the site is subject to a detailed site specific management plan, prepared in consultation with key stakeholders, which is consistent with the National Park management plan and vested authority’s policies. The site management plan be endorsed by the vested authority and periodically audited by an independent third party;
  - the Bolganup Hut be relocated in or near the Donnelly Hut site;<sup>426</sup>
  - ‘Wider public use of the precinct be developed by provision of short term (overnight) camping facilities consistent in design and amenity with existing structures’;<sup>427</sup>
  - interpretation and visitor information be provided to raise awareness of the unique natural and heritage values of the lower Donnelly River; and
  - the costs of development and maintenance works be shared between the vested authority and associations, that financial costs of proposed works are kept within the means of hut owners and that hut owners ‘effort in kind’ be recognised as a fair contribution.<sup>428</sup>
- 7.23 The Lower Donnelly Association advised that the Donnelly River community is self governing, and the association is a registered organisation with a constitution, by-laws, a Code of Conduct and building guidelines.<sup>429</sup> The Lower Donnelly Association advised that they hold regular busy bees for site and environmental maintenance,

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<sup>424</sup> *Ibid*, p5.

<sup>425</sup> *Ibid*.

<sup>426</sup> The Bolganup Hut, located six kilometres south of the boat landing near the Donnelly River huts, was built in the late 1800s and is one of the last remaining pastoral lease ‘camps’ in the area: Tabled Document, Lower Donnelly River Conservation Association, 28 January 2011, p9.

<sup>427</sup> Submission No 38 from Lower Donnelly River Conservation Association, 30 June 2010, p7.

<sup>428</sup> *Ibid*, pp6-7.

<sup>429</sup> Lower Donnelly River Conservation Association, *The Donnelly Hut and Jetty Rebuilding Guidelines*, January 1997.

caretaking duties, and a number of groups use the site for recreational purposes, fire training sessions or meetings.<sup>430</sup>

- 7.24 The Committee received submissions from hut owners. A summary of these submissions is attached at Appendix 9.

### Equity and Public Access

- 7.25 Public facilities, such as parking, toilets and boat handling facilities at the upstream landing site are available at Donnelly River. (These were planned in conjunction with DEC, and its predecessor, with some involvement from the Shire of Manjimup).<sup>431</sup> The Lower Donnelly Association advised that they provide shelter, water and fire places for public visitors, including overnight visitors.<sup>432</sup>

- 7.26 The Lower Donnelly Association acknowledges that equity is a significant issue:

*[apart] from occupying public land for private benefit the most significant issue regarding squatter huts appears to be “equity and inclusiveness” and the perception that the general public will object to the squatters having huts when it can’t.*<sup>433</sup>

- 7.27 The Lower Donnelly Association accepts that public access to the site be made available to ‘provide equity’, and that ‘wider public use’ of the area should be developed (if Government policy is developed to protect this area) (see the quotes at paragraphs 7.21 and 7.22).

- 7.28 At the hearing in January 2011, representatives of the Lower Donnelly Association appeared to be unaware that the Shire of Manjimup had resolved, as a condition of their support for the huts, that access to and the rental of the huts themselves be available (see paragraphs 7.35 and 7.36 of this report).<sup>434</sup> The Association’s view on the public use of the site does not extend to permitting public access to the huts themselves.

<sup>430</sup> Tabled Document, Lower Donnelly River Conservation Association, 28 January 2011, p5. For example, the Manjimup Volunteer Fire and Rescue Service has used the hut for training sessions and recreational purposes: Letter from Manjimup Volunteer Fire and Rescue Service, 24 January 2011.

<sup>431</sup> Mr Alan Lush, Local Resident, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p4.

<sup>432</sup> Tabled Document, Lower Donnelly River Conservation Association, 28 January 2011, p8.

<sup>433</sup> Letter from Mr Antony Ryan, Chairman, Lower Donnelly River Conservation Association, 10 February 2011, p1.

<sup>434</sup> Mr Alan Lush, Local Resident, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p13.

7.29 The Lower Donnelly Association supports the public use of camps at the site or, if required, hut verandahs (which currently occurs).<sup>435</sup> Association representatives advised at a hearing:

*Mr Lush: ... In terms of public access and support, in addition to the upstream landing facilities, the hut owners have renewed the boat ramp several times. They provide shelter, water and fireplaces for public visitors, including overnight stays.*

*Hon Phil Edman: Can you elaborate a bit on that point? You have 43 huts, so how do you provide the shelter and the fireplaces for the overnight stays? Does that mean you are renting out?*

*Mr Lush: The verandahs are all available.*

*Hon Phil Edman: So you are letting out one of the 43?*

*Mr Lush: Not subleasing, just letting people use the verandahs and providing the barbecue fireplaces that are there. There is a water supply available, and all of those places on the huts are readily available for public use.*

*Hon Phil Edman: What about sleeping quarters?*

*Mr Lush: They sleep on the verandah. It saves them sleeping in their tents, sometimes.*<sup>436</sup> ...

*Mr Ryan: There is a wide range of people using these huts and the river. There is a wide, wide range. I just think that we have got the equity problem solved where they can use shelters, we can build a day camp, we can accommodate the canoes.*<sup>437</sup> ...

*Mr Lush: My understanding is that for general public use there would be some sort of camping facility provided, similar to the Bibbulmun hut sort of shacks, and that people would use those. If there was an*

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<sup>435</sup> ‘You can camp on hut verandahs or provide your own shelter but these options are not readily apparent and tend to deter most other people’: Letter from Mr Antony Ryan, Chairman, Lower Donnelly River Conservation Association, 10 February 2011, p1.

<sup>436</sup> Mr Alan Lush, Local Resident, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p6.

<sup>437</sup> Mr Antony Ryan, Chairman, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p16.

*overflow from that sort of facility, I expect it to fall back to the verandas again*<sup>438</sup> ...

*Mr Lush: I think the association is keen that wider public use happens in a sustainable way; that whatever facilities for camping are available that fits in with the tone of the place. At one stage, different huts if they became available, they could be made available for camping, but then you have got the issue of kerosene fridges and all sorts. So I can imagine if a hut becomes available and there is nobody interested in keeping it going, you would get rid of the hut and you would replace it with a camping shelter ...*<sup>439</sup>

- 7.30 Lower Donnelly Association representatives expressed the view that allowing general public use of the huts (in their current state) would be naïve, dangerous and a ‘nightmare’:

*The notion of allowing general public use of existing huts is both naïve and dangerous. As most huts are from an earlier era their occupancy involves use of fuel powered refrigerators, wood fired stoves and motor driven water pumps, all of which require specialist knowledge. Inexperienced users will damage either the equipment or themselves or both. To change all to modern appliances will destroy heritage values of the place.*<sup>440</sup>

*Mr Serafini ... Personally, for equity for me, to be responsible for a person who has no idea what it is to have a hut down there is very dangerous, because we are playing around with kerosene fridges, lighting plants. I think it would be a nightmare on equity, opening the huts to people of the public without knowing who we are inviting in there—it is very delicate.*<sup>441</sup> ...

*Mr Serafini: No, that is the thing about public liability.<sup>[442]</sup> That scares us when you start opening it to the public—where it becomes a nightmare—and something does happen within your hut and public*

<sup>438</sup> Mr Alan Lush, Local Resident, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p13.

<sup>439</sup> *Ibid*, p14.

<sup>440</sup> Letter from Mr Antony Ryan, Chairman, Lower Donnelly River Conservation Association, 10 February 2011, p2.

<sup>441</sup> Mr Tony Serafini, Deputy Chairman, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p11.

<sup>442</sup> All hut owners should have public liability insurance. This was a pre requisite for entering into the lease and is part of the lease agreement: See Mr Tony Serafini, Deputy Chairman, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p14, and paragraph 7.17 of this report.

*liability then comes into place. But that is a scary thing about opening the hut itself up to the public, for us.*<sup>443</sup>

- 7.31 On the issue of equity, the Lower Donnelly Association noted that there are numerous instances where private enterprise is carried out in public parks for a profit and it seems to be acceptable to use public land for private purposes if the State is paid enough and the casualty of this approach is low cost family holidays.<sup>444</sup> The Lower Donnelly Association submitted that they feel as though they are paying their way and their occupancy should continue with minimal lease fees:

*Hut owners feel as though they are paying their way through long standing stewardship of the area.* [Original emphasis]. *They have managed river access and the hut precinct for many decades in the absence of effective government action and continue to do so in cooperation with DEC ... It is fair and reasonable that occupancy continues and that lease fees be nominal at most.*<sup>445</sup>

- 7.32 The Lower Donnelly Association advised that they want to build a gazebo and barbecue area for day trippers.<sup>446</sup>
- 7.33 Another equity consideration is that it appears that huts at the Donnelly River site have been sold in the past.<sup>447</sup>

#### SHIRE OF MANJIMUP AND SHIRE OF NANNUP

- 7.34 It is notable that the Shire of Manjimup and the Shire of Nannup<sup>448</sup> support the continued existence of the huts if the huts comply with prescribed conditions, including health and building requirements, and the huts are available for public use, or, in the case of the Shire of Nannup, consideration is given to making one or two of the huts available for community/public use.

<sup>443</sup> Mr Tony Serafini, Deputy Chairman, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p15.

<sup>444</sup> Letter from Mr Antony Ryan, Chairman, Lower Donnelly River Conservation Association, 10 February 2011, p1.

<sup>445</sup> *Ibid.*

<sup>446</sup> Mr Antony Ryan, Chairman, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p7.

<sup>447</sup> '[It] is not a thing that we really get ourselves involved with as an association, because it is a private business. ... We do not profess that to be the right thing, but it does happen': Mr Tony Serafini, Deputy Chairman, Lower Donnelly River Conservation Association, *Transcript of Evidence*, 28 January 2011, p12.

<sup>448</sup> The Donnelly River site is located in both Shires.

7.35 In 2005 the Shire of Manjimup supported the *Draft Management Plan 2005*.<sup>449</sup> On 28 July 2005, the Council resolved:

*The Council supports the removal of huts in accordance with the State's Squatters Policy where they;*

- *Do not have agreed heritage value;*
- *Do not meet health and building requirements;*
- *Are not available to the general community.*

*Correspondingly, the Council supports the retention of huts where they have agreed heritage value, meet health / building requirements, are realistically and practically available to the broader community and are effectively managed (either by CALM or other operators).*<sup>450</sup>

7.36 On 28 May 2009, after the Council considered a submission from the Donnelly Hut Owners Association, the Council of the Shire of Manjimup resolved to:

1. *Advise the Minister for the Environment of Councils preference for the 43 huts near the mouth of the Donnelly River to be legitimized by way of long term lease rather than removed through the enactment of the state squatter's policy; (sic)*
2. ***Reiterate the previous resolution (of the Council) requiring;***
  - a. *All huts meet Health requirements,*
  - b. *All huts meet Building requirements,*
  - c. *A public address facility be developed including toilets and a shelter, and*
  - d. ***Management arrangements exist for promotion of access to short term rental of huts and maintenance of public access facilities.***<sup>451</sup> [Committee emphasis]

7.37 In July 2009, the Shire of Nannup resolved:

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<sup>449</sup> The submission from the Shire of Manjimup refers to the shacks at Broke Inlet 'on Council managed land' and the Donnelly River shacks managed by the Department of Environment and Conservation. The submission refers to both areas before commenting on the Draft Management Plan: Submission No 17 from Shire of Manjimup, 21 June 2010, p1.

<sup>450</sup> *Ibid.*

<sup>451</sup> *Ibid*, p3.



*That Council advise the Minister for the Environment and Lower Donnelly River Conservation Association that it has no objection to the 43 huts located on crown land near the mouth of the Donnelly River being legitimised by the way of a long term lease through the Department of Environment and Conservation (say 21 years) and recommends the following conditions as part of that lease:*

1. *All huts should comply with the Health Act 1911.*
2. *All huts should meet the requirement of the Building Code 2006.*
3. ***Consideration be given** to the development of a public access facility including toilets and a shelter as well as **making available one or two of the huts for community/public use**, [Committee emphasis] with suitable management arrangements being put in place between the Department of Environment and Conservation and the Lower Donnelly River Conservation Association.*
4. *That the Department of Environment and Conservation be responsible for the administration of points 1, 2 and 3 above.*<sup>452</sup>

**Finding 42: The Committee finds that the Shire of Manjimup and the Shire of Nannup support the continued existence of the huts if the huts comply with a number of prescribed conditions, including building and health requirements, and the huts are available for public use or, in the case of the Shire of Nannup, consideration is given to making one or two of the huts available for community/public use.**

## **BROKE INLET**

- 7.38 As previously noted, the Committee understands that there are 10 to 15 shacks at Broke Inlet. The Committee has received limited information on these shacks.
- 7.39 The *Draft Management Plan 2005* notes that shacks have been constructed at this site and '[public] use of the foreshore area of Broke Inlet is affected by the presence of these shacks, many of which are old and dilapidated. There are no public facilities'.<sup>453</sup>
- 7.40 The Committee received one submission regarding the shacks at Broke Inlet.<sup>454</sup> This shack owner, who has owned the shack since 1977, advised that the shacks are used

<sup>452</sup> Submission No 112 from Shire of Nannup, 21 July 2010, pp1-2.

<sup>453</sup> Department of Conservation and Land Management and Conservation Commission of Western Australia, *Shannon and D'Entrecasteaux National Parks Draft Management Plan 2005*, p61.

<sup>454</sup> Submission No 100 from Ms Judith Dittmer, 10 July 2010, p1.

frequently by people in the area for holidays, swimming and fishing and this was a very good place for people with children as the estuary is ideal for safe water activities. The submission stated that the shack owners were very responsible in looking after the area (such as cleaning up rubbish and keeping the areas neat and giving advice to tourists). In the submitter's view, it would be a pity to see this simple but peaceful lifestyle disappear and to lose the history associated with these coastal shacks.

#### COMMITTEE COMMENT

- 7.41 DEC manages the huts in D'Entrecasteaux National Park, including 43 huts in Donnelly River, situated on public land vested in the Conservation Commission of Western Australia. The huts are managed in accordance with the national park's management plan. A new Shannon and D'Entrecasteaux National Parks Management Plan is pending. The Minister for Environment has advised the Committee that he is waiting to consider advice from DEC and the Committee before approving the final management plan.<sup>455</sup>
- 7.42 The shack policy and regulatory framework at Donnelly River differs from the situation at Wedge and Grey. As noted in paragraph 2.19 of this report, the shacks in the D'Entrecasteaux National Park (and Dampier Archipelago) are on parks and reserves vested in the Conservation Commission of Western Australia subject to a management plan under the *Conservation and Land Management Act 1984*. The Squatter Policy does not apply to reserves vested in the Conservation Commission of Western Australia.<sup>456</sup> However, the management authority may adopt the principles of the Squatter Policy.
- 7.43 Unlike the situation at Wedge and Grey, leasehold tenure of the huts was formalised many decades ago (prior to the Squatter Policy). (Like other shack sites, the huts were built many years ago without obtaining legal tenure to do so). The stated objective of the *Management Plan 1987-1997* (the current management plan) is to '*retain huts which are useful for public purposes, have recognised historic values or are subject to a current leasing arrangement*'. At this time, the Donnelly River hut leases were non transferable lifetime leases.
- 7.44 However, since the release of the *Draft Management Plan 2005* the hut owners have been put on notice that the managing authority may choose to deal with the huts in accordance with the Squatter Policy. As the Lower Donnelly Association notes on its website, '[u]nfortunately, the State Government is planning to evict owners of huts at the Donnelly and require they demolish the huts'.<sup>457</sup>

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<sup>455</sup> Letter from Hon Bill Marmion MLA, Minister for Environment, 16 February 2011, p1.

<sup>456</sup> Letter from Hon Donna Faragher MLC, Minister for Environment, 22 April 2010, p2.

<sup>457</sup> [www.donnellyriverhuts.com](http://www.donnellyriverhuts.com), (viewed on 1 April 2011).

- 7.45 In the Committee's view, a number of distinguishing facts and circumstances should be taken into account when considering the future of the Donnelly River huts.
- 7.46 The huts at Donnelly River are located in a reasonably isolated area only accessible by boat (perhaps only the shacks in Dampier Archipelago are as isolated). However, public camping does occur at the site and a number of people, including invited organisations, visit and stay at the site (if not in the huts themselves).
- 7.47 The number of huts at this site is also modest, 43 huts, compared with larger numbers of shacks at other shack sites. This impacts on the environmental 'footprint' of this site.
- 7.48 The huts appear to have been actively managed in recent years by the Lower Donnelly Association and the hut owners, who have worked with DEC on a number of occasions.
- 7.49 DEC advised the Committee that huts in D'Entrecasteaux National Park are of a standard where they are likely to be upgraded to meet building codes (see paragraph 7.15). This could be read to imply that some huts are of a reasonable standard and some may be retained for shack owner and/or public use. The *Draft Management Plan 2005* noted that some huts may be retained and/or modified or upgraded by DEC for public use or heritage reasons.
- 7.50 The Donnelly River huts are in the somewhat unique position in that the relevant local governments, the Shires of Manjimup and Nannup, support retaining the huts if a number of prescribed compliance and public access conditions are met or, in the case of the Shire of Nannup, consideration is given to making one or two huts available for community/public use. The Shire of Manjimup includes the equity requirement that there be some public access to and use of the huts if they are retained. In 2005, the Shire of Manjimup required that the huts could be retained if they are '*realistically and practically available to the broader community*' and, in July 2009, the Shire included the condition that '*[m]anagement arrangements exist for promotion of access to short term rental of huts and maintenance of public access facilities*' (see paragraphs 7.35 and 7.36).
- 7.51 However, the Lower Donnelly Association opposes any public access to the huts and is of the view that camping facilities at the site (with possible use of hut verandahs if required) will provide greater access and equity. They consider that it would be naïve and dangerous to permit public use of the huts. (The Committee presumes that this refers to using the huts in their present state). The Lower Donnelly Association submitted that they feel as though they are paying their way and their occupancy should continue and lease fees be nominal at most.

- 7.52 Another relevant consideration is that huts are often used as a holiday or weekend destination. While staying at a hut for a month or so may occur, the huts are regularly unoccupied during the year.
- 7.53 The Committee is of the view that providing equity and appropriate public access and use of this public land is an issue that needs to be resolved. (The Committee will not repeat equity comments made in Chapter 3 of this report here). Although the Committee appreciates that the huts are isolated, actively managed and the hut owners own the hut itself, the huts remain situated on public land, in a beautiful location, within a national park.
- 7.54 In the Committee's view, permitting public use at a camp or possibly on hut verandahs at the site does not amount to appropriately addressing equity concerns at this site.
- 7.55 Providing affordable recreational accommodation to the public by allowing public use of the huts will maintain and continue the social heritage of the site. Others members of the public could enjoy a similar experience to that enjoyed by hut owners to date. Hut owners and the members of the Lower Donnelly Association could still enjoy some access to the huts.

**Recommendation 7: The Committee recommends that the responsible Minister and Department of Environment and Conservation, the managing authority, work with the Lower Donnelly River Conservation Association with the aim of retaining the huts for use by the public and members of the association, on condition that the huts meet health, building and safety standards.**

## CHAPTER 8

### DAMPIER ARCHIPELAGO

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#### THE SHACKS AND REGULATION OF THE SHACKS

- 8.1 DEC manages 33 shacks in the Dampier Archipelago. These shacks are situated on reserves vested in the Conservation Commission of Western Australia, and managed by DEC under a management plan.<sup>458</sup>
- 8.2 The shacks, built in the 1970s and 1980s, are located on three islands in the Dampier Archipelago,<sup>459</sup> namely East Lewis Island (Reserve 36907), West Lewis Island (Reserve 36909) and Malus Island (Reserve 36910).<sup>460</sup> The reserves were vested in the then National Parks and Nature Conservation Authority (NPNCA) under section 5(1)(h) of the *Conservation and Land Management Act 1984* for the purpose of conservation and recreation.<sup>461</sup>
- 8.3 It is understood that a number of the shacks were built in the 1960s.<sup>462</sup> The shacks are only accessible by boat and few people visit the shack areas.<sup>463</sup> (The current management plan, the *Dampier Archipelago Nature Reserves Management Plan 1990-2000*, provides that the derelict remains of shacks on some of the islands will, subject to the plan, be removed.).<sup>464</sup> Photographs of shacks follow:



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<sup>458</sup> Submission No 47 from Department of Environment and Conservation, 6 July 2010, p4.

<sup>459</sup> Dampier Archipelago is a group of 42 islands located 1 550 kilometres north of Perth (north of Exmouth and South of Port Hedland): <http://wamuseum.com.au/dampier/about.asp> (viewed on 3 February 2011).

<sup>460</sup> Submission No 47 from Department of Environment and Conservation, 21 January 2011, p1.

<sup>461</sup> *Ibid.*

<sup>462</sup> Department of Conservation and Land Management, *Dampier Archipelago Nature Reserves Management Plan 1990-2000*, p17.

<sup>463</sup> Submission No 47 from Department of Environment and Conservation, 21 January 2011, p2.

<sup>464</sup> Department of Conservation and Land Management, *Dampier Archipelago Nature Reserves Management Plan 1990-2000*, p47.

- 8.4 Between 1980 and 1983, the shacks and shack owners were identified and owners were invited to formalise the existing shacks by entering into licence agreements. Thirty nine licences renewable on an annual basis were issued.
- 8.5 With the adoption of the *Dampier Archipelago Nature Reserves Management Plan 1990-2000* and NPNCA policies relating to equity and other management issues, the individual licenses have been superseded by a single ‘club’ license granted to two incorporated community groups - the Dampier Archipelago Recreational Dwellers Association (**DARDA**) and the King Bay Fishing Club (**KBFC**).<sup>465</sup>

## THE LICENCE

- 8.6 The shacks are subject to six year licences issued to DARDA, which holds a licence covering 32 shacks, and KBFC, which holds a licence for one shack.<sup>466</sup> The licences expire on 30 September 2016.
- 8.7 The licences were issued on the understanding that DARDA and KBFC (the licensees), with input from DEC, will prepare a shack management plan to resolve issues such as equity, building maintenance, compliance and waste management, with a long term view of issuing a 15 year lease if these issues are resolved within specified timeframes.<sup>467</sup> DEC advised the Committee that they have engaged with the licensees in order to ensure that shacks meet the *Building Code of Australia* and health standards.<sup>468</sup>
- 8.8 The licence is prescriptive in outlining DEC powers and licensee responsibilities. The license also sets standards and provides for an improvement in standards. Licence provisions include:
- the licensee must comply with DEC’s Tour Operator Handbook Terrestrial and Tour Operator Handbook;
  - the licensee shall use the area for recreational purposes only and pay the licence charge (fee) for each shack each year;
  - the licensee shall keep a record of operations noting the dates and number of members and guests, employees, agents or contractors occupying the shacks, and shall make the record available to the Director General each year. The licensee shall keep a list of all DARDA members and provide this to the Director General each year;

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<sup>465</sup> Submission No 47 from Department of Environment and Conservation, 21 January 2011, p1.

<sup>466</sup> *Ibid.*

<sup>467</sup> *Ibid.*, pp1-2.

<sup>468</sup> Mr Peter Sharp, Director, Parks and Visitor Services, Department of Environment and Conservation, *Transcript of Evidence*, 28 January 2011, p10.

- the licensee shall ensure that all DARDA members and their guests have access to recreational shacks held under the Licence (Clause 8). The licensee shall that membership of DARDA is non-exclusive and open to all residents of the Shire of Roebourne (Clause 9);
- the licensee shall install and maintain a fire extinguisher in workable condition for each shack. Each shack must contain at all times a DEC approved cyclone and emergency evacuation plan. The Licensee shall ensure that bore hole latrines or external chemical closets are screened and maintained to the satisfaction of the Shire Health Surveyor. The Licensee shall obtain from the Shire of Roebourne an approval of toilet and waste water systems for all shacks by 30 June 2013;
- the licensee shall arrange a certified practicing structural engineer to inspect and review all shacks against AS/NZS 1170:2:2002 Structural Design Actions Part 2: Wind Actions, and other relevant Australian standards by 31 December 2011. The licensee shall ensure that DEC receives a copy of the engineers report for each shack by 30 June 2012. The licensee shall ensure that any modifications are compliant with the above standard and other relevant standards as demonstrated by a certificate or report of inspection and approved by DEC by 30 June 2013; and
- the licensee shall maintain public liability insurance for a sum of not less than \$10 000 000 and shall indemnify DEC from all liability.<sup>469</sup>

#### DEPARTMENT OF ENVIRONMENT AND CONSERVATION

8.9 As previously noted, DEC also manages shacks at Wedge and Grey and the Donnelly River shacks. There are notable differences between these shack sites.

8.10 DEC submitted that there are the following important differences between the arrangements at Dampier Archipelago and Wedge and Grey:

- *the shacks at Dampier have a long history of compliance and approval by way of licence granted and public consultation going back to 1980;*
- *the shacks at Dampier are licensed to two community groups, DARDA and KBFC, with opportunities for public use, rather than the private ownership of shacks that presently occurs at Wedge and Grey;*

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<sup>469</sup> Submission No 47 from Department of Environment and Conservation, 21 January 2011, Attachment 1, Licence issued to Dampier Archipelago Recreational Dwellers Association Inc dated 12 November 2010.

- *the action to license the shacks at Dampier in 1980 pre-dates the State Government Squatter Policy adopted in 1989 for the Midwest Region. The two situations are different in terms of timing and reflect the needs of the local communities. The Shire of Roebourne supports the few shacks at Dampier for community recreational purposes, while the Shire of Dandaragan is opposed to the retention of the shacks at Wedge and Grey; and*
- *the small number of shacks at Dampier (33 verses 450 shacks at Wedge and Grey) means that they have a smaller footprint and are easier to manage in terms of environmental controls, infrastructure provision and visitor numbers. Access to the shacks at Dampier is by boat only, which results in low visitation.<sup>470</sup>*

**Finding 43: The Committee finds that the Department of Environment and Conservation manages 33 shacks at Dampier Archipelago on reserves vested in the Conservation Commission of Western Australia under a licence issued to community groups. The licence provides opportunities for the public use of the isolated shacks open to residents of the Shire of Roebourne.**

#### COMMITTEE COMMENT

- 8.11 DEC manages 33 shacks in Dampier Archipelago situated on public land vested in the Conservation Commission of Western Australia.
- 8.12 The shack policy and regulatory framework at Dampier Archipelago differs from the situation at other shacks sites. As previously noted, the shacks at Dampier Archipelago (like the huts at Donnelly River) are on vested parks and reserves subject to a management plan. The Squatter Policy does not apply to vested reserves but the managing authority may choose to adopt the principles of this policy.
- 8.13 There are a number of material differences between the Dampier Archipelago shack sites and other shack sites.
- 8.14 The shacks are located on remote islands in the Dampier Archipelago (in the Shire of Roebourne), only accessible by boat. Few people visit the shack sites.<sup>471</sup> These are small shack sites with only 33 shacks situated on three islands.
- 8.15 The shacks at Dampier Archipelago also have a long history of formalised regulation and leasehold tenure. No evidence before the Committee indicates that the Squatter Policy or a policy of removing the shacks was intended to apply to these shacks. To the contrary, formalised shack arrangements were in place prior to the Squatter Policy.

