

**THE JOINT SELECT COMMITTEE ON ENVIRONMENT, RESEARCH AND DEVELOPMENT MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART, ON MONDAY 27 JULY 2009.**

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**SHACK SITES**

**Mr BRENT HARDY** WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**DEPUTY CHAIR** (Mr Gutwein) - Welcome, Mr Hardy.

**Mr HARDY** - I would like to clarify my position here today. I am the president of the Kingfish Beach shack owners committee but I am not here to represent them today. I don't have a nomination from them but I have represented them and I am sure that what I am about to say is in conjunction with them.

The first issue is that the Kingfish Beach group has consistently followed due process in the matter of the Shack Sites Act and its deliberations, findings and meetings and so on, yet as of today we are still not any closer to any resolution. We understand that it is a very difficult process. We understand that Kingfish Beach may seem a little unique because it has a combination of freehold title and a large portion of lease. Fundamentally the original decision of the 29 shacks was that five were up for freehold sale and the other 24 were for lease. If we had our time again now, certainly nine of the 24 shacks that were put up for lease would have challenged the decision. In terms of the detailed report, the communication we had, we have no engineering basis or anything other than experience to say that the decisions made by Pitt and Sherry at the time - or Sinclair Knight Merz - were nothing but truthful. In effect, nine were told that they weren't able to have title because of issues to do with road reserves - they weren't actually on the beachfront, they were on the other side of the road - and the potential for drainage, because the hill comes into a valley, the fact that there could be ongoing issues in that that water could cause damage to shacks, which it has done and shack owners have put up with it for years without any real issue.

If we had had our time again, the owners would definitely have challenged the ruling because of the difference between what was portrayed and documented to us as to what the effects of the lease would be, which is one of the main issues that I wanted to raise today, and the costs that were believed to be associated with that compared with what we see today. I understand this process probably more because we are one of those shacks that is involved in a lease. At the time we were on a licence and the licence was around \$190 per annum. That came about because at the time of the changes of the tidemark my father was involved with the representative of the day - I think it was Dick Adams - and it was about setting that figure. At the time it was 4 per cent of the land value and it was fixed and would index by inflation. At that time, when we got the documentation and determinations, although people were disappointed that they weren't able to sell, the idea of the act was to give you long-term tenure and the ability to fix up your shack without any implication. By having a long-term lease and looking at the foreseen cost structure there didn't seem to be a major issue, other than the fact that you did not potentially have

an asset and something that you could buy against. When the people of the day did the figures, they were paying around \$200 a year licence and the change basically meant that the lease would go to 6 per cent of the land value so, effectively, the land value of our shack at that time was \$9 000. We have a \$9 000 piece of land that cannot be sold because of an engineering determination. It is effectively public open space that we couldn't own, so therefore our understanding is that the valuation of that land couldn't massively index because it can't be sold. There is no point of it for any purposes of the costs increasing.

**Mr HARRISS** - What was the date of the \$9 000 land value, Brent?

**Mr HARDY** - That was around 2002. I do not have the actual date but the land value, up until the most recent land valuations was around that figure anyway.

**Mr BOOTH** - In terms of the valuation of that land, was that based on the fact that shacks with a lease were being sold for \$9 000?

**Mr HARDY** - No, as the act says, and I do not have the exact words or terminology, effectively it was the land value for rating purposes; it is 6 per cent of that. It is not the AAV is it? Effectively it is the value of land for rating purposes. It is not the sale price of the land or anything like that. It is simply the determination on the rates notice.

**Mr BOOTH** - I am intrigued that there could be a valuation on something that, in fact, cannot be sold and has no value in that sense, other the amenity of having a shack on there, which is quite different to -

**Mr HARDY** - Correct. We assumed that there had to be a token value to allow rates to be derived and that is probably where our major confusion about the issue seems to be, that we have gone for something that we would have thought would have been fairly fixed, that has now escalated into something that is way out of control.

**DEPUTY CHAIR** - Are you happy to take a couple of other questions or do you want to continue with your presentation?

**Mr HARDY** - I am happy to take questions.

**DEPUTY CHAIR** - We do not want to disrupt the flow. If you want to finish and then take them at the end, whatever would suit you?

**Mr HARDY** - No, I am happy to take questions at the time.

**Mr WILKINSON** - As I understand it, Brent, you were talking about land value, not capital value. So only the value of the land, not the value of the land with the structure on the land?