<sup>470</sup> Submission No 47 from Department of Environment and Conservation, 21 January 2011, p2.

<sup>471</sup> *Ibid*, p2.



- 8.16 Another notable distinction is that the shacks are managed under a six year licence issued to two community groups. The licence is prescriptive in outlining DEC powers and licensee responsibilities. The licence also sets out and provides for an improvement in structural, environmental and health standards. The Committee invited the Shire of Roebourne to provide a submission on the shacks, but did not receive a response. The Committee is not aware of any issues regarding the regulation and management of these shacks.
- 8.17 A significant distinction is that the shack licence provides for wide and more equitable public access and recreational use of the shacks. Clause 9 of the licence provides that membership of DARDA (the licensee) is non-exclusive and open to all residents of the Shire of Roebourne, and Clause 8 provides that DARDA shall ensure that all DARDA members and their guests have access to recreational shacks held under the licence.

**Finding 44: The Committee takes no issue with the management of the shacks by the Department of Environment and Conservation at Dampier Archipelago.**



## CHAPTER 9

### PEACEFUL BAY

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#### THE SHACKS AND REGULATION OF THE SHACKS

- 9.1 The Peaceful Bay shack site consists of 203 ‘shacks’ (cottages)<sup>472</sup> managed by the Shire of Denmark under 21 year leases effective from 1 July 2010. This ‘shack site’ is located behind the primary sand dunes and is surrounded by national park and nature reserves.
- 9.2 The cottages are on an A Class Reserve (Reserve 24510) managed by the Shire of Denmark through a Management Order for the purpose of camping, recreation and holiday cottages. (This empowers the Shire to lease the whole or any portion of the land for up to 21 years).<sup>473</sup>
- 9.3 The Committee understands that the Peaceful Bay area was opened up in the 1930s and 1940s by farmers who drove their cattle down for summer grazing. This eventually increased and people started to come to Peaceful Bay as a holiday location. As holiday interest increased, the Government decided to formalise the holiday arrangement.<sup>474</sup>
- 9.4 The Shire of Denmark advised the Committee that the first 163 lots were released in the 1950s and 1960s and the remaining 40 lots released in the 1980s.<sup>475</sup> In the 1950s, the Shire and holiday makers worked out an orderly layout for the area.<sup>476</sup> A freehold area consisting of approximately 50 residences is located near the cottages and, combined with the cottages, the Peaceful Bay community comprises approximately 250 properties.<sup>477</sup> The Shire of Denmark has leased the cottages at Peaceful Bay since the 1960s. The Shire removed a number of shacks along the coast in the 1970s and 1980s.<sup>478</sup> The Peaceful Bay Progress Association, which represents cottage owners, are of the view that Peaceful Bay cannot really be understood as either a ‘shack site’

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<sup>472</sup> This Chapter refers to the buildings at Peaceful Bay as ‘cottages’. The Peaceful Bay Progress Association consider that it is more accurate to refer to the buildings as ‘cottages’ (not shacks) or, in relation to the more recent buildings, ‘homes’: Submission No 116 from Peaceful Bay Progress Association, 31 January 2011, p1.

<sup>473</sup> Shire of Denmark, Council Meeting Minutes, 10 June 2009, Agenda Item 9.5.1.

<sup>474</sup> Submission No 113 from Shire of Denmark, 26 September 2010, Attachment, Peaceful Bay - May 2008, p1.

<sup>475</sup> Submission No 113 from Shire of Denmark, 26 September 2010, p1.

<sup>476</sup> Submission No 113 from Shire of Denmark, 26 September 2010, Attachment, Peaceful Bay - May 2008, p2.

<sup>477</sup> *Ibid*, p1.

<sup>478</sup> Submission No 113 from Shire of Denmark, 26 September 2010, p2.

or 'squatter community' because of the standard of the buildings and the formal vesting of the site in the beginning as a holiday and camping area.<sup>479</sup>

- 9.5 Most cottages are single storey fibro or weatherboard but there are some brick, stone, rammed, concrete tilt and two storey buildings.<sup>480</sup> The Peaceful Bay Progress Association advised the Committee that the few 'shacks' built in the 1950s and 1960s have been upgraded and the buildings on the lots released in 1980s are '*properly constructed homes*'.<sup>481</sup> The standard of cottages is reasonable with many being of a similar standard to residential buildings constructed around the same time as the cottages.<sup>482</sup> As noted below, the lease sets standards and the Shire is committed to further improving standards. The buildings are laid out in a grid manner. An aerial view of Peaceful Bay and photographs of the cottages at Peaceful Bay follow:<sup>483</sup>



<sup>479</sup> Submission No 116 from Peaceful Bay Progress Association, 31 January 2011, p1.

<sup>480</sup> Submission No 113 from Shire of Denmark, 26 September 2010, p2.

<sup>481</sup> Submission No 116 from Peaceful Bay Progress Association, 31 January 2011, p1.

<sup>482</sup> The Shire of Denmark provided footage of inside a few cottages (March 2011).

<sup>483</sup> Photographs provided by the Shire of Denmark: Letter from Mr Gregg Harwood, Director of Community and Regulatory Services, Shire of Denmark, 30 September 2010.



- 9.6 The Peaceful Bay Progress Association, established in the late 1950s, organises a number of community events throughout the year. The Peaceful Bay Progress Association has described the overall pattern of their relationship with the Shire of Denmark as constructive and highly productive.<sup>484</sup> The Association advised that they and the local community have driven development and infrastructure since the 1950s, that Association members have a strong ‘ownership’ of the area and volunteers have been involved in infrastructure development and maintenance.<sup>485</sup> The Committee understands that most people in the community have familial links that extend back to the original settlement of Peaceful Bay.<sup>486</sup>
- 9.7 The area has an Economic Regulation Authority (ERA) licensed non-potable water system and each property must have its own rainwater tank for drinking and showering. The area has telephone, mains power, a television repeater station, foot paths in high use areas, a sealed dual lane access road, rubbish collection, a bushfire brigade shed, fire hydrants and a sea rescue building.<sup>487</sup>

<sup>484</sup> Submission No 116 from Peaceful Bay Progress Association, 31 January 2011, p2.

<sup>485</sup> *Ibid*, p1.

<sup>486</sup> Submission No 113 from Shire of Denmark, 26 September 2010, Attachment, Peaceful Bay - May 2008, p3.

<sup>487</sup> Submission No 113 from Shire of Denmark, 26 September 2010, pp1 and 2.

- 9.8 The Shire advised that the Shire of Denmark Council has granted permission to a small number of lease holders to permanently occupy their leasehold lots. The ‘permanents’ keep an eye on other peoples’ leasehold lots, water gardens, put away bins after collection day and fix small problems in the leasehold area. The Shire also pays the permanent residents, through the Peaceful Bay Progress Association, to perform minor road and verge maintenance in both leasehold and freehold areas.<sup>488</sup>
- 9.9 There is a Shire presence in the Peaceful Bay area. The Shire’s two professional rangers regularly patrol the area during summer and the Shire has recently appointed six voluntary rangers with authority to only act in the Peaceful Bay area.<sup>489</sup>

**Finding 45: The Committee finds that the Shire of Denmark manages 203 cottages at Peaceful Bay. The cottages are leased under a 21 year lease effective from 1 July 2010. The cottages have been leased by the Shire of Denmark since the 1960s. The Shire of Denmark removed other shacks on the coast in the 1970s and 1980s.**

#### THE SHIRE OF DENMARK

- 9.10 The Shire of Denmark supports the Peaceful Bay community and retention of the cottages. The Shire advised:

*The Shire of Denmark is committed to the continuation of the Peaceful Bay community and when it has the opportunity to do so takes step towards the normalisation of the town site by improving services and facilities.*<sup>490</sup>

- 9.11 The above noted facilities and services provided to the area demonstrate the Shire of Denmark’s support for the area. The Shire also advised that the Shire Council also has a planning conservation policy in place for the area, has recently conducted a scheme water and sewerage viability plan and is looking at installing a finger jetty near the settlement’s boat ramp.<sup>491</sup> The Shire of Denmark considers that Peaceful Bay is a worthwhile model of what a good ‘coastal lease hold holiday community’ can be.<sup>492</sup>

**Finding 46: The Committee finds that the Shire of Denmark supports the Peaceful Bay site and retention of the cottages and is committed to normalising the town site by continuing to improve services and facilities.**

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<sup>488</sup> *Ibid.*

<sup>489</sup> Submission No 113 from Shire of Denmark, 26 September 2010, p2.

<sup>490</sup> *Ibid*, p1. The Shire of Denmark Council Meeting Minutes, 23 June 2010, records the Council’s support for Peaceful Bay as does the Draft Peaceful Bay Pre-Feasibility Service report, 27 July 2010, adopted by the Council.

<sup>491</sup> *Ibid*, p2.

<sup>492</sup> *Ibid*, p1.

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**THE LEASE**

- 9.12 Cottage owners have entered into a 21 year lease effective from 1 July 2010.<sup>493</sup> The leases are due to expire on 30 June 2031.
- 9.13 The comprehensive lease was drafted based on the Windy Harbour lease,<sup>494</sup> after being extensively reviewed and agreed with the Peaceful Bay Progress Association.<sup>495</sup>
- 9.14 The Shire of Denmark inspects the cottages prior to a lease being transferred (sold to another party) and issues such as hardwired smoke alarms and dual earth leakage circuit breakers are addressed as part of the transfer of the lease.<sup>496</sup>
- 9.15 The lease includes the following provisions:
- The lessee shall pay a yearly rental.
  - The lessee may use the premises as a holiday cottage which shall not be occupied for a single consecutive period of three months or combined period or several short terms periods which in total are greater than six months in one rental year, without the prior written consent of the Shire of Denmark (the lessor). The lessee shall not use the premises for other use or purpose without the prior written consent of the Shire.
  - The lessee shall not carry on or permit any business or any noxious offensive or illegal activity or practice. The lessee shall keep the premises clean. The lessee shall at its own expense maintain the premises and all improvements in a good, clean, habitable condition to the reasonable satisfaction of the Shire of Denmark. The lessee shall destroy, fell or cut down any trees or shrubs on the land.
  - The lessee shall perform and fulfill at its own expense the requirement of all statutes as well as all regulations, by laws, ordinances, local laws and policies of the Shire of Denmark relating to the land.
  - The lessee shall at its own expense maintain a tank for the retention of at least 4 640 litres of rainwater and will not construct any replacement rainwater tank on the premises in a capacity less than this. This clause will be waived where the premises is connected to an approved reticulated potable water supply.

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<sup>493</sup> The Committee was advised in October 2010 that the Minister for Lands, the last party to sign the leases, signed leases in August 2010. As at October 2010, the Minister has signed 202 of the 203 leases.

<sup>494</sup> See footnote 131.

<sup>495</sup> Shire of Denmark, Council Meeting Minutes, 10 June 2009, Agenda Item 9.5.1, p2.

<sup>496</sup> Submission No 113 from Shire of Denmark, 26 September 2010, p3.

- It is a material condition that the lessee will at its sole expense and risk connect the premises to any reticulated potable water supply suitable for the premises that becomes available.
- It is a material condition that the lessee will at its sole expense and risk connect the premises to any sewerage service suitable for the premises that becomes available.
- The lessee shall indemnify and shall hold indemnified the Minister for Land and the Shire of Denmark from and against all actions, claims, demands, losses, costs and expenses which the Minister for Land or Shire of Denmark sustains or incurs for which the Minister for Land or Shire becomes liable in respect of (among others) loss, damage or injury sustained by the lessee or any servant workman, employee, client, customer, visitor, invitee or licensee or member of the public upon or about the premises.
- The lessee agrees to occupy and use the premises at the risk of the lessee and the Shire of Denmark will not in any circumstances be liable to the lessee.
- It is a material condition of this lease that the lessee will not consent to an assignment of this lease unless the premises are connected to a reticular water supply and sewerage service (as per the lease). The Shire of Denmark may waive this requirement.
- The lease may be terminated at any time by the lessee (on giving three months notice in writing), by agreement between the lessee and the Shire of Denmark, and by the Shire if for any reason the Shire's right or title in and to the land is withdrawn or in any other way affected such that the Shire is unable to grant to the lessee the rights and entitlements herein.
- The lessee agrees to indemnify and keep indemnified the Shire of Denmark against all costs, expenses, liabilities and claims for moneys expended or incurred or paid by the Shire or for which the Shire may be or become liable to pay as a result of the failure of refusal of the lessee to connect the premises to reticulated water supply or sewerage service in accordance with the lease.

## ISSUES ARISING

- 9.16 The Shire of Denmark advised of a number of issues and concerns regarding the cottages at Peaceful Bay.



- 9.17 There was anxiety over whether or not the leases will be renewed on their next expiry. *‘The potential for latent paranoia’* regarding Council’s intentions means that Council must carefully manage relationships.<sup>497</sup>
- 9.18 A further concern is the *‘ever increasing prices that shack lease are being sold for (\$280-320K)’*<sup>498</sup> as leaseholders do not own the land. The Shire noted that the more expensive the leases become, the greater the development pressures will become and there will be greater the anxiety and argument.
- 9.19 The Shire considers that the security provided by the recent 21 year lease will cause a flurry of requests for permission to either extend or demolish and replace existing cottages. (Council requires planning scheme consent applications and building licences for all additions and out buildings and the replacement cottages).<sup>499</sup>
- 9.20 The Shire also advised that the Peaceful Bay community is slowly requesting more services and infrastructure and the provision and the maintenance of these services will place an additional burden on Council’s resources.<sup>500</sup>

#### COMMITTEE COMMENT

- 9.21 The Shire of Denmark manages 203 cottages at Peaceful Bay. The Peaceful Bay site was vested in and managed by this local government decades prior to the Squatter Policy (1989).
- 9.22 The Squatter Policy does not apply to vested land where a body holds a management order (vesting) of affected reserved land, even though local government could adopt the principles of the Squatter Policy (see paragraphs 2.36 to 2.40). There is no evidence before the Committee that a policy of removing shacks was ever intended to be imposed at Peaceful Bay.
- 9.23 Peaceful Bay differs in significant material respects to other shack sites in Western Australia.
- 9.24 The cottages themselves, the history of this site and the regulation of Peaceful Bay differ in many respects to shack sites such as Wedge and Grey. For example, the construction and standard of the shacks and the planned and constrained development of the area is unique. The Shire of Denmark’s presence and management of the area, provision of services and facilities, good relationship with the cottage owners, support of the site and commitment to managing risks at the site are all notable differences between this site and other shack sites in Western Australia. Further, the Shire of

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<sup>497</sup> Submission No 113 from Shire of Denmark, 26 September 2010, p2.

<sup>498</sup> *Ibid*, p3.

<sup>499</sup> *Ibid*, pp2 and 4.

<sup>500</sup> *Ibid*, p4.

Denmark removed other shacks along the coast many years ago. The Committee is not aware of any building, environmental or health concerns at this site.

- 9.25 Another notable difference is that a 21 year lease agreement, signed by the Minister for Lands, has been entered into by the leaseholders following a very long period of leasehold tenure at the site. The long term lease appears to reflect the long history and unique circumstances of this site. It is understandable that cottage owners may have an expectation of long term tenure, particularly given their long term lease. The lease sets certain standards and the Shire of Denmark is committed to 'normalising' the town site by continuing to improve services and facilities.
- 9.26 The Peaceful Bay Progress Association advised that the local community and the Association have driven development and infrastructure since the 1950s and the Committee understands that many people in the community have familial links that extend back to the original settlement of Peaceful Bay. There is social heritage at this site, formed by people and families sharing the experience of staying at this site and enjoying what this unique location offers.
- 9.27 The evidence before the Committee indicates that Peaceful Bay is working well, although some issues have arisen. The Committee is of the view that the current arrangements should continue.

**Finding 47: The Committee finds that the Peaceful Bay site differs in significant material respects from other shack sites in Western Australia. The Peaceful Bay site appears to be working well due to the unique circumstances at this site.**

**Finding 48: The Committee finds that the present arrangements at the Peaceful Bay site should continue, with the Shire of Denmark managing this site.**

## CHAPTER 10

### NAVAL BASE

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#### THE SHACKS AND REGULATION OF THE SHACKS

- 10.1 The City of Cockburn (**the City**) manages 178 shacks located at Lot 373 Cockburn Road, Henderson (**Naval Base**).
- 10.2 This shack site area is situated on a Class A reserve (Reserve 24308) vested in the City with a Management Order for the reserve for the purposes of recreation and camping. The Committee understands that the original vesting of the reserve was approved on 10 July 1957.<sup>501</sup>
- 10.3 Caravans with annexes were originally placed on what is now known as Naval Base. Over time, the structures have become more permanent. The site was originally managed as a caravan park. Caravans have been located at this site since the 1930s.<sup>502</sup>
- 10.4 The shack sites are currently leased to tenants for a period of one year under a ‘Memo of Agreement’ (**lease**). To date, the City has offered a lease each year. The lease stipulates that the City has the right at any time to cancel the tenancy by 14 days written notice without being required to give any reason for such cancellation or order (see paragraph 10.12 for further details of the lease). The City has the power to lease the shack sites for a period of 21 years. Tenants have sold shacks at Naval Base even though under the terms of the lease the lease is not transferable without the consent of the Minister. The City advised that on 29 April 1999 Hon Doug Shave MLA, then Minister for Lands, advised the City that the ‘*leases are only an interim measure, which the State has accepted, to recognise the existence of the shacks until such time as the situation is rectified*’.<sup>503</sup>
- 10.5 Correspondence in April 2001 stated that DOLA:

*would prefer a policy that allowed for replacement of existing structures, rather than one that encouraged expansion or major*

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<sup>501</sup> Minutes of City of Cockburn Council meeting on 12 August 2010, Agenda Item 14.8, p84. An amended Management Order was received on 12 May 2009, which granted the City power to lease for a period of 21 years subject to the approval of the Minister for Lands.

<sup>502</sup> Mr Fred Cavanough, Member, Naval Base Holiday Park Residents’ Association, *Transcript of Evidence*, 3 August 2010, p2. The City of Cockburn has been operating the site since 1933: [www.cockburn.wa.gov.au/Council\\_Services/City\\_Development/Navalbase/](http://www.cockburn.wa.gov.au/Council_Services/City_Development/Navalbase/) (viewed on 2 March 2011).

<sup>503</sup> City of Cockburn, Council Meeting Minutes, 12 August 2010, Agenda Item 14.8, p85.

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*development. This would ensure that lessees were under no misapprehension that their tenure is both short term and finite.*<sup>504</sup>

- 10.6 The City further advised that it has made a number of decisions regarding the shacks in the past, which were made when the extent of the issues and risks associated with the reserve were not fully understood.<sup>505</sup>
- 10.7 On 20 April 2004, the City resolved to include the 'Naval Base Caravan Park' on the City's Municipal Heritage Inventory.<sup>506</sup> The Municipal Heritage Inventory is not referred to in the City of Cockburn Town Planning Scheme No 3 and therefore the inventory has no statutory powers to enforce protection. Naval Base is not on the City's Heritage Listing or the State Heritage Register.<sup>507</sup>
- 10.8 Regarding services at Naval Base, a potable water supply for shack lessees is provided through water taps. The shacks do not have access to other utilities, such as mains electricity, reticulated gas or a sewer. Naval Base contains two ablution facilities, constructed by the City.
- 10.9 Shack owners and their friends use the Naval Base shacks. Representatives from the Naval Base Holiday Park Residents' Association<sup>508</sup> (**Naval Base Association**), who represent shack occupiers at Naval Base, advised that the site is open to the public and people visit the site and swim at the beach. The Naval Base Association organises annual events available to the public.<sup>509</sup> The shacks have been described as having little uniformity in shack positioning, design and current built condition.<sup>510</sup> Photographs taken at Naval Base follow:<sup>511</sup>



<sup>504</sup> *Ibid.*

<sup>505</sup> *Ibid.*

<sup>506</sup> *Ibid.*, p72.

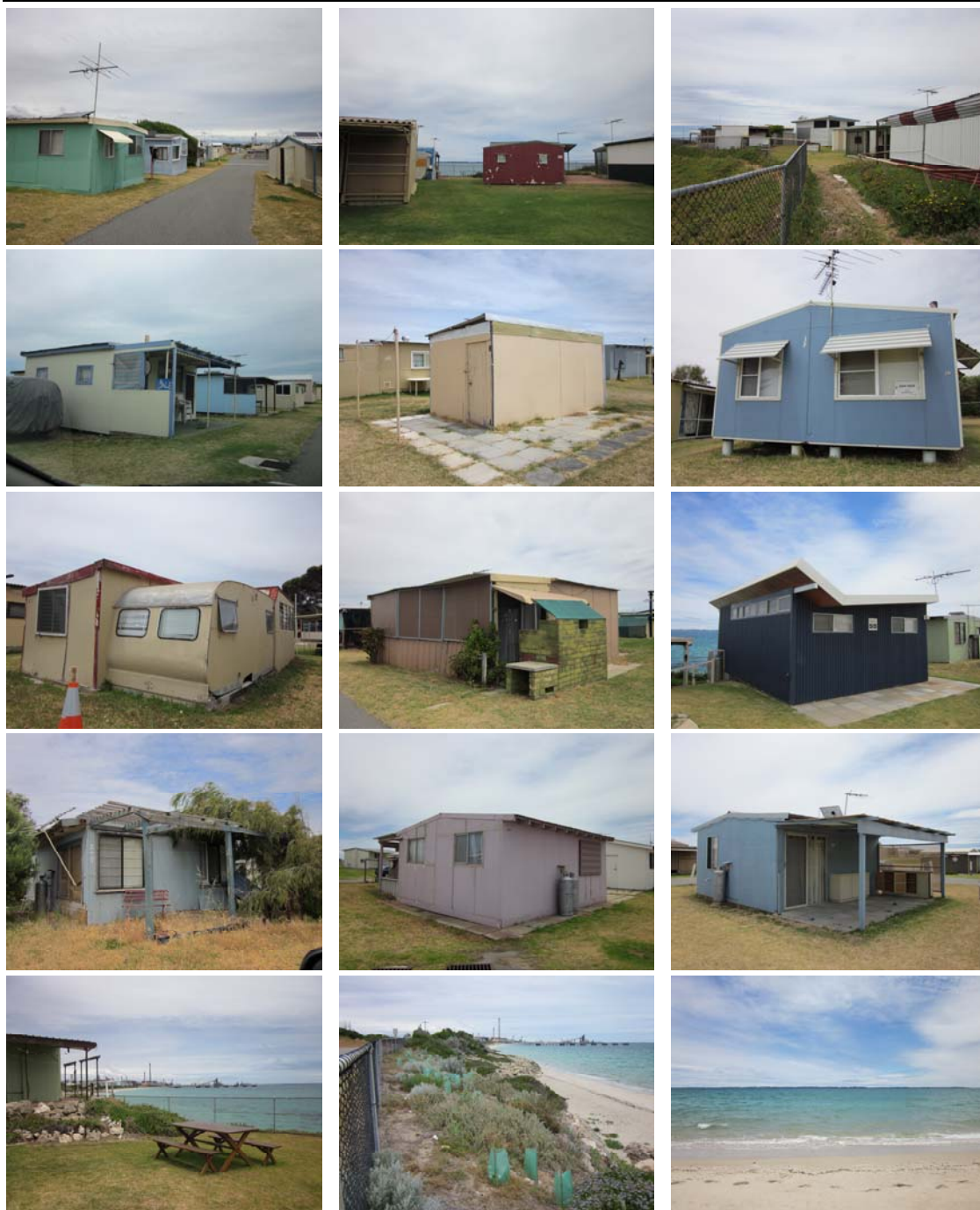
<sup>507</sup> *Ibid.*, p86.

<sup>508</sup> The Committee has also received correspondence from the Association under the names Naval Base Holiday Centre Association and Naval Base Holiday Association.

<sup>509</sup> Submission No 44 from Naval Base Holiday Park Residents' Association, 30 June 2010, p3.

<sup>510</sup> City of Cockburn, Council Meeting Minutes, 12 August 2010, Agenda Item 14.8, p82.

<sup>511</sup> The photographs were taken in December 2010.



**Finding 49:** The Committee finds that the City of Cockburn manages 178 shacks at Naval Base. This reserve was vested in the City of Cockburn decades prior to the Squatter Policy. The shacks are leased for a period of one year. To date, the City of Cockburn has offered a lease each year.

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**THE LEASE**

10.10 As noted above, to date the City of Cockburn has leased the shacks on an annual basis.

10.11 The lease payments (payable in advance) have increased over the last few years. The annual lease payment for the 12 months ending on 31 August 2008 was \$966, the payment was \$1 124 for 2009-10<sup>512</sup> and the lease payment for 2010-11 is \$2 170.35.<sup>513</sup>

10.12 The Naval Base lease includes the following conditions:

- The tenant may park on the allotted site or construct a single storey holiday accommodation to Council's specifications for use for holiday and recreational purposes only.
- The accommodation is not be used as a permanent place of residence which under this agreement shall be for an accumulated period of no longer than four months over the year.
- The tenant shall comply with all Local Laws of the City and *Health Act 1911* and Health Regulations in force on the reserve.
- The City of Cockburn has the right at any time to cancel the tenancy by 14 days written notice without being required to give any reason for such cancellation or order.
- The tenant shall not sublet the caravan or building on this site.
- The tenant shall not erect, renovate, or alter a wall, fence, enclosure or obstruction around premises without the written consider of the City and prior consent being granted the tenant must adhere to the guidelines contains in the document *Consent Process for Development/Building Works and Other Works* available from the Council Offices.
- The tenant is to permit the City of Cockburn's employees to inspect the building at all reasonable times.
- No trade or business shall be carried out on the premises.

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<sup>512</sup> Submission No 44 from Naval Base Holiday Park Residents' Association, 30 June 2010, p2.

<sup>513</sup> The City of Cockburn's website explains this increase: '*The City has recently obtained an independent market valuation from a licensed valuer, which stated that the lease fee charged by the City was substantially below current market value. Lease fees have not been reviewed by an independent valuer for the past five years and lessees have been charged at a substantially reduced rate for those years. Instead of an increase in one hit, the City will gradually move to the new lease fee over three years so as to minimise the impact on all lessees... All funds will be held in the Naval Base Shacks Reserve Fund and be spent on improving and maintaining amenities on the reserve*': [www.cockburn.wa.gov.au/Council\\_Services/City\\_Development/Navalbase/default.asp](http://www.cockburn.wa.gov.au/Council_Services/City_Development/Navalbase/default.asp) (viewed on 1 November 2010).

- On the expiration of the tenancy the tenant shall remove the caravan from the site or make arrangements for the disposal of the single storey accommodation within 28 days.
- It is agreed that in the event of the Minister for Lands requiring all or any part of Reserve 24308 for a public work, this agreement shall become void and of no effect on the day six months after the City receives written notice of such requirement.
- This agreement is not transferable without the approval of the Minister for Lands.
- The tenant agrees to indemnify the City against any claims in respect of fire.<sup>514</sup>

### THE NAVAL BASE HOLIDAY PARK RESIDENTS' ASSOCIATION

10.13 The Naval Base Association provided a submission to the Committee and representatives from the Association appeared at a hearing (prior to the Council of the City of Cockburn meeting on 12 August 2010 to consider the future of the shacks).

10.14 The Naval Base Association does not accept that shack owners at Naval Base are 'squatters' because the shacks are subject to 'long standing leases' and shack owners pay annual rent.<sup>515</sup> The Naval Base Association accepts that illegal occupation of coastal Crown land by squatters can have detrimental effects but says that this does not apply to Naval Base where there is no native vegetation or dune system to erode and the area is either grassed or bituminised for roads. The Naval Base Association contrasted their position with the situation in the Mid West shacks (such as Wedge and Grey) as follows:

*I have known for many years that successive governments have moved to close what have been referred to as squatters shacks in the Mid West ... our situation in Naval Base is different from the situation of those squatters. We are not squatters. Our holiday park has existed we think since the 1930s. An A-class reserve is set aside for the specific purpose of recreation and camping ... It is a historical thing that is, as I say, different from the squatters' situation where the arguments have been that it is a health and hygiene issue [in the Mid West] ... It is not where we are. Two ablution blocks service 178 individual shacks, and a rubbish disposal service is provided*

<sup>514</sup> Letter from City of Cockburn, 1 November 2010, Attachment, Memo of Agreement (lease).

<sup>515</sup> Submission No 44 from Naval Base Holiday Park Residents' Association, 30 June 2010, p2.

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*three times a week by the City of Cockburn. We are not posing a health or hygiene problem down there.*<sup>516</sup>

- 10.15 Naval Base owners, like other shack owners, comment on the sense of community at the site and the joy of experiencing a different lifestyle and experience at Naval Base. As Mr Cavanough stated:

*What is important to me is taking my grandchildren down there and letting them experience what would have been the hardship of the past. They notice the difference in lifestyle and appreciate what previous generations have gone through. It is really good.*<sup>517</sup>

- 10.16 Ms Waters, Naval Base Association, commented on their environmental work:

*[We] are involved with Coastcare, and we have planning days down there early in the winter. We get quite a roll-up of people, and children, who come down and help plant. I think the other Sunday morning we planted nearly 300 small shrubs on the cliff top, and there was quite a group of children down there that morning who helped us, and we follow up by going and having a look at them and watering them and what have you over their first summer. So there are lots of things that we try to do to help the environment.*<sup>518</sup>

- 10.17 The Naval Base Association advised the Committee that ‘government planners’ have consistently advised that Naval Base is not under threat, even with the development of the new Fremantle Port.<sup>519</sup> The Association advised that the City’s view is seemingly based on the premise that the shacks are not up to residential standard but in their view it was not their fault because the lease is very restrictive as to what they can and cannot do. They advise that shack owners would not mind paying more to upgrade their facilities.<sup>520</sup>

- 10.18 The Naval Base Association concluded in their initial submission that it would be fitting if Naval Base was guaranteed continuity of operations in its present form.<sup>521</sup>

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<sup>516</sup> Mr Fred Cavanough, Member, Naval Base Holiday Park Residents’ Association, *Transcript of Evidence*, 3 August 2010, p2.

<sup>517</sup> *Ibid*, p7.

<sup>518</sup> Ms Nola Waters, President, Naval Base Holiday Park Residents’ Association, *Transcript of Evidence*, 3 August 2010, pp7-8.

<sup>519</sup> Submission No 44 from Naval Base Holiday Park Residents’ Association, 30 June 2010, p2.

<sup>520</sup> Mr Fred Cavanough, Member, Naval Base Holiday Park Residents’ Association, *Transcript of Evidence*, 3 August 2010, p2.

<sup>521</sup> Submission No 44 from Naval Base Holiday Park Residents’ Association, 30 June 2010, pp2-3.



- 10.19 The Committee received further submissions from the Naval Base Association and shack owners following the City of Cockburn's decision on 12 August 2010 to commence a consultation process on the future of Naval Base. These submissions are referred to at paragraphs 10.37 to 10.41.

### THE CITY OF COCKBURN

- 10.20 The City of Cockburn is currently considering the future of Naval Base. As at the date of this report, the City had not made a decision on the future of Naval Base.

### The Advice Presented at the City of Cockburn Council Meeting on 12 August 2010

- 10.21 The City of Cockburn Council was asked to consider various options on the future regulation of Naval Base at the Council meeting on 12 August 2010. The Council did not adopt any of the recommendations presented by City of Cockburn officers and resolved to commence consultation (further detail of the resolution is noted below) on the future of Naval Base.

- 10.22 A City of Cockburn officer advised that they are:

*currently seeking to introduce a new management approach for the Naval Base Shacks site. This is to specifically deal with concerns the City has in terms of the management of the site - specifically to ensure that there is an appropriate regulatory framework through which the City can exercise legal control over the users of the reserve. At present no such framework exists.*<sup>522</sup>

- 10.23 City officers presented the following three options to the Council on 12 August 2010:

- Option 1 - Undertake a comprehensive reform of Reserve 24308 by bringing the reserve under the *Caravan Parks and Camping Grounds Act 1995*. This was the preferred option. This option consists of initiating consultation (including a public forum) on this option. The estimated cost of this option is \$2 820 350. The components of this option are:
  1. An initial one-off lease term of five years, at the end of which (or prior) shacks must be removed by lessees and lessees replacing them with an approved caravan and annex. This aspect is non-negotiable. If lessees have not removed shacks by the expiry date, then leases are forfeited to the City of Cockburn.

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<sup>522</sup>

Letter from Mr Andrew Trosic, Manager, Strategic Planning, City of Cockburn, 5 January 2011, p1.

2. During the initial five year lease term, the reserve's infrastructure being brought up to a satisfactory standing to enable implementation of the *Caravan Parks and Camping Grounds Act 1995*.
  3. All costs associated with reserve infrastructure upgrades being prefunded by the City of Cockburn, but with full cost recovery from increased lease revenue.
  4. Following expiry of the initial five year lease term, the new caravan park regime commencing with new leases as follows:
    - a. lease terms being five years, with a single option for a further five year term;
    - b. lease fees being increased to reflect market value, then increased by the consumer price index (CPI) each year and a market review at the end of the first five year lease term;
    - c. the new accommodation being used for a total of four months in any twelve month period, due to the proximity of the Kwinana Industrial Area;
    - d. the current six month State Government Break Clause being maintained; and
    - e. no reassignment of leases taking place whatsoever. Once lessees decide they non longer wish to have the lease, the lease is to be surrendered to the City of Cockburn for reallocation.
- Option 2 - Close the reserve down within a short term timeframe (five years), with all structures removed, the reserve revegetated and returned to Bush Forever. (The site would be managed as part of Beeliar Regional Park). The estimated cost of this option is \$381 700.
  - Option 3 - A 'Kiosk proposal' as part of option 1 or 2. The City noted that the City's health officer shares concerns that the kiosk is too small to satisfactorily comply with the provisions of the *Health Act 1911* and associated legislation. The City has the opportunity replace the kiosk with a more substantial building that is built to standards and offer the lease to the current occupier. Alternatively, the City could replace the building with a more substantial kiosk. The initial cost of this option would be around \$760 000.<sup>523</sup>

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<sup>523</sup>

City of Cockburn, Council Meeting Minutes, 12 August 2010, Agenda Item 14.8, pp93-96.

10.24 The papers presented to the City Council argued that there were a number of reasons for a change in policy. The papers expressed the view that the current ad hoc nature of the use and development of the reserve cannot continue in its current form.

10.25 City of Cockburn officers advised that in the absence of a legislative framework and associated regulation of the shack site, key areas of concern to the City include:

- *How are health standards being imposed and regulated?*
- *How are building standards being imposed and regulated, especially considering the highly exposed coastal location of the reserve?*
- *How is management of shack occupancy and length of stay taking place?*<sup>524</sup>

10.26 City officers have raised equity and exclusivity issues as important considerations. The site was originally managed as a caravan park, with a register of City of Cockburn residents being allocated a site each time a lessee rescinded their lease but Naval Base has evolved into exclusive holiday accommodation with the sites and structures being sold on the open market. The Committee was informed that shacks are being sold for tens of thousands of dollars and some people consider the shack a marketable commodity.<sup>525</sup> Further, the number of City of Cockburn ratepayers had reduced to 26 per cent of the leases.<sup>526</sup> It has also been noted that idyllic coastal locations for caravan parks are few and far between and a caravan park would be a nice addition to that section of Cockburn Sound.<sup>527</sup> The report to Council expressed the concern that:

*The site is a Class 'A' Reserve, which is designated for public use and enjoyment but is currently being used exclusively by lessees.*<sup>528</sup>

10.27 City officers advised that a major concern was the need to manage risks at the site. City officers commented in their report to the Council that it is apparent, even in undertaking an inspection of the shacks, that there is no comparable legislative context in which to be able to impose minimum standards. This is of major concern to City officers who consider that managing risks and public safety on a City managed reserve

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<sup>524</sup> Letter from Mr Andrew Trosic, Manager, Strategic Planning, City of Cockburn, 5 January 2011, p1.

<sup>525</sup> 'There certainly are a number of shacks for sale at the moment in the mid 30s to low 40 thousands, and all you are buying is a 12 month lease': Mr Andrew Trosic, Manager, Strategic Planning, City of Cockburn, *Transcript of Evidence*, 3 August 2010, p5.

<sup>526</sup> City of Cockburn, Council Meeting Minutes, 12 August 2010, Agenda Item 14.8, p84.

<sup>527</sup> Mr Andrew Trosic, Manager, Strategic Planning, City of Cockburn, *Transcript of Evidence*, 3 August 2010, p9.

<sup>528</sup> City of Cockburn, Council Meeting Minutes, 12 August 2010, Agenda Item 14.8, p88.

must be at the forefront of the Council's mind.<sup>529</sup> In the absence of legislative context and associated regulation, they are concerned about how health standards will be imposed and regulated, how building standards will be imposed and regulated (especially considering the highly exposed coastal location of the reserve), and how governance of shack occupancy and length of stay will take place.

- 10.28 The Council was also advised that the City is currently exposed to potential liability for death, injury, damage or loss, as the shacks have not been subject to any robust building assessment regime. The shacks are not built to any building standards, such as the *Building Code of Australia* and referenced Australian standards.<sup>530</sup> The shacks present a very real fire risk as they are unable to be fitted with smoke detectors due to an absence of mains electricity. City officers consider that there is a '*high level of risk*' that death or injury could occur to a tenancy, due to a shack being potentially unsafe.<sup>531</sup> The report to Council noted that it is only by sheer good fortune that the shack structures have not caused injury or worse to occupiers or visitors.
- 10.29 Further, some lessees have plumbed reticulated water and bottled gas into the shacks without any form of approval and basic effluent disposal or fire safety. The plumbing that runs through the reserve requires upgrading and in one section the in-situ pipes are over forty years old. City officers commented that illegal plumbing is creating health and erosion issues and sub soil subsidence is created by unauthorised storm-water disposal. The storm water drainage is unsuitable and recent storms caused flooding of shacks.<sup>532</sup> Also, the reserve is highly exposed to high wind and storm events and the coastal environment (such as ongoing cliff face instability) requires significant and consistent coastal management.
- 10.30 City officers advised that the shacks have not been assessed from a health and/or sanitation perspective, creating a significant liability for the non performance of regulatory functions under the *Health Act 1911*.
- 10.31 City officers advised the Council that the City could be held liable for the extent to which it could or should have prevented any death, injury, damage or loss as a result of its management of the shack site.<sup>533</sup> At a hearing, a City officer advised:

[This risk] *is something that the city has been aware of for a number of years. When I came on board in 2006, it was an issue that I*

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<sup>529</sup> *Ibid*, p69.

<sup>530</sup> 'After a cursory external inspection of the shacks it is apparent that all shacks would and could not meet minimum BCA requirements': City of Cockburn, Council Meeting Minutes, 12 August 2010, Agenda Item 14.8, p90.

<sup>531</sup> *Ibid*, p88.

<sup>532</sup> Chasms created by illegal storm-water catchment occurred in December 2009 between two shacks. It was remedied by pouring concrete into the chasm at a cost of approximately \$1 200.

<sup>533</sup> City of Cockburn, Council Meeting Minutes, 12 August 2010, Agenda Item 14.8, p88.

*identified as having potential exposure in terms of council liability that really needed to be addressed.*<sup>534</sup>

- 10.32 The report to Council noted that the reserve is located on the Cockburn Sound foreshore which is a recognised vulnerable marine environment and habitat. Many lessees have plumbed reticulated water into shacks, without any provision for adequate effluent disposal. This means nutrient enriched effluent is potentially being disposed of through no means other than running a pipe into the ground or on the surrounding lawn. City officers consider that this poses a significant risk to Cockburn Sound by virtue of nutrient export. Council officers advised that the shacks do not meet the current State Coastal Planning Policy limits on how close development can get to the coast.<sup>535</sup>
- 10.33 City officers also note that the majority of shacks have been extended over time, exceeding the maximum permitted size under the current lease<sup>536</sup> and people are breaching lease conditions. The City has heard anecdotally that at times people have been occupying shacks on a permanent basis and they quite often find unauthorised works at Naval Base.<sup>537</sup>
- 10.34 City officers advised the Council that from a proper and orderly planning viewpoint which considers the public interest as its primary objective, the use of the reserve in its current ad hoc manner cannot continue.<sup>538</sup>

### **The City of Cockburn's Position**

- 10.35 On 12 August 2010, the Council of the City of Cockburn resolved to:

- (1) not endorse any draft preferred option regarding the future management of Reserve 24308 at this stage;*
- (2) prior to considering any future report regarding a preferred option for the future management of Reserve 24308, consultation be undertaken with the current lessees and the results of this consultation be given due regard in preparing a future report;*
- (3) the consultation with current lessees to involve the following aspects:*

<sup>534</sup> Mr Daniel Arndt, Director, Planning and Development, City of Cockburn, *Transcript of Evidence*, 3 August 2010, p4.

<sup>535</sup> City of Cockburn, Council Meeting Minutes, 12 August 2010, Agenda Item 14.8, p91.

<sup>536</sup> *Ibid*, p88.

<sup>537</sup> Mr Daniel Arndt, Director, Planning and Development, City of Cockburn, *Transcript of Evidence*, 3 August 2010, p4. This comment was made in response to a query on whether the City of Cockburn had only recently identified problems at the site.

1. *A formal letter being sent to all current lessees, setting out the potential options for the future management for Reserve 24308, inviting their comments. This being for a comment period of 42 days.*
2. *A public forum briefing being held at the City of Cockburn. This is to be held midway through the public consultation process, for the purpose of answering questions that may arise.*
3. *For the entire duration of the consultation, a specific page on the City's website being established which includes details regarding the consultation.*<sup>539</sup>

10.36 The Council provided the following reasons for the decision:

*While Council's goal of upgrading this reserve to current 21<sup>st</sup> century standards is to be applauded, it is also important not to make a final decision on this issue (draft or otherwise), until all stakeholders have had the opportunity to have further involvement in the process. This will be facilitated by the alternative recommendation. The Naval Base shack holders should not have to pay the full bill for an infrastructure upgrade when they may choose to vacate in coming years. The 100% increase this year will get shack owners off side as we have already heard before the consultation process has taken place. We must treat all ratepayers with respect even if they are in a rustic 30 year old shack. Council as the leasing agent must take some responsibility for past low fees and in action (sic).*<sup>540</sup>

#### THE CONSULTATION PROCESS AND RECENT DEVELOPMENTS

10.37 The City of Cockburn is undertaking a public consultation process. As at January 2011, the City had received 83 submissions and one petition.<sup>541</sup> The City held a public meeting on this issue on 25 October 2010. The City has also established a community reference group that has commenced meeting to provide input.<sup>542</sup>

<sup>538</sup> City of Cockburn, Council Meeting Minutes, 12 August 2010, Agenda Item 14.8, p90.

<sup>539</sup> *Ibid.*, pp81-82.

<sup>540</sup> *Ibid.*, p82.

<sup>541</sup> Letter from Mr Andrew Trosic, Manager, Strategic Planning, City of Cockburn, 5 January 2011, p2.

<sup>542</sup> *Ibid.*

- 10.38 The City will consider the result of the public consultation and the outcomes of the reference group and will use this information to prepare a final report to Council in 2011. This report will seek to recommend a preferred management option.<sup>543</sup>
- 10.39 The Naval Base Association and shack owners continue to oppose the options presented to the Council and support the retention of the shacks.<sup>544</sup> The Naval Base Association takes issue with the City of Cockburn officers' assessment of the liability risk represented by the shacks. In their view, the risk to the City due to shack owners or persons entering onto the leased parts of the reserve is '*significantly overstated*' in the report provided to the Council.<sup>545</sup> The Naval Base Association and many shack owners also oppose the City's proposal to downgrade the management category of the Naval Base shacks from Category B to C (which has planning implications) on heritage grounds.<sup>546</sup> Many shack owners have made submissions to the City (provided to the Committee) opposing this proposal and outlining their views on the heritage significance of the site, what the shacks mean to them and why the shacks should be retained. Many shack owners refer to the report *Clarence - A Report on the Site of Clarence Town*,<sup>547</sup> which found that Clarence Town, where Thomas Peel landed in 1829, is located five kilometres south of Woodman Point, near the shack site, in support of their argument that the shack site is an important heritage site.<sup>548</sup>
- 10.40 The Naval Base Association has also presented a petition to the City of Cockburn opposing the City's proposal to demolish the Naval Base shacks and calling on Hon Colin Barnett MLA, Premier, and the City of Cockburn to work with shack owners to address management and liability issues and find a solution that allows the shacks to remain. The Naval Base Association advised that the petition is signed by 3 355 people, including 1 744 residents from the City of Cockburn.<sup>549</sup>

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<sup>543</sup> *Ibid.*

<sup>544</sup> Letter from Ms Nola Waters, President, Naval Base Holiday Centre Association, undated, p1.

<sup>545</sup> Letter from Ms Nola Waters, President, Naval Base Holiday Association, 12 November 2010, p2.

<sup>546</sup> For example, see letter from Ms Nola Waters, President, Naval Base Holiday Association, 8 January 2011.

<sup>547</sup> Maritime Heritage Association Inc, *Clarence - A Report on the Site of Clarence Town, 1830*, November 2006.

<sup>548</sup> For example, Submission No 115 from Dr Paul Babich, 14 December 2010, p2. *Clarence - A Report on the Site of Clarence Town, 1830* found that Clarence Town was at the base of Mount Brown, five kilometres south of Woodman Point at the south end of Henderson Cliffs adjacent to Mount Brown (this is a departure from what the report describes as the accepted academic view that Clarence Town was located at Woodman Point): Maritime Heritage Association Inc, *Clarence - A Report on the Site of Clarence Town, 1830*, November 2006, p4. Shack owners note that the site noted in the report is near the Naval Base shack site.

<sup>549</sup> A petition containing 3 199 signatures was presented to the Council of the City of Cockburn on 9 December 2010. The petition called on the Council to form a group which would consult with the shack owners committee to collaboratively decide on a set of guidelines for current shack owners to abide by, rather than demolish the shacks: '3199 sign petition to Council to save the Naval Base Shacks', *The Gazette*, 14 December 2010.

- 10.41 The Naval Base Association calls on Hon Colin Barnett MLA, Premier, and Members of Parliament to:

*support that the Shacks remain with a set of guidelines that have been negotiated between the representatives of the City of Cockburn and a Committee elected by the Shacks Owners so that current owners and the future generations may enjoy them for many years to come.*<sup>550</sup>

**Finding 50: The Committee finds that the City of Cockburn is currently undertaking a public consultation process to consider the future of Naval Base, including whether to remove the shacks and bring the vested reserve under the *Caravan Parks and Camping Grounds Act 1995*. The Council will consider the results of the public consultation and deliberate on this issue in due course.**

#### COMMITTEE COMMENT

- 10.42 Naval Base has been vested in, and managed by, the City of Cockburn for many decades. (As previously noted, the Squatter Policy does not apply where local government holds a management order (vesting) of reserved land. However, local government may adopt the principles of the Squatter Policy. See paragraph 2.38).
- 10.43 The Council is undertaking a consultation process to consider its options on the future of the site. City officers will report to the Council in 2011. City officers have proposed that the shacks be removed from Naval Base and the Council undertake a comprehensive reform of Naval Base by bringing the reserve under the *Caravan Parks and Camping Grounds Act 1995*. Council's deliberations will no doubt take into account all relevant considerations, including unique circumstances relevant to this particular shack site.
- 10.44 A distinguishing difference between this site and other shack sites is that Naval Base is the only shack site located within metropolitan Perth. Also, unlike a number of other sites, the shacks are arranged in a reasonably ordered manner (compared to the ad hoc nature of other sites) on a heavily bituminised area.
- 10.45 The Committee note that the leasehold tenure at this site differs from sites such as Peaceful Bay and Dampier Archipelago. Although the City has renewed the shack leases annually, there is no obligation to do so and, under the terms of the lease, the lease may be cancelled with 14 days notice. The Naval Base lease does not set building or health standards or provide for an increase in standards. Unlike other shack sites, the City has not established any management plan or strategy for the site. The Council provides basic facilities at the site.

<sup>550</sup>

Letter from Ms Hilda Srhoy, Committee Member, Naval Base Holiday Association, 15 January 2011, p1.



- 10.46 A number of issues relating to this shack site have been raised. City officers have raised equity and exclusivity issues as well as health, building and environmental concerns (the shacks are on the coast). City officers are of the view that there is a need to manage risks at the site and establish a legislative framework that imposes the same building and health standards imposed on the rest of the population. The shack owners dispute the City's liability risk assessment and are of the view that the site has a significant heritage value.
- 10.47 The Committee accepts that there is social heritage at Naval Base, formed by people and families sharing the experience of staying at this site and enjoying the experiences this site offers.
- 10.48 The City formally leased structures at this site in the past and has built infrastructure at the site.
- 10.49 If shacks are to remain, the City of Cockburn should develop a management plan which may incorporate short term holiday accommodation as an option for the public.

**Finding 51: The Committee finds that the City of Cockburn should continue to manage the process, including community consultation, they are presently undertaking to determine the future of Naval Base.**



## CHAPTER 11

### OTHER SHACK SITES MANAGED BY LOCAL GOVERNMENT

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#### BLOWHOLES (QUOBBA)

##### The Shacks and Regulation of the Shacks

- 11.1 The Shire of Carnarvon manages 42 shacks at the Blowholes (**Blowholes shack site**).
- 11.2 The Blowholes shack site is situated within Reserve 37457, which is vested in the Shire of Carnarvon and reserved for the purposes of Parkland, Recreation and the Letting of Cottages. In 1981, in one of many vesting orders over this area, the reserve was vested in the Shire of Carnarvon for a term of ten years. A Management Order issued in July 2002 authorises the leasing of ‘cottages’ for a term not exceeding six years.<sup>551</sup>
- 11.3 The shacks are located on the Ningaloo Coast north of Carnarvon, near Point Quobba. Anecdotal evidence indicates that that first shacks were built around 1954.<sup>552</sup> Shacks have been erected since 1985.<sup>553</sup>
- 11.4 The Blowholes area has been described as a favorite destination for Carnarvon people and a destination that has become more popular with tourists since the sealing of the access road to the site.<sup>554</sup> The Blowholes Protection Association, which represents shack owners, noted (in 2003) that locals have been holidaying in the area for over 65 years and many Carnarvon residents have access to a shack.<sup>555</sup> A large caravan and camping community visits the Blowholes area between April and October each year,<sup>556</sup> when up to 70 vans (many being regular visitors) visit the site. Many stay for months at a time.<sup>557</sup> The area is used for snorkeling, fishing, launching of small boats, swimming and visiting the blowholes.<sup>558</sup>

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<sup>551</sup> Shire of Carnarvon, *Blowholes Shacks*, August 2007, p6.

<sup>552</sup> Memo from R Bone, Project Officer, Shire of Carnarvon, July 2007, p2, attached to Submission No 117 from Shire of Carnarvon, 3 February 2011.

<sup>553</sup> Shire documents dated from 1985 note the appearance of new shacks and new shacks were reported to be been erected in 1990: Shire of Carnarvon, *Blowholes Shacks*, August 2007, pp9 and 10.

<sup>554</sup> Shire of Carnarvon, *Blowholes Shacks*, August 2007, p5.

<sup>555</sup> Letter from Blowholes Protection Association, 7 February 2003, pp1 and 2.

<sup>556</sup> The Blowholes Honour Box, containing money received from caravaners and campers, collected \$39 919 in 2006/2007: Shire of Carnarvon, *Blowholes Shacks*, August 2007, p17.

<sup>557</sup> Project Advice, Mr Maurice Battilana, Chief Executive Officer, Shire of Carnarvon, 18 November 2010, p3.

<sup>558</sup> Department of Planning and Infrastructure, *Blowholes Masterplan*, 17 November 2008, p1.

- 11.5 The Blowholes area has been identified for tourism development. The *Ningaloo Coast Regional Strategy Carnarvon to Exmouth* identifies the Blowholes as a potential tourism node with 500 overnight visitors.<sup>559</sup> This Strategy notes that the Blowholes currently caters for tourist accommodation numbers of the order recommended.<sup>560</sup> Tourism Western Australia considers this area an ideal location for a coastal caravan park (see below).
- 11.6 The Shire of Carnarvon has previously adopted a policy to remove the shacks as prescribed in the Squatter Policy.<sup>561</sup> In 1985, the Shire moved to remove shacks when it formulated a detailed policy dealing with the development at the Blowholes shack site, which included a clause that all privately owned structures were to be removed on or before 30 June 1988.<sup>562</sup> The shacks were not (and have not been) removed. In 1992, Council further resolved:

*That all existing shacks on Reserve 37457 be removed and the areas be designated a passive recreation, overnight camping and foreshore protection reserve and that no development be allowed excepting the provisions of public facilities and a residence/shop for a caretaker and that a management plan and schedule for removal of shacks be prepared for the area ...*<sup>563</sup>

- 11.7 In 2002 and 2007, Hon Allanah MacTiernan MLA, the then Minister for Planning and Infrastructure, advised the Shire of Carnarvon of her expectations on the future of the Blowholes reserves.<sup>564</sup> The Minister advised that the shacks should be removed and replaced by new cabins within the existing shack site, with existing shack owners given the first opportunity to take up a non-renewable long term lease of the replacement cabins for a period of no more than 20 years.<sup>565</sup> The Minister advised that at the end of this lease period, the cabins will be removed or sold to the Shire or management body for rental to the public.<sup>566</sup> The Shire of Carnarvon has noted that

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<sup>559</sup> Western Australian Planning Commission, *Ningaloo Coast Regional Strategy Carnarvon to Exmouth*, August 2004, pp53-55.

<sup>560</sup> *Ibid*, p53.

<sup>561</sup> The Squatter Policy provides that bodies managing vested lands may opt to proceed in accordance with the policy.

<sup>562</sup> Shire of Carnarvon, *Blowholes Shacks*, August 2007, at p13 records the Shire's Policy on Blowholes Reserves (FC 9/2/86).

<sup>563</sup> *Ibid*, p14.

<sup>564</sup> The Minister for Planning and Infrastructure advised the Shire of her 'expectations for the current masterplanning process for the Blowholes, and the process by which the shacks will be removed and replaced': Letter from Hon Allanah MacTiernan MLA, Minister for Planning and Infrastructure, 9 October 2007, p1.

<sup>565</sup> *Ibid*, p3.

<sup>566</sup> *Ibid*.

the Minister for Planning and Infrastructure was strongly guided by the Blowholes Protection Association.<sup>567</sup>

- 11.8 In November 2003, the then Minister for Planning and Infrastructure issued an *Instrument of Delegation* (under the *Land Administration Act 1997*) which delegated the control and management of Reserve 37457 to the Shire of Carnarvon subject to conditions. The *Instrument of Delegation* empowers the Shire to remove shacks and structures if prescribed conditions are met, including if a lease is not entered into, fees are not paid or unauthorised structures are erected.<sup>568</sup> In November 2008, Hon Brendan Grylls MLA, Minister for Lands, issued a further *Instrument of Delegation*.<sup>569</sup>
- 11.9 A transitional lease has been issued to all shack owners pursuant to the requirements of the *Instrument of Delegation*.<sup>570</sup> A Deed of Variation of Transitional Lease Blowholes Reserve includes additional conditions required by the Shire of Carnarvon as recommended by the Blowholes Tourist Node Advisory Committee (a Shire of Carnarvon Committee).<sup>571</sup> The transitional leases are an interim measure until the Minister for Lands confirms the future direction for development and management of the Blowholes Reserve.<sup>572</sup> As at February 2011, the transitional leases had expired and the Shire of Carnarvon was intending to provide a further 12 month extension (to 31 December 2011). Lessees pay a fee of \$550 per annum.<sup>573</sup>
- 11.10 In November 2008, the Shire of Carnarvon adopted the *Blowholes Masterplan*. The Shire of Carnarvon explains the background of the plan as follows:

[The *Blowholes Masterplan*] came about by direction from the then Minister for Planning and infrastructure (sic) with respect to the removal of existing shacks and there (sic) replacement by new Chalets, adoption of the Ningaloo Coast Regional Strategy - Carnarvon to Exmouth as a State Planning policy (sic) (SPP 6.3

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<sup>567</sup> Project Advice, Mr Maurice Battilana, Chief Executive Officer, Shire of Carnarvon, 18 November 2010, p2.

<sup>568</sup> Memo from R Bone, Project Officer, Shire of Carnarvon, July 2007, p2.

<sup>569</sup> *Land Administration Act 1997 Instrument of Delegation*, 1614/996, 2 November 2008. The time lines on the earlier instruction were no longer applicable due to time delays.

<sup>570</sup> A formal lease agreement for a shack had not been issued in the past. Fees, which have been previously introduced and discontinued, have been reintroduced: Memo from R Bone, Project Officer, Shire of Carnarvon, July 2007, pp3-4.

<sup>571</sup> Since 2006, the Shire of Carnarvon has been working on issues relevant to the Blowholes shack site through its Blowholes Tourist Node Advisory Committee: Project Advice, Mr Maurice Battilana, Chief Executive Officer, Shire of Carnarvon, 18 November 2010, p1.

<sup>572</sup> Shire of Carnarvon, Schedule of Documents, February 2011, p2.

<sup>573</sup> Project Advice, Maurice Battilana, Chief Executive Officer, Shire of Carnarvon, 18 November 2010, p3.

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*Ningaloo Coast), and the driving of this Plan by the Ningaloo Sustainable Development Office (NSDO).<sup>574</sup>*

- 11.11 The *Blowholes Masterplan*, prepared with reference to the above noted strategic documents, identifies 40 chalets, 60 caravan sites, 15 camping sites, a manager's house and office, and day use facilities.<sup>575</sup> The plan provides for the removal of existing squatter shacks. The *Blowholes Masterplan* notes that after the plan is accepted, a Management Plan, which will include a shack removal plan and program for providing infrastructure, will be developed.<sup>576</sup>
- 11.12 The Department of Planning advised the Committee that the Department of Regional Lands and Development is currently considering the Blowholes Tourism Node, including the role of shack owners with leases.<sup>577</sup>

### **Shire of Carnarvon**

- 11.13 The Shire of Carnarvon has requested a Ministerial direction on the future development and management of the Blowholes reserves, and the status of infrastructure funds held by the Council. In July 2006, the Shire of Carnarvon received funding of \$1.8 million from the Department of Agriculture and Food (**DAFWA**). The funding agreement expired on 30 June 2008 and there is currently no funding agreement between the State and Council in relation to these funds.<sup>578</sup> Since December 2008, the Council has been seeking to determine the status of the remaining \$1.4 million.
- 11.14 The Shire of Carnarvon has noted the following concerns about the present situation:

*There has been some questioning from a variety of sources, including Government agencies and the general public, that the determination of the then Minister to allow leases to shack owners is tantamount to condoning squatting and flies in the face of the State's Coastal Shack Policy. This has placed the Council in a difficult position as it has felt obliged to follow the direction of the previous State government Minister, against some very obvious concerns/questions as to both the then Minister's ability to do such as act; and the equity of allowing*

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<sup>574</sup> *Ibid*, pp1-2.

<sup>575</sup> Submission No 46 from Tourism Western Australia, 7 July 2010, p5.

<sup>576</sup> Department of Planning and Infrastructure, *Blowholes Masterplan*, 17 November 2008.

<sup>577</sup> Submission No 45 from Department of Planning, 6 July 2010, Attachment, p5.

<sup>578</sup> Shire of Carnarvon, Blowholes Tourist Node Advisory Committee, Meeting Minutes, 15 November 2010, p3.

*shack owners to have some form of exclusivity associated with the site.*<sup>579</sup>

11.15 The Shire of Carnarvon summarises the present situation as follows:

*The Council is aware that there is a view amongst at least three (3) government agencies (DAFWA, GDC<sup>[580]</sup> and Tourism WA), at a local level, that there are significant issues of equity with the determination of a previous government Minister that existing shack owners should have a (sic) entitlement to build a shack of their choice on Crown land. Given that the Council has embarked on a Master Planning process (which was formally adopted by Council on the 25<sup>th</sup> November 2008) has issued leases (transitional) to shack owners; however, is unable to commit the remaining \$1.4m of State Government funds to infrastructure development as determined by the Master Plan; there needs to be a very clear statement from Government that it either supports or rejects the direction that the Council is taking [Committee emphasis]. A decision I understand is imminent. ...*

*The lack of response from the State with respect to the balance (\$1.4m) of infrastructure funds mean that the Council is unable to progress any development of the Precinct. Combined with the agency concerns as above, and a possible belief that the then Minister has embarked upon a direction with the shacks that may be contrary to the State's own policy, the Council is wary about progressing this project, which has created uncertainty and discontent within the community.*

*Council would be looking for endorsement of the Master Planning by the State Government and the provision of infrastructure in accordance with this Plan using State Government funds, and the power to issue long term leases (20 years) as previously determined by the previous Government.*

*If this is not the case, and the State has concerns on any of these matters, then such advice needs to be communicated to the Council as a matter of urgency.*<sup>581</sup> ...

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<sup>579</sup> Project Advice, Mr Maurice Battilana, Chief Executive Officer, Shire of Carnarvon, 18 November 2010, p2.

<sup>580</sup> Department of Agriculture and Food (DAFWA) and Gasgoyne Development Commission (GDC).

<sup>581</sup> Project Advice, Mr Maurice Battilana, Chief Executive Officer, Shire of Carnarvon, 18 November 2010, pp2-3.

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[The Shire of Carnarvon recommends]

*The State Government:*

1. *Endorses the direction the Council is pursuing in accordance with the Blowholes Master Plan, including the provision of long term leases;*
2. *Authorise the use of the balance of funds allocated to the Blowholes Project for the implementation of the Master Plan for the Blowholes Precinct, with the priority item being the establishment of ablution facilities at the precinct;*
3. *Recognises that without funding (1.4m), and possibly additional funding, the Carnarvon Shire Council is unable to progress any development of the Blowholes Precinct.*<sup>582</sup>

### **Tourism Western Australia**

- 11.16 Tourism Western Australia supports the development of the Blowholes area and considers that this area will be an ideal location for a caravan park:

*[The Blowholes is] an ideal location to be a coastal caravan park that will provide much needed coastal accommodation and marketing opportunities for the Carnarvon tourism industry, as a 500 bed node. Tourism WA supports the redevelopment of this node, which is an important gateway to this section of the coastline and an integral component of the implementation of the [Ningaloo Coast Regional] strategy.*<sup>583</sup>

- 11.17 Tourism Western Australia recommends that:

*The Government confirm a preference for orderly re-development of ... the Carnarvon Blowholes as environmentally sensitive nature-based tourism sites ...*

*Appropriate due diligence and 'pre feasibility' work be undertaken to determine commercial viability of the development and relative responsibilities of the prospective landlord and lessee/developer/*

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<sup>582</sup> *Ibid*, p4.

<sup>583</sup> Submission No 46 from Tourism Western Australia, 7 July 2010, p5. It is interesting to note that Shire of Carnarvon records indicate that in 1966 the Tourist Development Authority did not agree to a proposal to sell or lease sites for private residence but raised no objection to the construction of a Caravan Park at Point Quobba: Shire of Carnarvon, *The History of Reserve 37457*.



*operator to establish a successful procurement model and a suitable leasehold management model for the Carnarvon Blowholes ...*

*The Standing Committee note that development of the Carnarvon Blowholes would provide much needed low cost publicly accessible tourist accommodation for this section of the Ningaloo Coast in accordance with the existing policy framework. ...*

*That Committee note that subject to additional resources being allocated that these outcomes could be achieved through the Government's Landbank/Naturebank program.*<sup>584</sup>

### Further Evidence

- 11.18 The Committee did not receive a submission from the Blowholes Protection Association or any shack owner. The Shire of Carnarvon has noted that the association will strongly and vigorously oppose any approach by the Council or the State that does not support the intent as contained in the *Blowholes Masterplan*, to allow shack owners a continuing presence at the site.<sup>585</sup>
- 11.19 The Department of Regional Development and Lands submitted to the Committee that the regional revitalisation plans, through the Royalties for Regional program, affects the future of sites such as the Blowholes shack site and '*the State government needs to ensure that the policy of shack site removal is consistently applied by all levels of government*'.<sup>586</sup>
- 11.20 The Economics and Industry Committee, in their report into the *Provision, Use and Regulation of Caravan Parks and Camping Grounds*) in Western Australia, comments that North West local government authorities note an increasing demand for nature-based camping sites, particularly for the longer stay visitor such as the 'winter drifter'.<sup>587</sup>

### Committee Comment

- 11.21 The Shire of Carnarvon manages 42 shacks at the Blowholes under a management order. The shacks are located on a reserve that has been vested in the Shire of Carnarvon.

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<sup>584</sup> Submission No 46 from Tourism Western Australia, 7 July 2010, pp5-6.

<sup>585</sup> Project Advice, Mr Maurice Battilana, Chief Executive Officer, Shire of Carnarvon, 18 November 2010, p3.

<sup>586</sup> Submission No 114 from Department of Regional Development and Lands, 10 November 2010, p4.

<sup>587</sup> Legislative Assembly Economics and Industry Committee, *Provision, Use and Regulation of Caravan Parks and Camping Grounds in Western Australia*, 15 October 2009, Report No 2 in the 38<sup>th</sup> Parliament, Part 2, p77. A 'winter drifter' is an intrastate traveler 55 years or over taking an extended holiday in Western Australia.

- 11.22 There has been neither long term leasehold regulation of the shacks nor any long term policy of retaining the shacks. To the contrary, in 1988 and 1992 the Shire of Carnarvon resolved to remove the shacks (which did not occur) and current policy and strategies dictate that the shacks will be removed.
- 11.23 A distinguishing feature is that the site, located on a prime coastal location, is a tourist site for campers and caravanners and has a known tourism potential. The *Ningaloo Coast Regional Strategy Carnarvon to Exmouth* identifies the Blowholes as a potential tourism node and a *Blowholes Masterplan* has been adopted by the Shire. The site has been identified as a location for chalets, caravan sites and camping sites.
- 11.24 This is the only current shack site where a Minister has effectively directed local government to remove shacks and advised of her expectations on the future of the site. In 2002 and 2007, Hon Allanah MacTiernan MLA, the then Minister for Planning and Infrastructure, advised the Shire that the shacks should be removed and replaced by cabins and the existing shack owners should be given the first opportunity to take up non renewable long term leases of the cabins for a period of no more than 20 years. The Committee is not aware of the reasons for this decision.
- 11.25 One issue that arises is the equity of giving shack owners the first option to lease the cabins.
- 11.26 The Committee recognises that the Shire of Carnarvon seeks further direction from the State Government in order to move forward with the management of this site, and also seeks authorisation to spend funds previously allocated in order to implement the *Blowholes Masterplan*. A management plan is the next stage of this process. The Shire of Carnarvon is of the view that the State Government should clarify whether it confirms the previous Minister's direction or holds another view on the management of this site.
- 11.27 In the Committee's view, the Shire of Carnarvon and the State Government should take action to resolve these issues as soon as possible.
- 11.28 The Committee asks the responsible Minister to consider the findings and recommendations in this report when determining the future of this site. In particular, Finding 16, which discusses equity of access, might contradict the current *Blowholes Masterplan* which states that shack owners are to have the first right to take up chalet leases.

**Recommendation 8: The Committee recommends that the responsible Minister urgently consults with the Shire of Carnarvon and resolves the issue of the future of the Blowholes shack site.**

**LUCKY BAY****The Shacks and Regulation of the Shacks**

- 11.29 The Shire of Northampton manages 31 shacks at Lucky Bay, near Port Gregory and Horrocks Beach (south of Kalbarri).
- 11.30 The shacks are located on Reserve 34945, which the Shire of Northampton has a Management Order over for the purpose of recreation and holiday cottages. The reserve was gazetted in October 1977. Local laws for the management of the reserve were gazetted by the Shire of Northampton in July 1978.<sup>588</sup>
- 11.31 The Shire of Northampton advised that little has been done to manage the shacks and the shacks have peacefully operated for many years.<sup>589</sup> The Shire of Northampton intends to allow the shacks to remain but will manage them better with the establishment of a lessee governing body and the demolition and replacement of shacks that are considered unsafe and derelict. To date, the Shire appears to have the support of the majority of shack owners.<sup>590</sup>
- 11.32 The Shire of Northampton is currently confirming ownership of each shack. After this is completed leases will be entered into to provide security to individual shack owners.<sup>591</sup> (The Minister for Lands must approve these leases). The *Shire of Northampton Coastal Strategy*<sup>592</sup> states that it is intended that the lease will be for a period of 21 years with no option of renewal, after which the shacks will be removed by the lessee, or remain and be controlled by the Shire.<sup>593</sup> The strategy also provides that set minimum and maximum standards will be established and the guidelines will discourage development that is in conflict with the low-key theme of the reserve.<sup>594</sup> A timeframe for shacks complying with standards, prescribed in local laws, should be established.<sup>595</sup> Shacks not complying with standards will not be offered to the general public. The Shire of Northampton may also build campsites in the reserve (and close informal campsites).<sup>596</sup>

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<sup>588</sup> *Local Government Act 1960-1978* Shire of Northampton Buy-laws relating to Half Way Bay—Reserve No 34945, Government of Western Australia, *Government Gazette, W.A.*, 28 July 1978, p2742-44.

<sup>589</sup> Submission No 28 from Shire of Northampton, 14 January 2011, p1.

<sup>590</sup> *Ibid.*

<sup>591</sup> *Ibid.*

<sup>592</sup> *Shire of Northampton Coastal Strategy*, July 2006. This strategy has been endorsed by the Western Australia Planning Commission and adopted in the Shire of Northampton's Planning Scheme.

<sup>593</sup> *Ibid.*, p54.

<sup>594</sup> *Ibid.*

<sup>595</sup> *Ibid.*

<sup>596</sup> *Ibid.*, pp56 and 57.

## Other Matters

11.33 As noted in paragraph 4.101, the Shire of Northampton is also very concerned about people camping on unallocated Crown land outside the reserve, and the Department of Regional Development and Lands' (as it is now known) years of inaction to address this issue.<sup>597</sup> Another major issue for the Shire is the heavy use of recreational activities and camping on unallocated Crown land to the north and south of the reserve. The Shire of Northampton advised that they approached the previous and current State Government with an offer to enter into a partnership to employ a ranger or supervisor for the area, but received no response. The Shire of Northampton commits limited resources to address rubbish concerns but does not have the financial resources to undertake all required tasks.<sup>598</sup>

## Committee Comment

11.34 The Shire of Northampton is working with the community to determine the future of the shacks at Lucky Bay. The Shire has considered the future management of the site and is following a planned strategy.

**Finding 52: The Committee takes no issue with the management of the shacks by the Shire of Northampton at Lucky Bay.**

## OTHER SHACK SITES

11.35 This report does not provide detail on the following shack sites managed by local government:

- Professional rock lobster fisher shack sites near Dongara — at Cliff Head (an estimated 40 shacks managed by the Shire of Irwin) and Coolimba (an estimated 20 shacks managed by the Shire of Carnamah); and
- Israelite Bay (one shack managed by the Shire of Esperance).

11.36 DEC advised that all private recreational shacks at Cliff Head and Coolimba were removed under the Squatter Policy and it is expected that the remaining professional rock lobster shacks will be upgraded to comply with the *Building Code of Australia*.<sup>599</sup> (The Committee's views on fisher shacks are noted in paragraphs 4.44 to 4.52).

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<sup>597</sup> Submission No 28 from Shire of Northampton, 14 January 2011, p1.

<sup>598</sup> *Ibid*, p2.

<sup>599</sup> Submission No 47 from Department of Environment and Conservation, 9 July 2010, p5.

## CHAPTER 12

### CONCLUSION

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- 12.1 The Committee's aim in conducting this inquiry is to assist the Government in determining shack policy and regulation by advising of evidence received during the course of the inquiry, and the Committee's views on shack policy and regulation generally and at particular shack sites.
- 12.2 Shack policy and regulation is contentious and often complex. Interstate experience demonstrates a variety of policy approaches, from a policy of removing shacks, to leasing (remaining) shacks, or affording shack owners the opportunity to pursue freehold tenure over the site (as noted in Finding 8). On reviewing information obtained from other States on their shack history, policy, and regulation, the Committee is of the view that the State Government should pursue a unique Western Australian shack policy to reflect the circumstances of shacks sites in Western Australia (Finding 10).
- 12.3 The contentious nature of shack policy has a long history, particularly at Wedge and Grey, where the shacks are situated on unvested reserves managed by DEC. However, the Squatter Policy, initially adopted in 1989 and confirmed by Liberal and Labor Governments, provides that shacks on unvested reserves are to be removed. The policy was directed at shacks on the Central Coast (such as Wedge and Grey) and nearly 700 shacks were removed under this policy (Finding 5).
- 12.4 The Squatter Policy is supported by a legislative framework (see Finding 3). The Squatter Policy is also reflected and reinforced in a number of State Government policies and strategies, including the *State Coastal Planning Policy* (SPP 2.6) and *Central Coast Regional Strategy*.
- 12.5 Determining shack policy involves consideration of a number of principles, sometimes competing principles, as well as shack owners' views and other facts and circumstances relevant to the particular shack site. These include the settlement, policy and regulatory history of the site, compliance issues and risks (health, safety, and building standards), environmental management issues, and the location of the site and public access to the site. In the Committee's view, all relevant factors should be considered and given appropriate weight when deciding the policy outcome at a particular shack site. The Committee considers that the objective of considering shack policy should be to adopt a long term policy in the interests of all Western Australians.
- 12.6 The Committee is of the view that exclusive use by shack occupiers of shacks on public land is inequitable and a significant principle in shack policy is that public land should be available for members of the public to access and use (see Findings 15 and

- 16). In the Committee's view, it is not the case that shack occupiers have a moral right (as sometimes perceived) to continue to occupy shacks on public land, particularly when the shack lease states that the agreement is subject to revocation or the lease was entered into on the understanding that the shacks would be removed (as is the case in Wedge and Grey).
- 12.7 The Committee finds that there are significant differences between shack sites in Western Australia (see Findings 11 to 13). The Committee is of the view that a 'one size fits all' policy is not appropriate and decisions regarding a particular shack site should reflect the circumstances relevant to that shack site (Finding 14).
- 12.8 It is important to differentiate between DEC managed shack sites on unvested land (Wedge and Grey), DEC managed sites vested in the Conservation Commission of Western Australia and subject to a management plan, and shack sites vested in, and managed by, local government prior to the Squatter Policy. The Squatter Policy applies to unvested reserves.
- 12.9 Chapter 6 of this report deals specifically with Wedge and Grey and outlines the Committee's comments, findings and recommendation in relation to these sites. An estimated 450 of the estimated 1 060 shacks (located in eleven shack sites in Western Australia) are located at Wedge and Grey (Finding 1). The Committee finds that Wedge and Grey has significant tourism potential (as other shack sites may), particularly given its prime location and the dramatic increase in visitors to this part of the coast since September 2010, when the extension to Indian Ocean Drive was opened (see Findings 32 and 37). For equity reasons, and after considering circumstances relevant to these sites, the Committee formed the firm view that the responsible Minister and managing authority should instruct leaseholders and shack owners to remove the shacks at Wedge and Grey and, as a priority, develop the area to provide the public with low impact, nature-based, affordable visitor facilities and accommodation, including camping and caravanning facilities (Recommendation 6).
- 12.10 The Committee considers that where a shack site is vested in, and managed by, local government under a lease arrangement, local government should continue to manage the shack site as they deem appropriate. Recommendation 8 reflects the unique circumstances applying to the Blowholes shack site.
- 12.11 The Committee understands shack owners' attachment to their shacks, their passion to retain the lifestyle they provide, and their desire to 'get away from it all' at these beautiful locations and enjoy the nature-based affordable holiday and associated social heritage at the shack sites. Shack sites opened to the public could provide a similar nature-based affordable holiday experience to the public at large. In these circumstances, the social heritage at shack sites, formed by the shared experience of being at the site, can continue.

- 12.12 The Committee has considered heritage issues including the views of the National Trust on Wedge and Grey. While the Committee considers that there is social heritage at the sites, it is not convinced that many shack sites have any building heritage.
- 12.13 The Committee's views regarding Aboriginal culture and heritage are outlined in Chapter 5. The Committee finds that protecting Aboriginal heritage located on, or in close proximity to, a shack site must be an important consideration when determining the policy applicable to a shack site, including whether shacks should be removed or retained. The Committee also found that managing authorities should take action to ensure that shacks do not pose any threat or risk to any Aboriginal heritage site (see Findings 28 to 30).
- 12.14 A number of shacks are occupied by professional fishers who use the shack for the purposes of commercial fishing. The Committee recommends that the responsible Minister audits the ownership and use of fisher shacks and then reviews the Professional Fisher Shack policy (Recommendation 1).
- 12.15 The Committee's recommends that the responsible Ministers and/or other managing authority of each shack site should conduct a review of shack lease holders to ascertain whether the shack is being occupied and any shack determined to be abandoned should be immediately removed (Recommendations 2 and 3).
- 12.16 The Committee is of the view that the Squatter Policy principle that no more shacks should be erected is appropriate and should be confirmed. The Committee received evidence that new shacks were not being removed by the relevant Department when reported. The Committee recommends that the State Government confirm the policy that no new shacks will be permitted on public land, and the responsible Minister or appropriate management authority should ensure that any unauthorised new shack erected is immediately removed (Recommendation 4).
- 12.17 In the Committee's view, if the Government or managing authority decides to retain shacks at a particular site, a comprehensive site specific management plan for each site should be drafted. Further, active management of the site is required to ensure that shacks are regulated in accordance with sustainability principles, and in a manner that limits risks to shack owners and the public. As previously noted, evidence before the Committee indicates that many shack sites have not been actively managed by managing authorities.
- 12.18 The issue of Western Australian shack lessees acquiring freehold tenure over shack sites was not specifically raised during the course of the inquiry. However, the Committee notes its significant reservations about this option being pursued at any time.
- 12.19 Delays in implementing, confirming or announcing shack policy or finalising management plans for shack sites has caused understandable anxiety among shack

occupiers. There has been considerable delay in implementing the policy regarding the future of a number of shack sites.

- 12.20 The Committee is of the view that the Government and management authorities should make decisions regarding the future of shack sites, and announce these decisions as soon as possible.

#### **OTHER ISSUES**

- 12.21 During the inquiry, little evidence emerged that coastal vulnerability had been a consideration in the management plans of shack sites.

- 12.22 During a hearing in relation to Wedge and Grey, DEC advised that potential impacts of sea level rise would not be a consideration until after shack sites policy had been clarified.

- 12.23 From the evidence provided, environmental impact and risk due to coastal vulnerability has not been adequately assessed to determine the vulnerability of these sites.

- 12.24 The Committee commends its report to the House.



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**Hon Brian Ellis MLC**  
**Chairman**

**14 April 2011**



## APPENDIX 1

### STAKEHOLDERS INVITED TO PROVIDE A SUBMISSION

Department of Environment and Conservation	Shire of Denmark
Department of Planning	Shire of Esperance
Department of Sport and Recreation	Shire of Exmouth
Department of Regional Development and Lands	City of Geraldton-Greenough
Main Roads Western Australia	Shire of Gingin
Heritage Council of Western Australia	Shire of Harvey
Landgate	Shire of Irwin
Tourism Western Australia	Town of Kwinana
Tourism Research Australia	Shire of Manjimup
The National Trust of Australia (Western Australia)	Shire of Murray
Western Australian Local Government Association (WALGA)	Shire of Nannup
City of Albany	Shire of Northampton
Shire of Augusta-Margaret River	Town of Port Hedland
Shire of Broome	Shire of Ravensthorpe
City of Bunbury	City of Rockingham
Shire of Busselton	Shire of Roebourne
Shire of Capel	Shire of Shark Bay
Shire of Carnamah	Shire of Wandering
Shire of Carnarvon	Shire of Williams
Shire of Chapman Valley	Wedge Island Protection Association
City of Cockburn	Grey Conservation and Community Association
Shire of Coorow	Peaceful Bay Progress Association
Shire of Dandaragan	Mr Gary Cream

Mr Mick Kontoolas	Mr Murray Knowles
Mr Greg Simpson	Dr Peter Sheppard
Ms Lauren Kuyer	Mr Graeme Boston
Mr Ross Robinson	Mr Dean Carrick
Mr Greg Simpson	Mr Graham Dow
Ms Dianne Hunt	Mr Jim Murie
Mr Ray Hill	Ms Elenie White

## APPENDIX 2

### SUBMISSIONS RECEIVED

No.	Submitter	Date of submissions
1	Mr Gary Cream	16 December 2009, 11 July 2010
2	Mr Mick Kontoolas	10 December 2009, 11 July 2010
3	Mr Murray Knowles	12 April 2010, 16 July 2010
4	Mr Ray Hill	16 April 2010
5	Ms Dianne Hunt	9 April 2010, 12 July 2010
6	Mr Ross Robinson	27 April 2010
7	Mr Greg Simpson	27 April 2010, 9 July 2010, 13 July 2010
8	Mr Peter Marr	27 April 2010
9	Ms Lauren Kuyer	12 May 2010
10	Dr Peter Sheppard	28 May 2010, 14 July 2010
11	Mr Dean Carrick	3 June 2010, 11 July 2010
12	Ms Amanda Dawe	24 June 2010
13	Mr Chris Donnelly	24 June 2010
14	Mr Brian Cant	21 June 2010
15	Mr Graham Boston	10 June 2010
16	Ms Jean McVee	25 June 2010
17	Shire of Manjimup	21 June 2010
18	Shire of Dandaragan	25 June 2010
19	Raymond and Jillian Hill	rec 28 July 2010
20	H N Quinn	24 June 2010
21	Shire of Capel	24 June 2010
22	Ms Elenie White	29 June 2010
23	Mr Garry White	29 June 2010
24	Mr Zachary Cochran	29 June 2010

25	Ms Jessica Cochran	29 June 2010
26	Mr Nick Streuli	29 June 2010
27	Ms Jan Markby	29 June 2010
28	Shire of Northampton	17 June 2010, 14 January 2011
29	Ms Dianne Brown	29 June 2010
30	Mr Amos White	29 June 2010
31	Mr Steve Cloughley and Ms Marie Cloughley	23 June 2010
32	Mr Allan Murdock and Mrs Deborah Murdock	22 June 2010
33	Mr Peter Driscoll, Principal Planner, Landvision	1 July 2010
34	Kwelena Mambakort Wedge Island Aboriginal Corporation	30 June 2010
35	Dr Niall Barrett	30 June 2010
36	Heritage Council of Western Australia	2 July 2010
37	Mr Patrick Gray	28 June 2010
38	Lower Donnelly River Conservation Association	30 June 2010
39	Shire of Coorow	30 June 2010
40	Urban Development Institute of Australia	30 June 2010
41	Mr Brian Matters	6 July 2010
42	Ms Georgia Matters	6 July 2010
43	Wheatbelt Development Commission	29 June 2010
44	Naval Base Holiday Park Residents' Association	30 June 2010
45	Department of Planning	6 July 2010
46	Tourism Western Australia	7 July 2010
47	Department of Environment and Conservation	6 July 2010, 21 January 2011
48	Mr John and Mrs Vanice Reeley	9 July 2010
49	Ms Nicole Reeley	9 July 2010
50	Mr Stephen and Mrs Suzanne Graybrook	1 July 2010
51	Mr Rod McNamara	9 July 2010
52	Mr Stuart Donnelly	1 July 2010

53	Ms Amy Pepper and Mr Erik McCallum	2 July 2010
54	Dr John Selwood, Senior Scholar, Department of Geography, University of Winnipeg (Canada)	10 July 2010
55	Turquoise Coast Tourism Association	5 July 2010, 16 July 2010
56	Mr Robert J Walton	11 July 2010
57	Mr A Sharp	13 July 2010
58	Mr and Mrs R S Bender	9 July 2010
59	Mr Simon Trouchet	9 July 2010
60	Ms Tamar Kennedy	12 July 2010
61	Mr Andrew Bruechert	12 July 2010
62	Mr Ray Hill	12 July 2010
63	Mr Gregory Robinson	13 July 2010
64	Mr Phil and Mrs Peta Stewart	29 June 2010
65	Mr Ian Davidson and Ms Marion Davidson	27 June 2010
66	R R Crawford	14 July 2010
67	R G Barrow	14 July 2010
68	Mr Garry Pinner	12 July 2010
69	Ms Liz Browning	13 July 2010
70	Ms Denise Murton	14 July 2010
71	City of Cockburn	14 July 2010
72	Mr Hugh C Gilbert	12 July 2010
73	Mr Hector Johnson	15 July 2010
74	Mr Chris Harris	13 July 2010
75	Mr Peter Carr	13 July 2010
76	National Trust of Australia (Western Australia)	14 July 2010
77	Mr Heath Holman	12 July 2010
78	Ms Bronwyn McNaughton	12 July 2010
79	Mr David Boyce	12 July 2010
80	Ms Maric Boyce	12 July 2010

81	Mr Graham Winkleman	14 July 2010
82	Mr Philip Castle	13 July 2010
83	Mr Jim Murie	13 July 2010
84	Mr Chris and Mrs Alisa McMullan	13 July 2010
85	Mr Brett Timewell	14 July 2010
86	Ms Margaret Larsen	14 July 2010
87	Mr Brett Warr	14 July 2010
88	Ms Jan Selfe	14 July 2010
89	Mr Vaughan McNaughton	12 July 2010
90	The Downey Family	15 July 2010
91	Ms Leslee Holmes, President, Cervantes Chamber of Commerce, and Manager/Owner, Pinnacles Caravan Park and Seashells Café	15 July 2010
92	Dr Reena Tiwari, Associate Professor, Architecture and Urban Design, Curtin University	16 July 2010
93	Ms Kellie Honczar	16 July 2010
94	Mr R Brown	12 July 2010
95	The Simons family	15 July 2010
96	Mr Michael Naylor	10 July 2010
97	Mr Lex and Mrs Roslyn Smith	15 July 2010
98	Ms Marcia Johnson	14 July 2010
99	Mr Craig Farrow	12 July 2010
100	Ms Judith Dittmer	10 July 2010
101	Ms Teresa Teale	19 July 2010
102	Western Australian Fishing Industry Council	16 July 2010
103	Mr Don McWaters	14 July 2010
104	Ms Cassandra Moar	15 July 2010
105	Mr Peter Tormey	15 July 2010
106	Ms Lorraine Touchet	15 July 2010
107	Ms Kathy Tormey	15 July 2010

108	Wedge Island Protection Association	23 July 2010
109	Grey Conservation and Community Association	23 July 2010
110	Ms Rachel Coleman	16 July 2010
111	Cervantes Ratepayers and Progress Association	21 July 2010
112	Shire of Nannup	21 July 2010
113	Shire of Denmark	26 September 2010
114	Department of Regional Development and Lands	8 November 2010
115	Dr Paul Babich	14 November 2010
116	Peaceful Bay Progress Association	21 January 2011
117	Shire of Carnarvon	3 February 2011





## APPENDIX 3

### THE SQUATTER POLICY

#### LAND OPERATIONS POLICY MANUAL



**POLICY TITLE:** ILLEGAL OCCUPATION OF COASTAL CROWN LAND (SQUATTERS)

**POLICY NUMBER:** 5.4.1  
**DATE OF ISSUE:** 4 JULY 1989

#### BACKGROUND:

Control of squatters on Crown land has been a recurring problem for many years, often where fishermen and holiday makers erect dwellings for intermittent occupation.

Squatters are of concern to the State due to the following:

- (a) Environmental Impact - As most settlements are on fragile coastal dune systems uncontrolled development can lead to serious erosion and fire hazards.
- (b) Environmental Health - Sewage and household waste disposal systems are often primitive and can become serious health risks.
- (c) Financial Advantage - Squatters gain a financial advantage as they do not pay rental to the Crown or Local Authority of local facilities. They are essentially using facilities at the expense of local ratepayers.
- (d) Demands for Services - As squatter settlements grow unchecked they can often lobby for the provisions of public utility services (ie., water, electricity and telephone).

In 1980 the Land Act (Section 164 predominantly) was amended to provide greater powers of prosecution for remaining on Crown lands without lawful authority.

In 1983 Cabinet adopted a position paper entitled "Coastal Planning and Management in Western Australia". A statement of policy in this report was that "Haphazard squatter shack developments are unacceptable. Public (rental) chalet developments for short term use may be acceptable if properly planned, regulated and serviced".

In 1988 Cabinet resolved that a state-wide policy for the administration of coastal squatter shacks be prepared by the State Planning Commission.

On July 3, 1989 Cabinet endorsed the final draft of the policy which (in part) follows.

#### OBJECTIVE

To control the establishment of any new unlawful dwellings (squatters shacks) on coastal Crown land and facilitate the removal of existing dwellings (shacks) over a six year period.

#### POLICY STATEMENT

##### i) PRINCIPLE

DOLA has participated in the formulation of an appropriate State-wide policy on squatters and is required to proceed in accordance with the Government's policy on squatters as adopted by cabinet in 1989 and detailed more fully below.

The policy relates to Crown land and unvested reserves. Bodies already holding a vesting of affected reserved land (eg., local governments) may exercise delegated powers under Section 164B of the Land Act to immediately remove squatters.

A vestee may nevertheless opt to proceed in accordance with the policy, and where that body has indicated an unwillingness to evict squatters, may be required to proceed along these policy lines.

Crown land may be vested in a body to facilitate implementation of the policy guidelines through local management.

##### ii) POLICY

1. No new illegal shacks will be permitted on reserved or vacant Crown land along the State's coastline from the date of Cabinet's approval of this policy.
2. Existing owners of shacks on Crown land or unvested reserves will be permitted to remain for a period of 6 years provided that:
  - i) there are no extraneous circumstances in particular areas which require shacks to be removed sooner;
  - ii) the shacks are not situated on reserved land which has been subject to a management plan under the CALM Act.

The 6 year period is to allow for the reasonable usage of existing investment while deterring extensive improvements or redevelopment. The 6 years will be calculated from the commencement date of arrangements for particular areas.

2.2 This 6 year tenancy is subject to:

- i) no services being provided by State or Local Government;
- ii) the sites being left in a clean and tidy condition upon completion of occupancy and the cost of removal of the shack and rehabilitation of the site being borne by the shack owner;
- iii) no further clearing or making of access roads being undertaken;
- iv) no transfer of shacks or occupancy rights being permitted;
- v) no improvements or extensions apart from those sanctioned by the local authority for safety or health reasons being undertaken;
- vi) State, Federal and Local Governments being indemnified against damage to property or persons resultant from the poor condition of the shacks;
- vii) the payment of an annual fee to the Local Authority or other body managing the reserve or Crown land, which should cover progressive rehabilitation and management of shack areas;
- viii) the land not being required for another purpose at an earlier time, in which case the owner(s) would be issued with a notice for removal of the structure within 90 days;
- ix) there being no entitlement for compensation as a result of a notice for removal (of a shack), whether the notice be issued at the conclusion of the six year period or at an earlier time.

3. The Government recognises that professional fishermen merit an exemption from the policy and they will generally be permitted to continue to operate from shack areas. However, formalised tenure to a fisherman's shack will only be granted in conjunction with fishing licences under the control of the Department of Fisheries and subject to conditions laid down by the Department. Leasing of sites for professional fishermen's shacks will generally be granted and administered by local government with variations to be subject to negotiation between local government and the

Department of Land Administration and/or consideration by the West Coast Working Group as part of the practical implementation.

- 4. Fishermans shacks should be of a reasonable standard as determined by the particular local authority. In using these coastal areas, fishermen must have regard for the coastal environment. This should be monitored and regulated by the local authority.
- 5. This general policy will be further developed through the progressive examination of individual areas of the State by working groups generally comprised of local government and State Government representatives. More detailed studies of particular areas will be undertaken in order to consider the tenure of particular coastal lands, the uses to which these areas will be put once squatters are removed and management programmes considered appropriate.

#### RELATED POLICIES

#### LEGISLATIVE MANDATE

Section 164 of the Land Act, 1933,  
Offences of Public Lands

#### RELEVANT CORRESPONDENCE FILES

1109/963V1 - V3  
2003/965V1 - V4

(PPRMLP12)

## GOVERNMENT POLICY FOR THE ADMINISTRATION OF COASTAL SQUATTER SHACKS

### INTRODUCTION

In 1983 State Cabinet endorsed a Government Position Paper on Coastal Planning and Management in Western Australia. This document set out the Government's broad policies for coastal areas, one of which was that haphazard squatter shack development along the coast was unacceptable.

In early 1988 State Cabinet resolved that a detailed policy for the administration and removal of illegally erected squatter shacks be prepared.

### BACKGROUND

Historically, squatter shack development has been confined to small coastal locations. Here, farmers and city dwellers have erected makeshift dwellings in which annual holidays could be taken. Professional fishermen also set up bases in areas with good anchorage and proximity to fishing grounds.

Generally, the poor access, isolation and lack of facilities kept the use of these areas to a minimum. However, while the occupation by professional fishermen has remained constant or decreased, the recreational use of the coast has increased with large numbers of new squatter shacks being erected.

This intensification of squatter shack development has resulted in the following serious problems:

- the shacks are unsightly and have been constructed without regard for proper building and health regulations. In many cases, they are unsafe;
- the land surrounding squatter shack areas is becoming progressively degraded through uncontrolled vehicular use. In many areas, shacks are built on primary dunes resulting in coastal erosion;
- the shacks occupy many of the most sought after areas of the coast and tend to preclude access by others;
- shack owners have in the past petitioned for formal recognition of their settlements. This has lead to a demand for services and improved access which, in turn, has created unplanned de-facto townsites and long term management and servicing difficulties, the cost of which has to be borne by the State.



In addition to the above problems, squatter development is also considered inequitable. The shacks are constructed on land which does not belong to those who own them. The owners do not contribute anything to the Local or State Governments for the continued use of the land. Any recognition of "squatters' rights" through the granting of long term or permanent tenure would be rewarding those who have broken the law while continuing to preclude access and penalise those who have complied.

### POLICY

Whilst the Government is mindful of the emotional attachment and financial investment people have made in squatter shacks, it considers that action to remove squatter shacks is in the interests of all West Australians. In view of the potential for further environmental degradation, and the creation of townships that would be difficult to service and be a continual financial drain to the Government, it is now the general objective of the Government to avoid the creation of additional squatter shacks and work towards the removal of those already existing.

The Government's policy with respect to squatter shack development is as follows:

1. No new illegal shacks will be permitted on reserved or vacant Crown land along the State's coastline from the date of Cabinet's approval of this policy.
2. Existing shack owners will be permitted to remain for a period of 6 years provided that:
  - (i) there are no extraneous circumstances in particular areas which require shacks to be removed sooner; and
  - (ii) the shacks are not situated on reserved land which has been subject to a management plan under the CALM Act.

This 6 year period is to allow for the reasonable usage of existing investment while deterring extensive improvements or redevelopment. The 6 years will be calculated from the commencement date of arrangements for particular areas.

3. This 6 year tenancy is subject to:
  - (i) no services being provided by State or Local Government;
  - (ii) the sites being left in a clean and tidy condition upon completion of occupancy and the cost of removal of the shack and rehabilitation of the site being borne by the shack owner;
  - (iii) no further clearing or making of access roads being undertaken;
  - (iv) no transfer of shacks or occupancy rights being permitted;

- 3 -

- (v) no improvements or extensions apart from those sanctioned by the local authority for safety or health reasons being undertaken;
- (vi) State, Federal and Local Governments being indemnified against damage to property or persons resultant from the poor condition of the shacks;
- (vii) the payment of an annual fee to the Local Authority which should cover progressive rehabilitation and management of shack areas;
- (viii) the land not being required for another purpose at an earlier time, in which case the shack owner(s) would be issued with a notice for removal of the structure within 90 days;
- (ix) there being no entitlement for compensation as a result of a notice for removal (of a shack), whether the notice be issued at the conclusion of the six year period or at an earlier time.

The Government recognises that professional fishermen merit an exemption from the policy and will be permitted to continue to operate from shack areas. However, formalised tenure to a fisherman's shack, in the form of a lease, will only be granted in conjunction with fishing licences under the control of the Department of Fisheries and subject to conditions laid down by the Department. Leasing of sites for professional fishermen's shacks to generally be granted and administered by local government with variations to be subject to negotiation between local Government and the Department of Land Administration and/or consideration by the West Coast Working Group as part of the practical implementation. Fishermen's shacks should be of a reasonable standard as determined by the particular local authority. In using these coastal areas, fishermen must have regard for the coastal environment. This should be monitored and regulated by the local authority.

This general policy will be further developed by the progressive examination of individual areas of the State. More detailed studies of particular areas will be undertaken in order to consider the tenure of particular coastal lands, the uses to which these areas will be put once squatters are removed and management programmes considered appropriate.

## STATE GOVERNMENT SQUATTER POLICY

## GOVERNMENT LAND POLICY MANUAL

**General Area** 12. LAW ENFORCEMENT & TENURE COMPLIANCE

**Sub Heading** 12.5 Removal of Unauthorised Structures

**LAA Section No.** 270 – 273 incl

**File Number** 1109/1963, 2003/1965

**Policy Number** 12.5.01.1

**Status** 4. Approved

**Policy Title** Illegal Occupation of Coastal Crown Land (Squatters)

**LAA Priority** 1. Essential

**Policy Date** 01/01/99

**OBJECTIVE**

To control the establishment of any new unlawful dwellings (squatter shacks) on coastal Crown land and facilitate the removal of existing dwellings (shacks) over a six-year period.

**POLICY STATEMENT**i) PRINCIPLE

DOLA has participated in the formulation of an appropriate Statewide policy on squatters and is required to proceed in accordance with the Government's policy on squatters as adopted by Cabinet in 1989 and detailed more fully below.

The policy relates to unmanaged (unvested) Crown land and unmanaged (unvested) reserves. Bodies already holding a Management Order (vesting) of affected reserved land (e.g. local governments) may exercise delegated powers under Section 273 of the LAA, 1997 (Section 164B of the Land Act, 1933) to immediately remove squatters.

A Management Body (vestee) may nevertheless opt to proceed in accordance with the policy, and where that body has indicated an unwillingness to evict squatters, may be required to proceed along these policy lines.

Crown land may be placed under the care and control of (vested in) a management body to facilitate implementation of the policy guidelines through local management.

ii) POLICY

1. No new illegal shacks will be permitted on reserved or vacant Crown land along the State's coastline from the date of Cabinet's approval of this policy.
- 2.1 Existing owners of shacks on Crown land or unvested reserves will be permitted to remain for a period of 6 years provided that:
  - i) there are no extraneous circumstances in particular areas which require shacks to be removed sooner;

- ii) the shacks are not situated on reserved land that has been subject to a management plan under the CALM Act.

The 6 year period is to allow for the reasonable usage of existing investment while deterring extensive improvements or redevelopment. The 6 years will be calculated from the commencement date of arrangements for particular areas.

2.2 This 6 year tenancy is subject to:

- i) no services being provided by State or Local Government;
  - ii) the sites being left in a clean and tidy condition upon completion of occupancy and the cost of removal of the shack and rehabilitation of the site is being borne by the shack owner;
  - iii) no further clearing or making of access roads being undertaken;
  - iv) no transfer of shacks or occupancy rights being permitted;
  - v) no improvements or extensions apart from those sanctioned by the local authority for safety or health reasons being undertaken;
  - vi) State, Federal and Local Governments being indemnified against damage to property or persons resultant from the poor condition of the shacks;
  - vii) the payment of an annual fee to the Local Authority or other body managing the reserve or Crown land, which should cover progressive rehabilitation and management of shack areas;
  - viii) the land not being required for another purpose at an earlier time, in which case the owner(s) would be issued at the conclusion of the six-year period or at an earlier time.
3. The Government recognises that professional fishers merit an exemption from the policy and will be permitted to continue to operate from shack areas. However, formalised tenure to a fisherman's shack will only be granted in the form of a lease in conjunction with fishing licences under the control of Fisheries Western Australia and subject to conditions laid down by the Department. Leasing of sites for professional fisher's shacks to generally be granted and administered by local government with variations to be subject to negotiation between local government and the Department of Land Administration and/or consideration by the West Coast Working Group as part of the practical implementation.
  4. Fishers' shacks should be of a reasonable standard as determined by the particular local authority. In using these coastal areas, fishers must have regard for the coastal environment. This should be monitored and regulated by the local authority.
  5. This general policy will be further developed through the progressive examination of individual areas of the State by working groups generally comprised of local government and State government representatives. More detailed studies of particular areas will be undertaken in order to consider the tenure of particular coastal lands, the uses to which these areas will be put once squatters are removed and management programs considered appropriate.

(PPRMLP12)





Government of Western Australia  
Department of Regional Development and Lands

## GOVERNMENT LAND POLICY MANUAL

### POLICY STATEMENT

<b>POLICY TITLE:</b>	<b>ILLEGAL OCCUPATION OF COASTAL CROWN LAND (SQUATTERS)</b>
<b>POLICY NUMBER:</b>	<b>12.5.1.1</b>
<b>DATE OF ISSUE:</b>	<b>MARCH 2005</b>

#### OBJECTIVE

To control the establishment of any new unlawful dwellings (squatters shacks) on coastal Crown land and facilitate the removal of existing dwellings (shacks) over a six year period.

(iv) Crown land may be placed under the care and control of a management body to facilitate implementation of the policy guidelines through local management.

#### POLICY STATEMENT

##### Principles

- (i) The former DPI (and the former DOLA) have participated in the formulation of an appropriate State-wide policy on squatters and is required to proceed in accordance with the Government's policy on squatters as adopted by Cabinet in 1989 and detailed more fully below.
- (ii) The policy relates to unallocated Crown land and unmanaged reserves. Bodies already holding a management order (vesting) of affected reserved land (eg., local governments) may exercise delegated powers under s. 273 of the LAA (previously s. 164B of the Land Act 1933) to immediately remove squatters.
- (iii) A management body may nevertheless opt to proceed in accordance with the policy, and where that body has indicated an unwillingness to evict squatters, may be required to proceed along these policy lines.

##### Policy Measures

1. No new illegal shacks will be permitted on reserved or unallocated Crown land along the State's coastline from the date of Cabinet's approval of this policy (1989).
2. Existing owners of shacks on Crown land or unvested reserves will be permitted to remain for a period of 6 years provided that:
  - i) there are no extraneous circumstances in particular areas which require shacks to be removed sooner;
  - ii) the shacks are not situated on reserved land which has been subject to a management plan under the Conservation and Land Management Act 1984 (CALM Act).
3. The 6 year period is to allow for the reasonable usage of existing investment while deterring extensive improvements or redevelopment. The 6 years will be calculated from the commencement date of arrangements for particular areas.



4. This 6 year tenancy is subject to:
  - i) no services being provided by State or Local Government;
  - ii) the sites being left in a clean and tidy condition upon completion of occupancy and the cost of removal of the shack and rehabilitation of the site being borne by the shack owner;
  - iii) no further clearing or making of access roads being undertaken;
  - iv) no transfer of shacks or occupancy rights being permitted;
  - v) no improvements or extensions apart from those sanctioned by the local government for safety or health reasons being undertaken;
  - vi) State, Federal and Local Governments being indemnified against damage to property or persons resultant from the poor condition of the shacks;
  - vii) the payment of an annual fee to the local government or other body managing the reserve or Crown land, which should cover progressive rehabilitation and management of shack areas;
  - viii) the land not being required for another purpose at an earlier time, in which case the owner(s) would be issued with a notice for removal of the structure within 90 days;
  - ix) there being no entitlement for compensation as a result of a notice for removal (of a shack), whether the notice be issued at the conclusion of the six year period or at an earlier time.
5. The Government recognises that professional fishermen merit an exemption from the policy and will be permitted to continue to operate from shack areas. However, formalised tenure to a fisherman's shack will only be granted in the form of a lease in conjunction with fishing licences under the control of Fisheries Western Australia and subject to conditions laid down by the Department. Leasing of sites for professional fishermen's shacks is generally to be granted and administered by local government with variations to be subject to negotiation between Local Government and RDL and/or consideration by the West Coast Working Group as part of the practical implementation. Policy 12.8 covers these issues.
6. Fishermen's shacks should be of a reasonable standard as determined by the particular local government. In using these coastal areas, fishermen must have regard for the coastal environment. This should be monitored and regulated by the local authority.
7. This general policy will be further developed through the progressive examination of individual areas of the State by working groups generally comprised of Local Government and State Government representatives. More detailed studies of particular areas will be undertaken in order to consider the tenure of particular coastal lands, the uses to which these areas will be put once squatters are removed and management programs considered appropriate.

#### RESPONSIBLE AREAS

State Land Services  
Policy and Practice

#### LEGISLATIVE MANDATE

ss. 267, 270, 271, 272, 273 & 274 LAA

**RELEVANT CORRESPONDENCE  
FILES**

1613/996 - Removal of Unauthorised  
Structures  
1611/996 – Trespass, general  
2003/965 - Squatter Policy  
1614/996 - Delegations of LAA  
Trespass Powers  
600/982 - Delegation of Land Act 1933  
Trespass Powers

**RELATED POLICIES**

12.8 Professional Fishermen's Shacks  
12.5.2 Delegation of Trespass Powers

(L12\_5\_1\_1A)

## APPENDIX 4

### SUBMISSIONS FROM GOVERNMENT DEPARTMENTS AND AGENCIES

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#### **Department of Regional Development and Lands**

*Evidence from the Department of Regional Development and Lands is noted throughout this report, particularly in Chapter 2 which deals with the policy and regulation of shack sites. The Department's views on shacks and the impacts of shacks are noted below.*

1. Squatter shacks are illegally constructed and do not comply with State or local government, planning, environmental, building and public health requirements.
2. Due to the long history of shack site settlement, shack 'owners' have significant emotional ties to the shacks and are generally very active lobbyists for their exclusive position.
3. Dealing with illegal shacks is a matter that all Australian jurisdictions have had to address, with the more populous States opting for removal as being the most rational approach to ensure equitable access and visitation by the broader community.
4. The Government needs to ensure that the policy of shack site removal is consistently applied by all levels of Government, particularly with the opening of Indian Ocean Drive (giving access to Wedge and Grey).
5. Squatter shack developments are of concern to the State due to the following:
  - Environmental impact. As most settlements were on fragile coastal dune systems, uncontrolled development could lead to serious erosion and fire hazards.
  - Environmental and public health. Sewage and household waste disposal systems were very basic and raised potential public health and negative environmental contamination impact risks.
  - Financial advantage. Squatters gained a financial advantage, as they generally did not pay rental to the land owner. They are using local facilities at the expense of locals who are ratepayers.
  - Demands for services. As squatter settlement grew unchecked they often lobbied for the provisions of public facilities services in their areas.
  - Planning. Squatter shacks and settlements were an impediment to rational regional and coastal planning and were certainly inconsistent with town planning principles.

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**Department of Planning**

*Further detail of the Policies and Strategies noted below are contained in Chapter 2.*

1. The Western Australian Planning Commission (WAPC) is responsible for rural and regional land use, planning and land development matters and has a number of State planning policies and regional planning strategies relevant to the shack sites.
2. The Department of Planning supports the Squatter Policy. The removal of shacks has largely been achieved with the exception of land managed by CALM. The location of remaining shacks conflicts with a number of policies.
3. To ensure well planned and connected communities and for reasons of equity, the objectives of the endorsed squatter policy should continue to be applied to the few settlements that remain on Crown land.
4. The following policies reflect and reinforce the Squatter Policy:
  - State Coastal Planning Policy (SPP 2.6).
  - State Urban Growth and Settlement Policy (SPP3).
  - State Agricultural and Rural Land Use Planning Policy (SPP 2.5).
  - Central Coast Regional Strategy (September 1996).
  - Gingin Coast Structure Plan (February 2006).
  - Ningaloo Coast Regional Strategy Carnarvon to Exmouth (August 2004).
  - Development of sediment cell concepts to determine coastal stability and vulnerability.

**Department of Environment and Conservation**

*Evidence from DEC is noted throughout this report, particularly in Chapter 2 which deals with the policy and regulation of shack sites. DEC also provided a volume of evidence relating to particular sites. Only comments on issues presented by shacks generally are noted below.*

1. The presence of shacks presents an number of issues including:
  - Compliance with planning, building and health requirements. They generally do not meet planning, health and safety requirements nor building codes. Illicit waste disposal has occurred at many shack communities. None have required environmental controls or checks in place. They do not meet provisions of the *Health Act 1911*. Any future plans to retain shack contention need to include compliance with the *Building Code of Australia*. Most shacks would not comply with the structural requirements of the code.
  - Equity of access and use of the areas for all members of the community. The locations of sites would otherwise be available for tourism development and public use and enjoyment. A process that allows general public opportunities to bid for and use the land on an equal basis should be considered.

- Environmental management. Human usage pressures impact on the natural environment including impacts on vegetation and landforms, loss of habitat for flora and fauna, the spread of pest plants and animals and sewage and leachate contamination of groundwater. Rehabilitation to repair environmental damage has been necessary in some instances.
- Native title claims over shack areas. Existing native title claims that cover shack areas need to be considered. It is understood that issuing longer term leases for shacks, and/or allowing new structures to be built to meet health, safety and building requirements, may be considered as 'future acts' under the *Native Title Act 1993* (Cth).
- Heritage considerations in respect of shack communities. The Heritage Council of Western Australia and DEC have agreed that the heritage issues related to the shacks are best examined on a case by case basis State-wide.

### **Tourism Western Australia**

*Evidence from Tourism Western Australia is noted throughout this report, particularly in Chapter 4 and the Chapters dealing with Wedge and Grey and the Blowholes.*

1. Squatter shacks are used for a variety of activities such as serving as a base for seasonal crayfishing activity and recreation activity for local farming communities. Broad scale tourism development was never an intended purpose for shack sites. In recent years many shack occupiers have sought to legitimise their activities by leasehold tenure. Whether this is in the broader public interest must be considered. The reluctance of Governments to fully implement the Squatter Policy has resulted in anomalies in Western Australia's land use system.
2. There is a lack of good quality coastal locations for high quality nature-based and ecotourism development in Western Australia.
3. The approach of the Squatter Policy is reinforced through the State planning processes with *State Coastal Planning Policy*. The Squatter Policy provides a set of reasonable guidelines that will lead to orderly and proper administration of Crown lands. However, the Executive has not undertaken this policy in a clear and consistent manner. This is particularly important from a tourist perspective where considerable work has been undertaken and opportunities identified through planning and environmental processes for tourist development on the basis of the existing policy.
4. The Shack Sites Communities Petition Justification indicates that these settlements are open sites with many international and interstate visitors using the community facilities and services. It is highly questionable that these sites have realised their full tourism potential. Shacks are a form of private residence for all intents and purposes. The ordinary person can not secure a booking to a shack. The shacks in their current form would never meet the accommodation and building code standards required of an open market. Suggestions that shacks represent marketable alternatives to tourism are erroneous and misleading.
5. The case studies of Wedge and Grey and Carnarvon Blowholes demonstrate the need to implement the Squatter Policy. They represent the opportunities for tourism development and

have been subject to both strategic and detailed master planning processes and proposals consistent with the Squatter Policy.

6. Wedge and Grey have highly significant tourism potential. The site and the surrounding landscapes offer a high quality beach experience with spectacular sand dunes, swimming, fishing and access to a beautiful coastal environment. These contribute significantly to the tourism values of the area. Wedge and Grey have highly significant tourism potential and, if developed appropriately, have the capacity to add immense value to the development of Australia's Coral Coast tourism region and enhance the Indian Ocean Drive as a premier tourist drive. Wedge and Grey offer very high quality nature-based tourism opportunities within good proximity to Perth, of interest to interstate and international investors. Development would provide genuine public access to this stretch of Western Australia's coastline where there is currently a lack of quality accommodation. This approach is supported by important planning documents, include the *Central Coast Planning Strategy*, the *Nambung National Park Management Plan*, and the *Wedge and Grey Masterplan*. The Government can ensure the provision of a range of accommodation options that will be protected in perpetuity for tourism uses. The implementation of the squatter policy could offer accommodation options not currently provided in the region.

7. Tourism Western Australia recommends:

- The Committee note that the Squatter Policy provides a set of reasonable guidelines that will lead to orderly and proper administration of Crown lands.
- The Government create certainty and equity in the market place by confirming the existing policy and supporting its ongoing implementation.
- The Government confirm a preference for orderly redevelopment of Wedge and Grey and the Carnarvon Blowholes as environmentally sensitive nature-based tourist sites.
- The Standing Committee note that the proximity to Perth, unique coastal location and nature based experiences available provide a significant opportunity to attract interstate and international investment to develop Wedge and Grey for tourism purposes.
- The Expression of Interest process for Wedge and Grey be re-commenced as envisaged upon completion of the Indian Ocean Drive extension (anticipated December 2010) noting that a termination clause to this effect is included in the shack owners' leases to implement this.
- The shack owners and their associations be invited to participate in the tendering process for Wedge and Grey.
- Appropriate due diligence and 'pre-feasibility' work be undertaken to determine commercial viability of the development and relative responsibilities of the prospective landlord and lessee/developer/operator to establish a successful procurement model and a suitable leasehold management model for the Carnarvon Blowholes.
- The Standing Committee note that development of the Carnarvon Blowholes would provide much needed low cost publicly accessible tourist accommodation for this section of the Ningaloo Coast in accordance with the existing policy framework.

- The Government support detailed examination of other sites for their underlying tourism development potential.
- That Committee note that, subject to additional resources being allocated, these outcomes could be achieved through the Government's Landbank/Naturebank program.

### **Heritage Council of Western Australia**

*Evidence from the Heritage Council of Western Australia is noted throughout this report, particularly in Chapter 4 and Chapter 6 (Wedge and Grey).*

1. The Heritage Council of Western Australia is charged with the compilation of the State's Register of Heritage Places under the *Heritage of Western Australia Act 1990*.
2. Australia has a long history of informal/illegal occupation of vacant Crown land. From a cultural heritage perspective, coastal shack settlements represent a distinctive Australian outdoor way of life characterised by simple, low scale informal development, where the design and construction of the shacks demonstrate the resourcefulness, versatility and creativity of builders and their occupants.
3. The Squatter Policy has made it difficult to conserve examples of this distinctive aspect of Western Australia's history, as registration would be contrary to the Squatter Policy.
4. In 2001 the shack settlement of Wedge Island was nominated for consideration for the Register, which precipitated discussion of the similar settlement at Grey. In light of the Government policy, DEC (then CALM) was advised that these settlements would not be assessed for the Register on the understanding that redevelopment was to be undertaken in close consultation with the Heritage Council.

### **National Trust of Australia (Western Australia)**

*Evidence from the National Trust is noted throughout this report, particularly in Chapter 4 and Chapter 6 (Wedge and Grey).*

1. The National Trust manages over 100 places of cultural heritage significance for and on behalf of the community and State Government. The National Trust has assessed Wedge and Grey. The National Trust:

*does not support the unplanned and uncontrolled development of human settlements on public land and recognises the potential adverse impact these settlements may have on the fragile environments on which they are situated.*

2. The *State of the Environment Report 2007* recognised in its key findings on heritage that there was a systemic failure in the recognition of cultural heritage value and therefore in the effective protection and management of those values. The National Trust:

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*is particularly concerned about the failure of the [Squatter Policy] to consider culture heritage values of existing settlements and to establish processes by which these values can be considered alongside other important issues, such as building compliance, demand for services, environmental impact and other issues of health, equity and access.*

3. The *Wedge and Grey Masterplan* did not consider cultural values in any substantive way. DEC, proponents of the plan, may have a conflict of interest between its broader conservation responsibilities and pursuing a commercial opportunity (the development options in the plan).
4. The National Trust found that *Wedge and Grey* are places of cultural heritage significance. They represent an extremely rare cultural landscape. (*Wedge* was assessed in 2000 and *Grey* in March 2009).
5. In other states such as Tasmania and New South Wales, the continued existence of shack communities has been facilitated while addressing economic, social and environmental issues.
6. Any future policy should establish processes which would allow consideration of the cultural heritage values of the place in determining the appropriate action to be taken. This should include a heritage assessment of the individual settlements and the development of a management plan to guide future activity. Any redevelopment of *Wedge and Grey* must incorporate the conservation of the cultural heritage values of these places, as well as meeting the desired outcome of creating a sustainable eco-tourism activity.
7. *Grey* has cultural heritage significance for the following reasons:
  - It forms a rare cultural landscape due to its isolation and enclosure by Nambung National Park.
  - It is an excellent example of a coastal settlement originally established by farmers and fishermen in the 1930s to 1950s, later becoming more permanent.
  - The values and attitudes reflected at *Grey* are important to understanding the development of these settlements and of Australian culture including 'making do', resourcefulness and sense of community.
  - The community has a high social value for the leaseholders and their friends and family.
8. *Wedge* is of considerable cultural heritage significance for the following reasons (this list is not exhaustive):
  - the shacks represent an important record of the typical ingenuity and innovation of Australians creating holiday homes;
  - the development of the site in the mid west coast in the late 1930s and through the 1950s when families created a distinct family lifestyle in their home away from home;
  - the site is the largest remaining of many squatter settlements that were established along the central west coast around the mid twentieth century and are now being eradicated;



- significant associations with professional fishermen who originally established the site and have continued operations;
- the unique way of life that can never be recreated due to government regulations;
- the memories of holiday, special visitors and events that have taken place that contribute to the very special sense of place for generations of the community from all walks of life;
- the site represents the evolution of the unique lifestyle in the sand hills at Wedge Island; and
- the site is the largest remaining example of a squatter shack settlement that demonstrates a way of life for generations of families, innovation and 'make-do' philosophy.



# APPENDIX 5

## PROFESSIONAL FISHER SHACK TENURE ALONG THE CENTRAL COAST OF WESTERN AUSTRALIA

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Government of Western Australia  
Department of Regional Development and Lands

### GOVERNMENT LAND POLICY MANUAL

#### POLICY STATEMENT

**POLICY TITLE:** PROFESSIONAL FISHER SHACK TENURE ALONG THE CENTRAL COAST OF WESTERN AUSTRALIA

**POLICY NUMBER:** 12.8.1

**DATE OF ISSUE:** August 1999

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#### OBJECTIVE:

Establishment of guidelines and criteria for management order leases for professional fisher's shacks along the Central Coast of Western Australia, in accordance with Cabinet's July 1989 Policy for the Administration of Coastal Squatter Shacks which states, in part;

*"The Government recognises that professional fishermen merit an exemption from the policy and will be permitted to continue to operate from shack areas. However, formalised tenure to a fishermen's shack, in the form of a lease, will only be granted in conjunction with fishing licences under the control of the Department of Fisheries and subject to conditions laid down by the Department. Fishermen's shacks should be of a reasonable standard as determined by the particular local authority. In using these coastal areas, fishermen must have regard for the coastal environment. This should be monitored and regulated by the local authority".*

#### POLICY STATEMENT

##### Principle

RDL, with the cooperation of coastal reserve management bodies, is responsible for the provision of transitional leases for approved professional fisher shack sites along the central coast until such time the lessees are required to:

- (i) relocate to a development node (near a traditional fishing ground) which has been formally created as a reserve; or
- (ii) upgrade the existing shacks to comply with established building standards if already appropriately located in a proposed development node or
- (iii) relocate to existing townsites.

This policy will also specify

- (a) which fishers will qualify for transitional leases for the existing shack sites
- (b) the selection criteria for the proposed development nodes and
- (c) the general terms and conditions of transitional leases and development node leases

#### Definitions

For the purpose of this policy the following definitions will apply:

The Central Coast comprises the Shires of Dandaragan, Coorow, Carnamah and Irwin

A professional fisher is a person who has an "Unrestricted West Australian Fishing Licence" and/or a "Managed Fishery Licence" issued in accordance with the Fish Resources Management Act 1994 Regulations

A professional fisher shack site that will be subject to a transitional lease, will comprise an area occupied by a maximum of three shacks, together with sheds and storage area associated with the fishing operation. All structures and the storage area must be in close proximity.

A transitional lease is a management order lease in favour of the relevant management body, which is issued pursuant to section 46 of the Land Administration Act 1997. A transitional lease will apply to a professional fisher shack site for an interim period of up to 3 years\*, between the termination of the 6 year shack lease arrangement and the creation of a development node.

**POLICY****Transitional Leases**

Professional Fishers are required to meet the following criteria to qualify for a 3 year\* transitional lease for a shack site:

The professional fisher must;

- be the registered holder of a current fishing boat licence granted under the Fishing Resources Management Regulations authorising a person to use a boat for commercial fishing;
- be a licensed professional fisher for the fishing zone in which the shack is located; and
- have an existing mooring that is in use and in close proximity to the existing leased shack site

*\*Shire of Carnamah leases will be available for 3½ years (i.e., June 30, 2002) so that they will not expire within the local fishing season.*

A transitional lease site can only consist of shacks that were subject to a management body lease held as at 1 December 1998 by a licensed professional fisher. There will be a maximum of one site for each boat the fisher operates.

The general terms and conditions of transitional leases will include, but not be limited by, the following:

- (a) Only the Lessee, and his/her employees engaged in professional fishing activities and the Lessees immediate family may reside on the land.
- (b) Each lease within the relevant management authority's control, will have a common expiry date, unless terminated earlier (the common expiry date will not fall within the local fishing season).
- (c) The annual rental will be set by the Valuer General.
- (d) The lease will be subject to the appropriate rates and taxes.
- (e) Transfer of leases will only be permitted when it is in conjunction with the transfer/sale of the Lessee's fishing licence and other assets associated with that licence, i.e. boat etc.
- (f) Conversion of leases to freehold title will not be considered at any time during the term of the lease or on its expiration or earlier determination.
- (g) The Lessee shall not without the prior consent in writing of the Lessor and the Minister for Lands assign, transfer, mortgage, sublet or part with the possession of the land or any part of the land.

- (h) A lease may be forfeited if the Lessee fails to pay rent or fails to comply with lease conditions and Local Government by-laws.
- (i) The Lessee is responsible for all damage that may be caused by or due to any escape of oil or other liquid from pipelines or works of the lease.
- (j) Compensation will not be payable by the Lessor or the Minister for Lands, to the Lessee for damage by flooding, ocean surges, wind blows, sand accumulation, fire or any natural disaster.
- (k) Lessees must be mindful of the environment.
- (l) Neither the State Government nor the Local Authority shall be responsible for the provision of services to the land.
- (m) If buildings are destroyed by natural causes, the location, replacement of buildings, erections, paving, drainage or other works shall comply with the requirements of the Local Authority. The Lessee shall perform, discharge and execute all requisitions of the Local Authority. The Lessee shall perform, discharge and execute all requisitions and works on the land required by any local or public authority operating under any statute or by-law regulation.
- (n) The Lessee shall not erect any structures without the prior approval in writing of the Lessor.
- (o) The Lessee indemnifies and shall keep indemnified the Lessor and the Minister for Lands against all claims for damage to property or persons arising from the use of the land.
- (p) The Lessor and the Minister for Lands and any person authorised by either of them may enter the land for inspection at any reasonable time.
- (q) If the Lessee fails within 6 months of the date of a judgement or order of court for recovery or rates payable by the Lessee to a Local Authority to satisfy the judgement or order, the Lessor may, with the approval of the Minister for Lands terminate the lease forthwith.
- (r) Compensation shall not be payable to the Lessee in respect of any improvements effected by him on the land and remaining thereon at the expiration or earlier determination of the lease.
- (s) The Lessee shall, within the three calendar months immediately following the expiration or earlier determination of the lease, take down and remove any buildings, structures, improvements and plant on the land which is the property of the lessee, leaving the site in a clean and tidy condition.
- (t) The lessor must notify the lessee no later than 12 months in advance of the date when the lessee is required to relocate to a development node.

**Development Nodes**

Development node sites will be reserved in accordance with Section 41 of the Land Administration Act (LAA) and, subject to the

Minister for Lands approval, be placed under the relevant authorities care, control and management with power to lease pursuant to Section 46 of the LAA for a term of 21 years.

The creation of development node reserves to accommodate professional fishers will be considered when:

- there is no nearby townsite
- a suitable site for a development node can be identified
- there are sufficient numbers of professional fishers to justify the establishment of a development node; and/or
- traditional fishing patterns and restrictive licences apply (where Fisheries WA dictates the area where fishers can operate).

A suitable development node will be one that:

- does not have specific environmental and conservation constraints
- is adjacent to suitable moorings; and
- complies with the Native Title Act and does not affect recognised Aboriginal heritage sites

Selection of sites for reservation will take into account the development nodes identified in the Western Australian Planning Commission's "Central Coast Regional Strategy" and Local Authority Guidelines.

The consultative process for site selection and the offering of leases will involve:

- the relevant land management authority (Local Government Authority/CALM)
- RDL
- the affected fishers
- Ministry for Planning
- Department of Environmental Protection
- Fisheries WA
- Department of Transport
- other relevant government agencies

If, in the future, the reserve is no longer required as a development node, in normal circumstances the reserve will be cancelled and it will revert to its previous tenure. If the reserve is required for an alternative purpose, the reserve will be kept as a separate land parcel, and subject to the Minister's approval, the purpose will be changed accordingly.

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### General Terms and conditions of leases within formalised Development Nodes

The reserve management body will offer professional fishers who held transitional leases a 21 year lease over sites within the formalised development nodes.

The lease will not include an option to renew, but any decision by the management body, subject to the Minister for Lands' approval, to renew, must be made between 12 and 24 months prior to expiry of the lease, to give certainty as to the future of the lease.

Transfer of development node leases to other professional fishers will be considered in certain circumstances, however a condition of the lease will require any such transfer to be approved by the management authority and the Minister for Lands.

All new future structures must be transportable or demountable and not be of a permanent nature and must comply with guidelines established by the management authority.

Structures and improvements must comply with the building code of Australia and the Local Authority's requirement for particular sites.

Development nodes will be low key and self-sufficient. Reticulated water and power supply will not be made available.

Water supply will be by way of tanks or bores and where possible, communal use will be promoted.

Power supply will be by way of motorised generator, solar, wind or any other environmentally acceptable source (noise control and spark arresters will need to be provided for motorised generators).

Septic systems or other approved systems must be in accordance with the Health Act of Western Australia.

The management body may also consider applying the following conditions for the development node leases, in addition to those previously stated in this policy for the transitional leases:

- The Lessor may vary the rent in accordance with CPI variations.
- The Lessee shall pay to the Lessor or Minister on demand, all costs of and incidental to the establishment and location by survey of the boundaries of the land, if survey is deemed necessary.
- The Lessee shall within twelve months from the commencement of the lease, fence the external boundaries of the site to the satisfaction of the Lessor, if deemed necessary by the Lessor.

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- The Lessee shall maintain existing and future improvements to the satisfaction of the Lessor.
- The Lessee shall treat and maintain all frontages to give an aesthetically pleasing appearance consistent with the purpose of the lease.
- On the expiration or earlier determination of the lease, the Lessee shall fill in, consolidate and level off any unevenness, excavation or hole caused by him/her during the term of the lease or by removal of his improvements and shall leave the land in a clean, neat and tidy condition to the satisfaction of the Lessor and the Minister, and shall remove all waste matter as required by the Lessor and Minister.

**GOVERNMENT MANDATE**

Cabinet's July 1989 Policy for the Administration of Coastal Squatter Shacks.

**RDL RELATED POLICIES**

12.5.01.1 Illegal Occupation of Coastal Crown Land (Squatters).

**RELEVANT RDL CORRESPONDENCE FILES**

2003/1965  
1108/1969

## **APPENDIX 6**

### **SUBMISSIONS FROM MEMBERS OF THE FISHING INDUSTRY**

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#### **Mr A Sharp**

1. I am a professional fisherman who has held a lease at Dillon Bay since 1976 to house professional fishermen in the salmon and South Coast shark fisheries.
2. It is essential for the operation of the fisheries as salmon are spotted from the site from daylight to dark throughout the season and also during the back run most years. As we are based in Albany, the lease and housing for ourselves and fishing crew is essential. Also it allows for storage and protection of boats and fishing gear. The possible loss of the lease and housing would mean the end of the industry, certainly in our case and I am sure with other fishermen.
3. We pay rates to the Jerramungup Shire on a yearly basis, and lease fees to the Department of Regional Development and Lands. We also have public liability insurance. We comply with Department regulations. The Land Field Officer commented in a recent inspection that the lease area was neat, clean and tidy.
4. We believe any professional fisherman who leases a shack site in Western Australia on public land should be able to keep them to be able to carry on their licensed fishing activities in these areas. The lease includes a condition of the lease is that the land shall not be used for any purpose other than housing professional fishermen without the prior approval in writing of the Minister for Lands and all works must be approved by the Local Authority.

#### **Mr Hugh Gilbert**

1. I am an owner of fishing camp Lease 7505 Eden Road (Professional fishing camp). This camp is an important part of our business and is used for overnight accommodation. It would be expensive and impractical to travel back and forward to town after fishing operations. It is also important to have a place where you can have sleep well, as we work irregular hours with little sleep at times. Please don't take this away from us.

#### **Ms Amanda Dawe**

1. Commercial fishing from Wedge is sustainable at its current level and does not negatively affect the ecology.
2. Beach seine fishing and rock lobster and octopus fishing are conducted by commercial fishermen at Wedge. Fishing from Wedge has many strategic, financial and social benefits. It also takes the pressure off fishing areas to have the fleet spread along the coast to smaller areas. Travelling times to the fishing ground are another important benefit. With the new

Indian Ocean Drive, it also makes it easier for the crayfish to be taken to Cervantes in a good live marketable condition.

3. The early 1950s onwards saw the arrival of various fishermen and their boats to Wedge. In the last ten years there has been only one family, the Dawe family, supporting five boats. [The submission from the Kwelena Mambakort Wedge Island Aboriginal Corporation also notes that a member of the Shaw family from the Yued clan continues to commercially fish]. The Dawe family came to Wedge in the early 1970s and still live there. This is a living connection, unlike more recreational part time users. The commercial fishermen of the areas participate in maintaining and monitoring the ecology of the area because they live there and are attached to it, therefore ensuring that it is preserved. Professional fishermen lobby Government via the Western Australian Fishing Industry Council.



## **APPENDIX 7**

### **LEGISLATIVE ASSEMBLY STANDING COMMITTEE ON ECONOMICS AND INDUSTRY REPORT *PROVISION, USE AND REGULATION OF CARAVAN PARKS (AND CAMPING GROUNDS) IN WESTERN AUSTRALIA AND THE GOVERNMENT RESPONSE***

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Extracts from the Parliament of Western Australia, Legislative Assembly Economics and Industry Committee report *Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia*, tabled on 15 October 2009, and the Government Response.

#### **Finding 7**

There is considerable evidence to suggest an increase in demand for caravanning and camping accommodation across the state.

#### **Finding 8**

In spite of a slower market being evident in recent months, long-term trends for the purchase of caravan and camping vehicles and equipment demonstrate an increase in caravanning and camping activities.

#### **Finding 13**

Demand for cabins and chalets has risen in recent years as visitors to caravan parks demand a greater mix of accommodation types.

#### **Finding 17**

There is a growing demand in Western Australia for the nature-based camping experience, made more accessible by the rise of the 'self-contained' vehicle.

#### **Finding 18**

There has been an increase in the demand for camping and caravanning opportunities on pastoral leases which offer a less regulated and more nature-based camping experience.

#### **Finding 23**

Demand for caravanning and camping is expected to increase in coming years, particularly demand for nature-based caravanning and camping accommodation options such as those provided on pastoral leases.

#### **Finding 28**

Contrary to ABS data, there has been a significant decrease in the number and capacity of caravan parks in Western Australia.

**Finding 34**

Given the increase in demand for nature-based camping, future supply must cater to this trend.

**Finding 37**

The loss of nature-based camping sites on pastoral leases would constitute a major setback to tourism in Western Australia.

**Finding 58**

Seasonality of demand is a defining characteristic of the caravan park and camping ground industry.

**Finding 73**

The diversification of caravan parks into higher yielding accommodation risks caravan parks' capacity to provide an affordable family holiday, which means the potential exclusion of the traditional family holidaymaker.

**Finding 77**

Unless the Department of Environment and Conservation allocates portions of its existing estate and/or future estate to caravanning and camping there will be a continuing shortage of caravan and camping sites.

**Finding 99**

A more flexible application of the State Coastal Planning Policy, together with a more risk based approach to coastal planning for caravan parks, would remove some of the barriers to improving supply.

**Finding 147**

Tourism Western Australia does not place sufficient priority on caravanning and camping holidays in Western Australia.

**Recommendation 1**

Tourism Western Australia must address the lack of reliable and consistent data.

[The Government 'noted' this recommendation. The Government Response stated that Tourism WA accesses data from a variety of sources to support its decision-making. Collection of occupancy and revenue data from accommodation providers such as caravan parks is the responsibility of the Commonwealth, through the Australian Bureau of Statistics (ABS). Tourism WA also provides a financial contribution and subscribes to the National Visitor Survey (NVS) and the International Visitor Survey (IVS) managed by Tourism Research Australia. The IVS and NVS are regarded as the 'official' data sources for the tourism industry in Australia and form the basis of national tourism forecasting and the modelling of the value of tourism. A variety of local sources of data are also accessed to provide a

more complete picture of tourism in this State. This process of triangulation will continue as the most effective way of understanding the environment when no one data source provides the full picture.]

#### **Recommendation 4**

Local and state governments encourage and support pastoral leaseholders to retain and further develop low-cost, nature-based tourism sites, especially along their coastline and in other appropriate locations.

[The Government accepted this recommendation subject to compliance with coastal planning policies and strategies. The Government Response noted that the Department of Regional Development and Lands will apply greater flexibility in the allocation of permits under Division 5 of the *Land Administration Act 1997* for non-pastoral use of land on pastoral leases, in particular nature-based tourism. Some low impact non-pastoral tourist camping is currently being permitted on pastoral leases through the issue of licences under Section 91 of the *Land Administration Act 1997*. The recent pastoral diversification review contains recommendations to streamline pastoral leases into activities such as tourism.]

#### **Recommendation 6**

State planning should ensure that future generations have sustainable access to camping along the coast and the opportunity to experience the marine park first-hand.

[The Government accepted this recommendation. The Government Response stated that the identification of suitable camping sites along the Western Australian coast will continue to form part of regional planning strategies such as Region Planning Schemes and management plans for Regional Open Space and specific strategies. Appropriately located camping sites may also be identified in local tourism planning strategies prepared by local governments. The Departments of Regional Development and Lands, Planning, and Environment and Conservation are working to ensure sustainable public access to the Ningaloo coast.]

#### **Recommendation 18**

The government identify land suitable for the development of caravan parks and camping grounds, and vest this land in local government authorities, either in perpetuity or on a 50+ year lease, exclusively for use as caravan parks or camping grounds, primarily targeting short-stay tourism.

[The Government accepted this recommendation. The Government Response stated that management of local governments on long leases for caravan activities is already practised, with 77 caravan parks and camping grounds on Crown land in WA under the management of various local governments throughout the State. The Department of Regional Development and Lands will continue with the current arrangement of (for the most part) identifying suitable caravan park sites and vesting them under Department of Environment and Conservation and local government

control. Tourism WA's Landbank program was created to ensure an adequate supply of tourism development sites (including caravan parks) in Western Australia. Through this program a number of investigations with local authorities have been undertaken to develop new caravan park sites.]

### **Recommendation 19**

The Department of Environment and Conservation take a lead role in identifying and making available land on its estate that could be used for nature-based caravan parks and camping grounds.

[The Government accepted this recommendation. The Government Response stated that on 8 October 2009, the Minister for Tourism and Minister for Environment jointly announced the Naturebank program aimed at identifying and releasing "investor ready" land for low impact visitor accommodation within the State's protected areas. This includes land suitable for caravan and camping parks to a nature-based standard. The Department of Environment and Conservation has 202 designated camping areas on the lands it manages, of which 54 have caravan access.]

### **Recommendation 21**

The Department for Environment and Conservation identify areas of land within their control and or/eventual control in the Peel, South West, Kimberley and Pilbara Regions which could be identified for use as caravan parks and camping grounds.

[The Government accepted this recommendation. The Government Response stated that among DEC's camping grounds are two safari camps which are operated under leases (at Woody Island Nature Reserve near Esperance and Savannah Camp at Karijini National Park). In addition, there are eight caravan and camping parks leased to private commercial operators, and four commercial safari camps operated pursuant to licences (Sal Salis at Ningaloo in Cape Range National Park, and three camps in Purnululu National Park). The Naturebank program will identify and release land for low impact visitor accommodation within the State's protected areas, including land suitable for caravan and camping parks to a nature-based standard. Furthermore, as announced in the 2010-11 Budget, \$20 million over four years will be allocated through Royalties for Regions to expand nature-based recreation and tourism industries, while maintaining conservation values; improve access to low cost caravan and camping opportunities in natural areas; improve the safety and level of road access to parks and other natural areas; and deliver improvements in park management and infrastructure to increase the quality of experiences for park visitors. This funding is additional to the Department of Environment and Conservation's \$40 million parks and tourist roads improvement program.]

### **Recommendation 38**

Department of Planning interprets the State Coastal Planning Policy in a more flexible manner so as to allow caravan parks, and particularly overflow facilities, to be developed in areas that would ordinarily be excluded by the rigid application of the policy.

[The Government accepted the spirit of this recommendation. The Government Response noted that the intent of the State Coastal Planning Policy is to retain the coastline in public ownership and protect the environment from harmful developments.]

### **Recommendation 53**

Tourism Western Australia becomes much more active in the development and promotion of caravanning and camping in the state.

[The Government did not accept this recommendation. The Government Response noted that Tourism WA currently undertakes a number of direct and indirect promotional activities for this sector and attendance at the Queensland, New South Wales, Victorian and South Australian Caravan and Camping Shows is considered the most effective and direct means of promoting this experience to the consumer. Tourism Western Australia currently supports Regional Tourism Organisation attendance as outlined in Recommendation 52 of this report. In addition, 'Destination PR' opportunities are maximised where possible by working with relevant media to generate value.]

### **Recommendation 56**

The state government should:

- Identify and zone land for caravan park and camping ground development.
- Identify parcels of land on the DEC estate that can be set aside for nature-based parks.

[The Government accepted the above recommendations.]



## APPENDIX 8

### SUBMISSIONS FROM WEDGE AND GREY SHACK OWNERS

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*This Appendix summarises issues raised in submissions received from Wedge and Grey shack owners and occupiers prior to the commencement of the inquiry (in response to the petition tabled in the Legislative Council) and during the inquiry. Comments made in previous submissions are often not repeated in the summary.*

#### ***Wedge shack site***

#### **Mr Gary Cream**

1. My family originally had two shacks at Billy Goat Bay, north of Greenhead in the Shire of Coorow from 1985 till they were demolished in 1995. This area, including Little Anchorage, supported about 100 shacks and was a thriving recreational community providing healthy seaside activities for the kids and social interaction. The Squatter Policy decreed this use of Crown land was to cease. This site held up as a rehabilitation example by CALM post shack removal, became a car park bordered with koppers logs and an ablution block. I have purchased a shack at Wedge Island.
2. The Minister for Environment recently declared in *The West Australian* that ‘*there was no formal election promise to reconvene the [Wedge and Grey] taskforce*’ and she ‘*was not willing to reconvene the taskforce*’. The taskforce was a mechanism, an open process, to review how other States have incorporated retention of conforming shack site communities into long-term site management plans to better utilise these areas to enable traditional family way of life holidays to coexist with emerging tourism and broader public access needs. The approach taken in New South Wales, South Australia and Tasmania has been far more enlightened, taking into account cultural heritage values as living examples that should be retained. At the same time the ‘technical’ issues relating to building standards, environmentally sustainable services and general public access have been satisfactorily addressed.
3. It appears that the focus of government, especially Tourism Western Australia, is on the high yield facilities aimed at the top end tourism market.
4. The sense of place that exists in shack settlements, apart from the underdeveloped physical environment, is the community feel and cultural heritage. These are the qualities that have resulted in the National Trust registering Wedge and Grey as sites of cultural significance and will lead to a Heritage Management Plan being developed. Social geographers such as John Selwood PhD and Alan May also recognised the tourism opportunity afforded by retention of these types of communities.
5. WIPA developed a Wedge Shack settlement Model concept. A site-specific plan cannot exist in isolation and needs to fit within an overall policy framework. At present, that framework is

still the Squatter Policy that was developed in the late 1980s when the focus was to halt the uncontrolled expansion of unauthorised structures being erected on Crown land. That policy has served its purpose. Since the Squatter Policy was introduced in 1989, values have changed dramatically and if the best interests of the State are to be protected, that is, a balance between economic, social and environmental needs, the policy requires revision.

6. The recent report released by the Legislative Assembly Economic and Industry Standing Committee of its review of the Caravan Parks and Camping Ground Industry highlighted the need to protect ‘a central part of the WA way of life’ and of the need to collect data to better plan for and manage suitable sites.

**Mr Mick Kontoolas**

1. I am a joint owner of a Wedge shack with my friend of 50 years from school days.
2. Shack communities can generate investment in tourism and provide a wider range of recreational and tourist facilities and experiences. The petitioners object to the narrow view expressed in the ‘exclusivity’ claims made at the time the Squatter Policy was promulgated.
3. The recent report by the Legislative Assembly Economic and Industry Standing Committee of its review of the Caravan Park and Camping Ground industry highlighted the need to protect ‘a central part of the WA way of life’ and of the need to collect data to better plan for and manage suitable sites.
4. This commitment was made by Dr Steve Thomas MLA, then Shadow Minister for Environment, and confirmed in an email dated 3 September 2008:

*Wish to confirm that the Liberal Party’s commitment is to continue the role of the Wedge and Grey Task Force created to ... examine policies, legislation and associated resolution practices regarding shack communities in other states and jurisdictions, in order to determine the best way forward ... in implementing management plans for the two reserves.*

*Further, the purpose of the Wedge and Grey Task Force is to investigate and make recommendations on how the shack communities could be integrated into such plans for the provision of upgraded recreation and tourist facilities, prior to any future EOI process being commenced.*

5. It appears the written political promise by the Liberal Party during the last election campaign to reconvene the Wedge and Grey Taskforce is not going to be honoured.
6. There are several underlying problems with the hotch-potch approach to managing recreational use of Crown lands:
  - The need being met by these arrangements has never been accurately measured as the settlements are regarded as illegal, and if the site management body sanctions the occupation and use, there is a reluctance to highlight the ongoing acceptance of the arrangement.



- Site Specific Management Plans need to be established that are relevant to the local area or fit within a network of integrated plans to meet broader needs.
  - The current framework under which this form of recreational use of Crown land is managed is neither universally supported nor consistently applied.
  - Values have changed dramatically since the Squatter Policy. If the State is to obtain the most benefit, that is, a balance between economic, social and environmental needs, the policy requires revision. For example, heritage values of sites such as Wedge and Grey have been recognised by the National Trust and several sites have been registered under the Aboriginal Heritage Sites Act.
7. There has been ongoing opposition to shacks at Wedge with claims of their detrimental effect on the environment, including pollution of ground water and destruction of the local features and flora. The reality is that shack owners have a good track record when it comes to protection of the environment at Wedge.
  8. Shack owners pay an annual lease in excess of \$800. However, DEC does not provide any services or facilities for shack owners or for members of the public visiting the areas. These lease payments have been revenue for DEC (previously CALM) for about 16 years.
  9. Recent events with visitors to Wedge and Grey shack sites have exposed the problems with the inadequate services and facilities for the public. The construction of the Indian Ocean Drive to link Lancelin and Cervantes has provided the means for the public to visit the Wedge and Grey sites. This influx of visitors is creating problems for the two sites, including social, traffic and environmental programs. With no designated parking areas, limited signage and no ablution facilities, the extra visitors to the areas are ill informed and present a risk to safety and the environment.
  10. One thing that needs to be addressed is who will be responsible for the regulation of shack sites. DEC could work with other departments, such as Tourism Western Australia and with other associations, such as WIPA, to management these two significant shack communities.
  11. Local government has a key role in many of the shack sites in Western Australia and have demonstrated the effectiveness of a regional authority controlling a local shack site resource. With a change in Government policy, the Shire would be in a position to take on the regulatory role of Wedge and Grey.

### **Mr Murray Knowles**

1. I would like to provide a more personal perspective and focus on the intangible things that the bureaucracy seems to have difficulty in coming to grips with. Things like joy, well being, sense of belonging and pride.
2. We took over an abandoned shack in 1997. It is the best decision I have ever made.
3. Wedge provides mental health benefits and stress relief for adults, especially men. Personally, and I have observed this in many other males, the need to be creative, inventive and achieve something tangibly constructive is to the fore.

4. The Government has not honoured its written policy promise during the last election to reconvene the Wedge and Grey Taskforce established by the previous Labor Government. The commitment through Dr Steve Thomas MLA, then (in September 2008) candidate in the upcoming election. (Dr Thomas confirmed the promise in an email dated 3 September 2008 and after the election).
5. A Wedge and Grey Taskforce should review how other States (especially Tasmania) have incorporated retention of conforming shack site communities into long term site management plans to enable traditional family ‘way of life’ affordable coastal holiday to coexist with emerging tourism and broader public needs.
6. The Minister for Environment has stated that her approach is to ‘*make a decision working in consultation with the stakeholders*’. But the majority of stakeholders and government agencies are loath to support change of existing policy.
7. In summary:
  - A formal heritage assessment of the sites could form the initial element of a revised framework.
  - The site specific settlement models developed by WIPA and GCCA could be the guides to integrated management plans for these sites.
  - Additional studies could prove the values that would accrue to all stakeholders.
8. The alternative to the current DEC plan, which is to entice a commercial partner to establish some form of camping and caravanning facility into Wedge and possibly Grey and demolish both communities, for likely small scale and basic facilities, is to use the critical mass of the existing shack market to facilitate additional public facilities and enhance the visitor experience by providing something different on the central west coast.
9. The Government has an opportunity to create something of great value to families in Western Australia and enhance the State’s reputation of providing a wonderful and unique variety of tourist experiences.

**Mr Greg Simpson**

1. I have been holidaying at Wedge since childhood. My father died there. His ashes are buried there.
2. I estimate at different times throughout each year over 55 people stay at our shack, quite often more than 12 at a time. I would estimate that this would be a close reflection of most other shacks at Wedge, so that is somewhere around 15 000 to 20 000 people staying in shacks throughout each year. We see the shack as our only holiday option. We enjoy fishing, various water and other recreational sports and community events and the company of our friends.
3. People don’t grasp the cultural and historical value that the shacks and the community have created. This can’t be replaced.

4. The Wedge and Grey Taskforce was a mechanism to examine how other states (especially Tasmania) have incorporated retention of confirming shack site communities into long term site management plans to better use these areas. The Minister for Environment has stated that there was '*no formal promise to reconvene the taskforce*' and '*we weren't going to get a unified position*'. Instead, her approach is to make a decision working in consultation with the stakeholders. Unfortunately, the majority of stakeholders are Government agencies that are loath to support a change of existing policy. The approach taken in New South Wales, South Australia and Tasmania has been far more enlightened, taking into account cultural heritage values as living examples that should be retained.
5. I understand that some changes must be made to ensure the long-term viability of the area in regard to environment, health and safety, and we have been making those changes, even without any promise of long-term tenure. We are prepared to do what ever is needed to ensure a future for our community. WIPA prepared a professional submission to the CALM's Expression of Interest [as provided for in the *Wedge and Grey Masterplan*] in 2001 but CALM decided to abandon the process after three years and wait for other commercial partners to surface.
6. Alternative mechanisms are available if the Minister for the Environment is not going to reconvene the taskforce. For example:
  - a formal heritage assessment of the sites could form the initial element of a revised framework;
  - the site-specific settlement models developed by WIPA and GCCA could be the guides to formulate integrated management plans for both sites; and
  - additional studies such as an Economic and Social Impact study could be undertaken to prove the values that would accrue to all stakeholders.
7. The current DEC plan is to entice a commercial partner to establish some form of camping and caravanning facility into Wedge and possibly Grey and demolish both communities. The facilities are likely to be small scale, basic and with an unknown delivery date. The reality is that such a venue is highly unlikely due to availability of willing partners and the doubtful economic return of a stand-alone facility due to the seasonal market. The alternative is to use the critical mass of the existing shack market to facilitate additional public facilities and enhance the visitor experience by providing something different on the central west coast.
8. The majority of the Wedge community and visitors are very respectful of the environment, however, it seems we are continually grouped in with the anti-social and environmental vandals that invade us, particularly since the construction of the new road. The majority of shacks use renewable forms of energy and provide power.
9. We have been forced into lease agreements with DEC by the Government of Western Australia. Millions of dollars of lease money has been collected over time from shack owners and Wedge has received little or no benefit, services or assistance from them. We pay the best part of a thousand dollars a year for which we receive nothing. I understand that over a million

dollars has not been collected over time from non WIPA shack owners. Why are WIPA members being 'penalised' whilst the others get a free ride?

10. During the construction of the Indian Ocean Drive and the spur road to Wedge we have been inundated with visitors in two and four wheel drive vehicles, the majority of whom are very anti-social, destructive, violent, vandalising, littering and dangerous in their activities and vehicle use. DEC and police have provided very little if not negligible assistance with the control and management of the influx of visitors. If no one is to provide us with assistance, there will be many people hurt and even killed as a result. I cannot understand why DEC have not made plans to accommodate the impact upon Wedge by the overwhelming increase in vehicle traffic and visitors. Wedge is effectively a 'no man's land'. We police ourselves and visitors as best we can, and we have established own codes of conduct. While we do our best with the environment, we need help, particularly now the new road has allowed easier access for many more people.
11. Hundreds of thousands of Western Australians want Wedge left alone. The majority of the Wedge community does not want to rent their shacks. The removal of our shacks will cause devastation to thousands of Western Australians and will destroy our way of life and that of our children and generations to come. There will also be an economic impact.
12. We would like to see regulated and managed camping areas with the provision of toilets, rubbish collection and potable water. We see the need to construct more shacks to accommodate the overflow of people. There are many standards and grades of caravan parks. We do not need the same structure of regulations which are applied in the metropolitan areas or any town, as our shacks are for short term accommodation, not permanent residence.
13. Many of our accusers are very ignorant but experts on every subject. They have not made proper inquiry or research. The issues of equity and exclusivity have been raised from time to time and my answer to this is very simple. Most of our towns began as shack sites and the people who pioneered them received benefit from doing so. We did not restrict other people from building shacks, DEC did. Each shack owner has invested thousands of dollars. We have paid rent.

**Mr Ross Robinson**

1. I first visited Wedge over 50 years ago. I have been involved in trying to formalise long term tenure for the shack community for over 40 years.
2. My three sons and three daughters enjoyed Wedge as children and now their families make good use of the shack and the Wedge lifestyle. In addition to our three generations, the shack has enabled all my relatives and friends to do likewise.
3. It seems to me that the nub of this problem is the nature of the Squatter Policy. The policy was introduced without consultation with the user group negatively affected by it. The policy only addressed the unauthorised physical structures, with no consideration of the significant social structures involved. Successive governments have not adequately dealt with the issues. Other

- States have successfully resolved the perceived problems. Unless reviewed, the policy puts at risk significant social values and tourism assets. The Squatter Policy has served its purpose.
4. Shack communities are an untapped resource that can generate great investment in tourism assets and provide a far wider range of recreational and tourist facilities and experiences. These resources can facilitate an increase in the access to and use of these sites rather than the narrow view expressed in the 'exclusivity' claims. Unfortunately, the majority of stakeholders are government agencies that are loath to support change of existing policy. WIPA prepared a first class submission in response to the CALM expression of interest process to no avail as this process was abandoned.
  5. It appears that the focus of some government agencies, especially Tourism Western Australia, is on high yield facilities aimed at the top end tourism market. To attract developers to invest, a theme needs to be created. The sense of place that exists in shack settlements is the community feel and cultural heritage. This makes a point of difference for the tourist and adds to the tourism assets.
  6. Our community has stood the test of time. It has fostered a sense of camaraderie amongst members and neighbours quickly assisted anyone who had a problem. WIPA built a First Aid post that was equipped through community donations and staffed by a volunteer nurse, a fire tender was constructed and in excess of 10 000 man hours have been spent rehabilitating degraded sand dunes.
  7. It is my very strong opinion that Wedge should be retained for its cultural value and in doing so the State will also benefit economically and socially and the shack communities can continue to deliver a sense of place that will otherwise be wiped out if common sense and logic do not prevail.

**Mr Peter Marr**

1. Fourteen thousand people use the shacks at Wedge and Grey. Twenty thousand have signed petitions presented to the upper and lower houses of Parliament.
2. The petition was generated to initiate some action on a pre-election commitment that an incoming Barnett Liberal government would re-activate the Wedge and Grey Taskforce to investigate how the settlements could be integrated into any future management plan. The Minister for the Environment has indicated she was not willing to reconvene the taskforce. The 14 000 people who use the shacks at Wedge and Grey were clear as to what was intended when the commitment was sought and endorsed.
3. An assessment for retention could be made against such criteria as formal heritage assessment, remote community recreation need and tourism servicing.
4. The Wedge community can be retained and co-exist within any future development. WIPA has developed a Wedge Shack Settlement Model concept that provides for a range of needs, including commercial tourism operations, that are integrated around a central tourism theme.

5. We do not wish to put our head in the sand and hope that everybody leaves us alone. We accept that we have a responsibility to upgrade our shacks to required standards. We accept that affordable accommodation should be provided and available for the general public. We hold true to the point that the Wedge environment should be protected and nurtured. However, we also believe that we have a well established social heritage with a strong community and sense of place and it can be retained and co-exist within a future development.

**Ms Diane Hunt**

1. Shack communities are an untapped resource which can generate greater investment in tourism assets and provide a far wider range of recreational and tourist facilities and experiences. These resources can also facilitate an increase in the access to and use of these sites rather than the narrow view expressed in the 'exclusivity' claims made at the time the Squatter Removal Policy was promulgated.
2. Previously the Liberal Party made a pre-election statement that an incoming Barnett Liberal government would re-activate the Wedge and Grey Taskforce, which was convened in July 2008, to investigate and evaluate how the Wedge and Grey Settlements could be integrated into a future management plan. Recently the Minister for the Environment reiterated her position that the taskforce would not be re-convened as she did not believe it could reach a unified position. However, no alternative mechanism was identified. The format taken in New South Wales, South Australia and Tasmania has been successful especially taking into account the cultural heritage values that should be retained. Also the approach taken at these sites relating to building standards, environmentally sustainable services and the general public access have been satisfactorily implemented.
3. WIPA has developed a Wedge Shack Settlement Model concept that provides for a range of needs, including commercial tourism operations but which still adheres to the community feel that is currently in place. A site specific plan cannot exist in isolation and needs to fit within an overall policy framework.

**Dr Peter Sheppard**

1. There are 350 dwellings at Wedge and 135 dwellings at Grey. Many shacks at Wedge and Grey have fourth generation visitors.
2. I showed the Minister for Environment and Grant Woodhams MLA around Grey last year. We have a vested interest in protecting these sites. Since the current shack removal policy was approved in 1989 most of the smaller shack settlements have been demolished by Shires. The current leases at Wedge and Grey expire in June 2011 and current policy does not provide a mechanism to extend them further.
3. With the near completion of the Indian Ocean Drive extension we acknowledge that things will change in the future. What we want is a voice at the table and the chance to demonstrate that we want to be partners in the future development of these shack sites while maintaining our heritage.

**Ms Lauren Kuyer**

1. I have been staying at Wedge for five years. I purchased a shack with four other couples when one became available.
2. The Wedge and Grey Taskforce should be reconvened. If not, alternative mechanisms are available, for example, a formal heritage assessment of the sites could form the initial element of a revised framework if allowable under the Squatter Policy, the site specific settlement models developed by WIPA and GCCA could be the guides to formulate integrated management plans for both sites.
3. The current DEC plan is to entice a commercial partner to establish some form of camping and caravanning facility into Wedge and possibly Grey and demolish both communities. The facilities are likely to be small scale, basic and with an unknown delivery date. The reality is that such a venture is highly unlikely due to availability of willing partners and the doubtful economic return of a stand alone facility due to the seasonal market.
4. The alternative is to use the critical mass of the existing shack market to facilitate additional public facilities and enhance the visitor experience by providing something different on the central west coast.

**Mr Dean Carrick**

1. The Squatter Policy has served a limited purpose during the early 1990s but does not reflect current public values. The policy and management plans derived from it, such as the DEC *Wedge and Grey Masterplan* are now obsolete and through a lack of timely reviews, most stakeholders are at risk of being shortchanged.

**John and Vanice Reeley**

1. I own a shack at Wedge. The value the shack has been in the upbringing of our three children cannot be under estimated.
2. The shack has had its share of visitors of family members, friends and friends' children whom have all holidayed and enjoyed the opportunity to learn how to swim, fish and generally mix with people and children from all Australia and the world. People in the Wedge community band together.

**Ms Nicole Reeley**

1. My family has been holidaying at Wedge for the past 30 years, since I was three.
2. Wedge has been a large part of my heritage. We learned to swim there. We were taught to drive cars in the sand dunes. A favourite thing about Wedge is the community spirit of the shack owners. There is always a mass gathering of WIPA members on the beach for summer sundowners where a few drinks and a lot of stories are shared by people with the only thing in common being our love for our shacks and this way of life.

3. Wedge allows us to spend quality time together without the worries of city life. It is definitely of heritage and cultural significance to us, and we hope to be able to share this caring and carefree way of life with our own children one day.

**Mr Ross Bender**

1. My uncle introduced me to this wonderful place of crystal clear water, huge sand dunes, great fishing and surfing when I was a boy. It was my utopia. I have spent a great deal of my recreational time at Wedge over the past 45 years.
2. Wedge has been a great place of learning for my daughter. Learning to swim, surf, fish and even drive a vehicle. It also taught her about the fragile environment.
3. I accept progress and realise that with the construction of this new access road a considerable amount of pressure will be brought to bear on the Wedge shack community. However, I believe the 'shackies' and new visitors can coexist and both enjoy the wonders that Wedge has to offer. There will be a need to set areas aside for camping, caravanning and so forth. Our shacks can be upgraded to a better level of acceptance by building and environmental standards. Yes, there will need to be inevitable changes across the board, however, progress is all about moving forward and benefiting the wider community. Hopefully this will be achieved. Services would help this area with the influx of visitors.

**Ms Jan Selfe**

1. My family has shared a shack at Wedge Island for 30 years. I have watched our children grow up in a wonderful environment, learning all aspects of living without material things. We all enjoy the lifestyle of Wedge as a low cost holiday.
2. DEC need to put in place camping areas and educate those to take their rubbish away, put out camp fires and respect the environment. DEC also need to be present more often for the influx of vehicles, licensed and unlicensed. In many cases these are causing very dangerous situations for those enjoying the beach and area.
3. The dismantling of shacks will cause wide spread damage.

**Mr Gregory Robinson**

1. I have visited Wedge for 50 years and had a shack for 45 years. Spending days in a shack always allows me to unwind and switch off from the pressures of life in Perth.
2. The yearly Fun Run and Easter Ball are an excellent example of WIPA's ability to organise social occasions and bring the Wedge community together. The association has had a de facto management role in the area from its inception and has maintained rubbish disposal facilities and regular clear ups, dune repair activities and the provision of basic first aid and amenities.



3. Wedge has an operational fishing village and is a historic, living reminder as to how many of the major fishing towns on the Mid West coast were founded. This has a priceless heritage value and should be retained for prosperity as a unique example for all visitors to see.
4. There are countless other towns on the coast that offer a chance to spend a weekend on the beach, but none offer the same mystique and simple beauty of time spent on a shack at Wedge.

**The submitters noted below provided the same submission (summarised below).**

**Mr Simon Trouchet, Mr Gary Cream, Ms Diane Hunt, Ms Tamar Kennedy, Mr Andrew Bruechert, Mr Ray Hill, Mr Ray Barrow, Mr Garry Pinner, Ms Liz Browning, Mr Hector Johnson, Mr Chris Harris, Mr Peter Croft, Ms Bronwyn McNaughton, Mr David Boyce, Mr Maric Boyce, Mr Graham Winkleman, Mr Philip Castle, Mr Jim Murie, Mr Brett Timewell, Mr Vaughan McNaughton, Lex and Roslyn Smith, Mr Don McWaters, Ms Cassandra Moar, Mr Peter Tormey, Ms Lorraine Trouchet, Kathy Tormey. Mr Heath Holman** forwarded a very similar submission referring to the Wedge ANZAC Dawn Service and Australia Day cricket match and stated that if the area is demolished, the area will be overrun by '*campers and hoons*'.

1. I am a member of the WIPA and am active in their activities and programs within the Wedge shack community. I fully endorse the views, assessment and recommendation contained in the WIPA submission.
2. The ongoing problems with various shack sites around Western Australia and successive State governments seems to be caused by the current Squatter Policy and by inconsistent treatment of these sites by local government authorities and government departments.
3. Other states have established and retained similar shack sites after successfully resolving any problems, but the Western Australian government has not been able to deal with the issues. This policy puts at risk community social values and tourism assets.
4. Shack communities are capable of providing affordable coastal family holiday destinations, as well as a wide range of recreational and tourist facilities and experiences. Their potential as tourism assets is considerable, and can generate investment in facilities and tourism related businesses through increased access to and use of these sites.
5. I trust this submission provides the Committee with information on shack communities in Western Australia, and that the Committee will be instrumental in changing policies related to shack sites so that the Western Australian public and visitors to this State can enjoy the benefits of these unique communities.

**Mr Brett Warr**

1. My family has owned a shack at Wedge Island for nearly 30 years.
2. I am sure that with enough input from the right people, Wedge could be retained with the best interests of the shack owners as well as anybody who wants to visit this fantastic location.

3. I have always known that one day a road would be built to open Lancelin to Cervantes, and now that it has happened more pressure from the amount of people visiting will soon appear.
4. I think that a full time ranger employed by the Shire of Dandaragan would be extremely beneficial to the community and would perhaps promote the right image that the people of the Wedge establishment have done for many years.

**Chris and Ailsa McMullan**

1. The friendships and connections we have developed at Wedge have enriched our lives. The shacks are a fundamental element in them. Without them the community would not exist and relationships would not have an opportunity to grow and thrive.
2. This community has slowly developed and changed over 50 years or so. It is not a closed community. It's caring, vibrant, full of character and open to everyone. It's what life is all about. It's about a special way of life.

**Mr Richard Brown**

1. My family has had a shack at Wedge for 14 years.
2. Australia is often a destination for overseas tourists premised on its unique environment, wilderness and isolation. Shack communities like Wedge are capable of providing this experience for overseas visitors and residents of WA with affordable coastal family holiday destinations alike. This potential can generate investment in facilities and tourism related businesses through increased access to and use of these sites. The owners of Wedge shacks and WIPA can, with an appropriate level of regulation and policy direction, regulate those destinations.
3. Wedge provides a unique opportunity for people to become involved in a small community.
4. The Wedge community will be affected by the completion and opening of Indian Ocean Drive to Cervantes. Development of the road and the accessibility of Wedge exposes my shack and the others to theft, vandalism and the degradation of the environment. The increased volume of visitors places greater emphasis on the need to develop a policy that will facilitate the retention of Wedge and its unique characteristics including the shack community.
5. To create a sustainable future, a partnership between the Wedge community, government and its agencies can facilitate:
  - the retention of the shacks and the settlement's heritage by establishing minimum standards for the constructions of buildings. This would not necessarily impose the standards of the *Building Code of Australia* but a standard that means a level of construction that is not detrimental to the uniqueness and diversity in style that the shacks present and preserves its heritage;
  - the protection of the environment which will ensure that the community will be the custodians of the environment allowing the volume and behaviour of visitors to be

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regulated premised on policies developed by the Government in consultation with the community, and the conservation of the natural heritage.

6. An extension of the leases will at least, provide an opportunity of a partnership to formalise and demonstrate its capacity to fulfill the objectives referred to above.

**Mr Graham Boston**

1. Shack communities are an untapped resource that can generate great investment in tourism assets and provide a far wider range of recreational tourist facilities and experiences.
2. I recommend that the Committee seeks direct input from shack associations to balance the input to this process.
3. The 14 000 people who use the shacks at Wedge and Grey were under no misunderstanding as to what was intended when the political commitment was sought and endorsed in 2008.
4. This issue involves not just the environment portfolio. It also impacts on lands, planning, tourism, heritage and local government and indigenous affairs.
5. I support a two-tiered management approach to shack sites. I support the proposal to create an over arching policy framework, by amending the Squatter Policy, to allow a pathway for shack communities to justify their claims for long term tenure. This would involve extending the provision given to professional fishers by creating other 'justification' categories such as formal heritage assessment, remote recreational need, local tourism servicing and submission by the relevant communities for consideration by a designated authority. Communities would be required to comply with defined building standards, environmental conditions and demonstrate benefit to the public. A positive assessment by the designated authority would then trigger a site specific management plan.

**Les and Roslyn Smith**

1. We have spent the past eight years at Wedge. The community spirit is amazing. There are people from all walks of life. The community plays a huge part in keeping Wedge and its environment safe and under control.
2. With the Indian Ocean Drive now completed, there has been an influx of visitors to Wedge which has caused its own problems as there are no public facilities, car parks, toilets, bins and so forth provided by DEC or any other authority.
3. To lose such a valuable and unique community would be a great loss to humanity.

**Mr Craig Farrow**

1. I have stayed at Wedge with friends. I enjoy staying at Wedge because it is a family destination. The leases are paid to the Shire at least one year in advance. This is unfair as there seem to be little or no Shire resources supplied in return.

2. We would like to see a mutual agreement between the Shire, State Government and Federal Government (where required) to allow the current shacks to remain as they are or be upgraded to ensure safe building standards are met to ensure they will be enjoyed for generations to come. The agreement should provide benefits to both parties, without losing this unique and beautiful community.

**Ms Rachel Coleman**

1. I share a shack at Wedge. When I was young the holidays I most enjoyed were the isolated camping trips we had.
2. In 1997, when I was older, dad took over an abandoned shack at Wedge. The extended family uses the shack regularly. My children have been going to Wedge since they were around 12 weeks old. Wedge gives us the opportunity, not only as a family unit, but as an extended family, to have affordable regular breaks with the convenience of most of your gear being able to remain on site so packing isn't an issue. I would like my children to have the opportunity to be exposed to the things that I thought were important for me to experience during my formative years. I would like my children to enjoy their grandparents' company in this relaxed environment and build their cherished memories for reflection later in life.
3. Contrary to the lie quoted by bureaucrats, the shacks and the site are not exclusive to the owners. We have had numerous trips sharing with other families and all the children playing together. That is what the place is about.
4. The issue is does the Government believe there is a social need that should be met and does it have the will to make it happen.

**Ms Amanda Dawe**

See Appendix 6 'Summary of Submission from Members of the Fishing Industry'.

***Grey shack site***

**Mr Ray Hill**

1. My family shack was originally built on Garden Island. The family shack is now at Grey.
2. The promise made by the Liberal Party is apparently not going to be honoured. The Government has agreed to allow the retention of the shacks occupied by professional fisherman. This is discriminatory.
3. The shacks fill a role that no other form of accommodation can fulfill. They are unique and culturally significant, as recognised by the National Trust. These settlements can, with guidance, become a tourist attraction and an example of what can be achieved in the way of environmental retention and self sufficiency for electricity and water in a community. Most of Grey's 130 dwellings use solar and/or wind power.
4. A fair and equitable outcome is all we seek. We will not be eradicated without a fight.

**Raymond and Jillian Hill**

1. I purchased a shack at Grey in 1987 for \$12 500. The size of the settlement was smaller then.
2. Shacks are not about wants, they are about needs. Shack owners are, to a degree, misfits.
3. The following action could be undertaken: set up a body which includes shack settlement representatives to determine the minimum basic attributes that a dwelling must achieve to be retained; establish a maximum shack size and determine what additional infrastructure is absolutely necessary to estimate its cost; determine what additional facilities are required (toilets and so forth); advise shack owners of the requirements; offer the shack owners lease renewals each year on the condition that required standards and improvement have been achieved; guarantee a 21 year lease at the end if all the requirements are met; sale of shacks prior to the commencement of the agreement should be encouraged.

**Mr Brian Matters**

1. My partner, three daughters and I are the proud and lucky lease holders of one of the oldest established shacks in Grey.
2. I had my first encounter with the shack way of life when I was very young. The lifestyle, comradeship, culture and heritage, and Australian way of life has not changed. It saddens me that immigrants can come to this country with their cultures and religions and we accept these but when it comes to something Australian we are all too willing to let it go. I can see the plight of our Indigenous people.
3. The amount of people up here who want to come here or use my shack is out of control now the word has spread. I would rather see the shack used and enjoyed than sit empty during my time away from it. I think the proposal from the 'Grey Com' can work well.

**Ms Georgia Matters**

1. The memories I have created during the eleven years I have been going to Grey have made me the young woman I am today—independent, ambitious, enthusiastic, mature and responsible. During my time at Grey I have experienced both frightening and joyful events, seeing snakes and sharks, catching my first fish, meeting new people and creating new friendships. What worries me the most is the thought that they will not be here in years to come for me to show my children.
2. I hear a lot of discussion in the local and national news about children becoming obese, obsessed with television and video games and lazy. I find it amazing that the Government takes little responsibility and blames it on the parent. Destroying the shacks at Grey will create the same effect. By removing the shacks, so many children will miss out on the experience to 'rough it a little'.

3. The thought of Grey not being there in years to come still brings a lump to my throat and tears to my eyes. I suggest staying at Grey for just one night and experiencing it yourself. You will leave breath taken, inspired and relaxed.

**Steven and Suzanne Greybrook**

1. We purchased a shack approximately 14 years ago. Grey has always been an affordable and attractive holiday destination for our family and the friends who have stayed with us. This has enhanced our children's lives and provided the children, friends and families with a true sense of a community and community awareness.
2. The shack community experience is unique and very rare in today's society and should be preserved for future generations to experience and learn from. The low cost and affordability of the shack community should also be analysed and considered. Unfortunately, holidaying in Western Australia is becoming more and more expensive and the traditional destinations have become out of reach for our family and friends.
3. We understand the concept of progress, however progress and sustainability can be and have been managed effectively. There is no way the communities are elitist. Far from this, they are inclusive and many new people are brought into the shack communities. Our shack is made available to a wide number of families and friends.
4. Shack sites have been maintained in other States and in New Zealand. We ask the committee to examine the success and management practices in these shack communities.

**Mr Stuart Donnelly**

1. I own a shack at Grey. Each shack at Wedge and Grey (500 in total) provides accommodation for six people which equals tourist accommodation for 3 000 Western Australian, interstate and overseas visitors available every day of the year. If the shacks are removed, is the Government willing or capable of providing Western Australians with this quantity of tourist accommodation? What would be the cost of this? Will existing tourist accommodations be able to cope with additional demand?
2. The shacks were constructed by the lease holders at no cost for the Government. Current lease arrangements provide the Government with a positive income.
3. The Wedge and Grey communities provide a valuable security and surveillance presence for our national parks, coastline, marine parks and rescue services. They provide assistance to emergency services, local government, State authorities and marine search and rescue services.
4. Cultural and heritage value is an important issue. The shack communities offer a lifestyle and culturally rich way of life that has been lost in the modernisation of this state and country. All lease holders have purchased their shacks. The sense of community and social interaction provided at Wedge and Grey is a tangible and valuable commodity.

**Amy Pepper and Erik McCallum**

1. My mother could not afford to take the family on holidays many years ago and we were all really excited about having a place to go on holiday for the cost of a tank of petrol.
2. I am now looking forward to taking my daughter to the shack for the first time. I hope we can continue this tradition of engaging with the environment and teaching future generations about sustainability. It would be really devastating to think that the shack community might become just another commercial, run of the mill holiday spot.
3. This shack has also given some of mum's very ill friends a chance to get away from everyday life without needing to fork out large sums at a time when money was not easy to come by. It also gives kids a bit of freedom that is lacking in our increasingly urbanised and anxiety-ridden society. One thing I relish about my time at the shack is that it throws people from all walks of life together.
4. The shack community is an important part of Western Australian culture and it would be a great loss to replace it with anything else.

**Peta and Phil Stewart**

1. I have been going to Grey for regular holidays with the extended family for the past five years.
2. Grey is a place where families can get back to basics. No telephone, no television, no play station. What Grey has cannot be replaced. It is a piece of Australian history. If Grey is taken away it is taking away a great Australian icon and way of life that can never be replaced.

**Ian and Marion Davidson**

1. In 2002 my wife and I retired and moved to Grey permanently to live the lifestyle we both love and thrive on. We create our own electricity from sun and wind and are self sufficient with water from a bore and rainwater tanks. A vegetable garden and four fowl help supplement our requirements, as well as fishing.
2. With security of tenure I am quite confident the community will comply with laid down requirements and move towards to a unique community capable of self regulation and control at a minimal cost to regulatory authorities.

**R R Crawford**

1. In 1979 my wife and I built the shack at Grey that we use to this day except today it is our grandchildren who are learning to live in harmony with the environment with this being shown to them by their parents. We are self sufficient in that we provide our own power via solar and wind generators, potable water with rainwater tanks and septic system fed by bore-water. We are community minded.

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**Ms Denise J Murton**

1. My partner and I have had a shack at Grey for more than fifteen years. We have spent every school holiday and long weekend at Grey since then with our children and their friends, our parents, siblings, friends and numerous others.
2. Grey has existed for approximately sixty years. This is about one third of Western Australia's history. It is a snap shot of Western Australian life many years ago. Grey has been on the forefront of recycling and conservation for many years.
3. Children need to experience first-hand the Australian bush mentality and sense of community and place that is very sadly missing in today's world.
4. We believe that we can work together to achieve and contemporise the objectives of the government's overarching vision whilst still retaining the Grey shacks.

**The Downey Family**

1. I was introduced to the shacks at Grey and the local community by friends 12 months ago. I have shared many great weekends and holidays there and have taken other friends there to experience the same.
2. We love Grey. It is so relaxing, calm, quiet and absolutely beautiful. It is also a place to get back to nature at its finest. It would be a very sad loss to lose this community and its spirit where the only thing left is the footprints in the sand. There is nothing like sitting back watching an awesome sunset on one of the most beautiful coastlines Western Australia has to offer.

**Ms Kelly Honczar**

1. I have visited the shack at Grey for all my 32 years. I virtually grew up at the shack, which was built by my father and his friend.
2. The shack settlement at Grey represents a unique and iconic area with rich social and cultural heritage value. The settlement is all the more significant due to being one of the last remaining.
3. I strongly support the GCCA Proposed Grey Heritage Village Settlement Model. I acknowledge that the proposed model in its current form requires significant development and refinements in order to achieve sustainability objectives that balance social, environment and economic considerations. I recognise that a significantly greater amount of attention will need to be given to appropriate environmental management of the sites.
4. In order to achieve appropriate environmental management of the site and ultimately meet the objectives of sustainability, my understanding is that the following is likely to be required:
  - detailed assessment of the current environmental values and conditions within the site, with regards to (at a minimum) flora species, vegetation communities, vegetation condition, fauna species, fauna habitats;



- an impact assessment that assesses the likely positive or negative impacts of the proposed model;
- preparation and implementation of various environmental management plans with associated monitoring programs that address, as a minimum, protection of native flora and vegetation, weed management, fire management, native fauna and their habitats, coastal habitats, marine ecosystems, groundwater, and other impacts such as noise, dust, emissions and visual impacts;
- a suite of management plans (or a single composite management plan) that will need to be auditable;
- opportunities for the enhancement of the environment in its current state could also be incorporated into the Environmental Management Plans/s such as dune stabilisation, renegotiation and contaminated site remediation; and
- the Environmental Management Plan/s and the opportunities for improvements to the current environment would be considered and prepared in close consultation with relevant authorities, such as DEC, by an independent external consultant.

**H N Quinn**

1. My wife and I live at Grey full time. My wife and I are both in our late seventies. We wish to spend our days living in Grey.
2. The Minister for Environment said on television that shacks here in Grey are unsightly and a mess. The Minister was not totally accurate in her assessment. Some shacks need work. The problem is that people are reluctant to carry out refurbishment because of the usually short length of the leases. If tenure was granted for a longer term, people would then be encouraged to carry out the required refurbishment.
3. Many people accuse us of being elitist and living here for free. These accusations are false. I have lived here permanently for nine years and have never heard of anyone being refused admittance. We are responsible for our own power, wind generators, solar panels, garbage disposal, water supply and so forth. For this 'privilege' we pay over \$900 per year on lease fees. It is understood that if we are to stay here it will be necessary to make changes.

**Ms Elenie White**

1. I share a Grey shack with my sister's family and parents.
2. Many shacks at Grey are offered to several families and family friends as a low cost family holiday destination. This is the foremost reason why the Government should develop a policy that would lead to the existing shacks being given long term tenure.
3. The new and improved Grey community could include camping sites and shacks that could be rented out to the public either via a ballot system or appointed caretaker.
4. We have been the custodians of this land for fifty years.

5. Our community can offer a truly Australian tourism attraction with no need for road electricity or main water supplies. We can co-exist with Lancelin, Cervantes and Jurien by offering a different type of holiday.

**Mr Gary White**

1. I am a part owner of a Grey shack.
2. Shacks are small communities of families and friends that assemble together with a general purpose to enjoy the lifestyle. You spend uncomplicated stress free time there. We love the community feeling of the place and join in on all community events such as dune rehabilitation, fixing the dump, general clean ups, the fishing fiesta and the Grey foot rally.
3. Once these areas are gone, so is the history behind the Australian shackie. With the thousands of kilometres of coast line in this country, why can't some small pieces be left alone for the normal Australian family to enjoy.

**Mr Zachary Cochran**

1. I believe the shacks provide a positive family orientated outlet for the blue collar workers.
2. As a high school teacher I have witnessed many children who have spent their weekends with family at shack getaways. They are always well rounded, socially adept and environmentally aware. These children constantly make the transition into the workforce easily.
3. Heaven forbid you take away the shacks and condemn us to another generation of children that look like Kim Beazley and act like Kevin Rudd.

**Ms Jessica Cochran**

1. I have always loved it when invited to a friend's shack at Grey. I have never been able to afford international travel. The coastline is clean and the locals keep the town orderly. Many State parks and caravan parks have refuse litters and an evident lack of respect for the coastline and surrounds. I believe the shacks provide a positive family oriented outlet for the blue collar worker.

**Mr Chris Donnelly**

1. I own a shack at Grey.
2. The concept that shack dwellers are elitist or privileged to own a shack is completely incorrect. Since our shack was bought in 1996 there have been many sales of nearby shacks. Anyone who wishes to make the effort can buy a shack. The benefits to that person and his family are great.
3. To deny future generations the access to this unique lifestyle will be a huge mistake.

**Mr Brian Cant**

1. I recently purchased a shack at Grey for a modest sum, after enjoying time at Grey with a friend. I purchased the shack with the intention of enjoying Grey for as long as possible.
2. While my purchase of the shack was made in the full knowledge of the possibility that shack sites at Grey may be removed, I implore the State Government to consider allowing the shacks to remain.
3. The Grey shack owners and users comprise a community working together to retain a particular way of life and holiday experience that is becoming increasingly rare in Australia. I firmly believe that this is worth preserving and, as an owner, I am completely prepared to abide by regulations and guidelines imposed by the Government to help ensure its legacy for future generations.

**Steve and Marie Cloughley**

1. We purchased a lease to a Grey shack approximately two years ago. Prior to this we visited the Grey shack for over 12 years.
2. The shack community experience is unique and rare in today's modern society and should be preserved for future generations to experience and learn from. The low cost affordability of shack communities should also be analysed and considered in any committee determination. Unfortunately, holidaying in Western Australia is becoming more expensive.
3. We have become increasingly concerned about any imminent closure of the shack communities due to the expansion of Indian Ocean Drive. The shack community has been responsive to all requirements and initiatives presented by DEC.
4. Grey and Wedge are in no way elitist. When we use the shack we always endeavour to take other families and friends who have never experienced that shack community and its affordability with us. Our shack is made available to a wide network of family and friends on a regular basis.

**Mr Amos White**

1. Grey and what it offers to us as a family unit cannot be replaced by any fancy ocean front apartment or budget caravan park.

**Mr Michael Naylor and family**

1. A friend is a part owner of a shack at Grey. The children have never experienced the serenity and solitude the shacks have to offer. The family has so much fun and it is free and easy. I learnt things about my friends and family that I never knew.
2. We feel very strongly about the demise of Grey and can only wonder why anyone would ruin something so special.

**The Simons family**

1. We are a family of eight children who have spent the past 25 years enjoying magical weekends and holidays at Grey.
2. A few see nothing more than humble shacks, but to many they are masterpieces of architecture but, most importantly, the basis of strong family and community ties.
3. Many friends have commented that after a weekend at Grey they feel a sense of belonging. The shacks offer a true holiday for families looking for something special.
4. We work hard at maintaining the land and environment. We have been guardians of the area.

**Ms Terresa Teale**

1. I write this on behalf of all four part owners of a shack at Grey. We purchased a shack in 2004. We initially looked at the shack as a place to get away, however we quickly learnt that it meant more than that. Our shack has been used by over 300 people since April 2004.
2. When we first started going to Grey we liked the idea of having somewhere to ride our quad bike. We were devastated when we found out that we were no longer allowed to have them within the national park. However, we followed the rules and have ceased taking bikes to Grey in the hope that this will show our respect of CALM's wishes.
3. The sense of belonging to a community is something that is missing within city limits.
4. I created a Facebook page 'Save the Shacks at Grey'. I am extremely proud to say that this page now has 649 members and over 140 photos have been posted on the site.

## **APPENDIX 9**

### **SUBMISSIONS FROM DONNELLY RIVER HUT OWNERS**

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#### **Ms Jean McVee**

1. My husband and father first visited Donnelly River in the early 70s. My husband built what is now hut 34 or 'Stubby Alley'. This required many trips down the river with building materials over a fair period of time. During the building stage we only cleared the land necessary for the actual building leaving all natural flora to the best of our ability but at the same time, creating a fire break through raking so as to protect the hut.
2. The benefits to four generations of my family have been many, with children mixing with other children on the river which have resulted in life time friendships. In the 37 years the hut has been there we have had over 200 visitors being family, extended family, friends and acquaintances. Everyone is in awe of the river and beach and how well we all interact and respect the environment. We also have day trippers and campers in the area.
3. We have abided by all DEC regulations and stipulations so that we can live harmoniously with the environment. This is evident today when you travel down the river. The hut owners all tried to abide by DEC directions but it is hard when you have the hangman's noose hovering.
4. I submit to retain the lease at Donnelly River for period of twenty years and the Government consider extending the leases to all Donnelly River huts. The Committee should acknowledge that we are not squatters and had permission to build and stay on the land before DEC and have had leases with DEC since DEC acquired the land; that the State squatter policy does not apply as we are in lawful possession and have DEC leases and pay fees. The Committee should consider the unique circumstances of each shack community as has been applied for in other States. I urge the Committee to consider the remoteness and understand the heritage and love for this area.

#### **Allan and Deborah Murdock / Mr Patrick Gray**

*These similar submissions are summarised below.*

1. In the 1970s our family's passion for recreational fishing and an affordable coastal holiday led them to Donnelly River where they established a small shack or 'cottage'. We built the structure so we could enjoy the beauty of the river and its surroundings.
2. The Donnelly River has grown to become a settlement of over 40 cottages, the cottages being well maintained with low impact on the environment.
3. The area has been a source of education for our family and friends, a place to learn to swim, to learn safety boating skills, to fish and learn about the interaction of the environment and its

flora and fauna. Often respect is not shown by all day trippers and campers that frequent the area, and we have on occasion picked up and removed litter that they have left behind.

4. There are a variety of people who come to Donnelly River for its uniqueness. We formed the Lower Donnelly River Conservation Association which acts as a liaison between the hut occupants and the governing bodies. We have been an integral part of assisting with control burns in the area, as required over the years, with DEC. We have assisted in the spraying of noxious weeds and helping identify areas of outbreaks. We have had guest speakers from Customs at our annual general meeting advising us of ways in which we can be observant and help them. Our incorporated committee has been instrumental in obtaining grants which have allowed a purpose built wharf as well as aiding in car park renovations to make access safer for all uses.
5. Our family's original Occupancy Licence to occupy our cottage was obtained via CALM in 1991 after consultation between the hut owners and the department began in 1988. As the focus in recent years has moved towards the environment, so has that of the cottage dwellers. Our committee has liaised with authorities (mainly DEC) to ensure we are meeting all requirements for the settlement thereby maintaining our individual annual leases. Improving hut conditions, ensuring low impact in all facets, not only visually but physically as well helps to lower our environmental footprint. Safety has become a major focus.
6. We ask that you look at the lower Donnelly River Settlement cottages as a unique part of our Western Australian coastline that should be retained, not only for historical purposes but also as a manageable association between the environment, those environmental and government departments that manage it and the undeniable benefits that having such a community to liaise with promotes.

### **Mr Rod McNamara**

*Comments in this submission relating to the Donnelly River site only are summarised.*

1. Since the Squatter Policy environmental, land management practices and technology have rapidly advanced to the extent that controlled management is more viable than previously thought. The Committee should consider whether a broad based policy applied to all communities is relevant and decide whether a case by case assessment of the communities is warranted. With improved environmental and land management principles, people in shack communities can continue to enjoy the efforts and contributions they have made.
2. I have seen shacks from Albany to Northampton. The people of Donnelly River are not squatters and have always maintained approval to build and stay on the land by the previous landowners. They have had permission from CALM to stay on the property (annual lifetime leases) and CALM leases since 1977. CALM acquired the land with the existence of the shacks. The Donnelly River huts are well managed in comparison with other areas.
3. The Donnelly hut owners hold great respect to the environment, are extremely concerned with the threat of removal, appreciate what their fathers and grandfathers have established, are confused that other areas in the State are allowed, are happy to comply with DEC reasonable

objectives and do not understand why the minority in other areas of the State should affect what has been created in the Donnelly River. The Donnelly hut owners are also happy to support environmental management objectives, question whether the policy makers have actually seen the areas and would appreciate showing the Minister their management strategies for the area.

4. The Committee should consider whether due process was followed in the acquisition of the land for the national park. The Committee should consider whether subsequent actions by DEC in the leasing process were '*just, within reason and due process*'. Hut owners were offered a 'lifetime' licence scheme. In 1990 these commitments were overturned and shack owners were offered new licence rights for seven and ten year licences. These restricted transfer of the licenses. The Committee should consider each shack community on a case by case basis. Please understand the isolation and the proactive contribution that the shack owners have made.