**Mr HARDY** - Correct. Therefore, we have a situation where, in terms of the Hardy residence which is probably fairly indicative, quite a small plot of land, if we were to be granted a lease, we would be paying 6 per cent of \$9 000, so we would be paying around \$500 a year for the lease. Therefore we have gone up considerably, obviously from \$200 to \$500, but even at that particular time there was an understanding that that was fair and

reasonable in the circumstances for what we were getting for the 30 years for the one-year tenure.

I will continue on the vein of the licence value. The Government of the day a couple of years ago introduced a system whereby the rates would go up by a factor. So, the factor effect, and I am not sure what that is called but essentially at that time we were trying to negotiate, in conjunction with our sewerage issue, the part of what the lease value would be. All of a sudden the adjustment factor came into play, and I understand that the adjustment factor is an increment between years and that land valuations would change. But it confused the department at the time and they issued a representative cost of the leases based on the previous valuations without the adjustment factor. They retracted that and said it was incorrect and that this adjusted factor needed to be applied. The adjustment factor for Southport was not a valid one, so it defaulted to the municipality adjustment factor and that factor was 380 per cent of the current land value. So, 380 per cent of the \$9 000 for our particular shack.

More importantly, some of the other shacks that are on the foreshore are bigger blocks. The land is still open space and still allows public access in most cases. If not, then there is land either side of it. A lot of the shacks prices are inflated far more than ours and it was only at that stage that we started to realise the differential that people were starting to face in terms of the land value.

For example, as of today, the land value of our shack is \$42 000. So a plot of land that cannot be sold has gone up in value from 2002 to now being worth \$42 000. Therefore, the lease that we would need to pay today is \$2 500 or thereabouts, per annum. If it inflated at the same rate, in 2019 the value of the land would be about \$180 000 and the value of the lease would be \$11 000 per annum. In 2029 the value of the land would be \$750 000 and the lease would be \$45 000 per annum.

Our shack is one of the cheaper ones. Currently there are five shacks that have valuations. That again is land on the foreshore that has been determined cannot be sold. The land value is \$96 000 currently. It is basically threefold more. So people would be paying in 20 years' time over \$150 000 potentially.

Today if we had a lease we would have a 30-year lease. In fact it has changed from that; it is three 10-year leases to get over some effects. But effectively if we sold the 30-year lease and everybody thinks that it is all worth \$1 million, not the fact that we have been there 20, 30 or 40 years, the fact is that we would be selling a 30-year lease to some rich person from somewhere else and they would be paying \$2 500 and probably say, 'We could afford \$11 000 per annum for the five weeks that we are here' where we cannot.

**Mr BOOTH** - Would they be allowed to rebuild a new shack on your site?

**Mr HARDY** - My understanding is that the department says no but I believe that it is really up to the council and the council regulations and to build it within the footprint is some of the advice and some of the discussions that I have had with the department and the council. I do not believe that we have any formal notification on that. In fact, as early as last Tuesday in a meeting the acting leader of the shack sites project said that she did not think that they could be built. But I challenge that.

**Mr BOOTH** - Would it be fair to say that after two of the 10 years are over, or, say, when 20 years of the 30-year lease are gone basically you would be having a block that would have effectively decreased in value because on year 30 presumably the structure has to be removed?

**Mr HARDY** - Certainly that and the point that we are trying to make and that we have made to the minister is that for every year that the lease decreases, the value should be decreasing because it is not worth as much. So in 25 years when they say that we are paying \$200 000 a year it is only a five-year lease left regardless of the determination. So that is one of the factors that the minister understands but our problem is getting that into an issue that can be resolved. It is quite difficult.

**DEPUTY CHAIR** - Mr Hardy, you said that if the same factor were applied, the effect that would have in regard to those capital values in 2018 and 2029. What percentage rate of growth each year was that that you applied or was that simply the 3.8?

**Mr HARDY** - No, sorry, in that particular case all I did was say that the land value in 2002 was \$9 000 and in 2009, eight years later, it had effectively gone up four-fold and I have just used a four-fold increase over the 10-year period. So that calculation certainly is not a figure other than that.

**Mr BOOTH** - What basis then is their evaluation of land if you can't actually rebuild your shack on it and if your rights use it terminate in 30 years' time? On what basis have they valued them as being worth \$9 000 or the figure that you project in the future?

**Mr HARDY** - It is clearly the decision of the Valuer-General. We have not met with the Valuer-General therefore I am reluctant to comment on that until I meet with him personally but the feedback that we have from the department is that he or they are untouchable on this issue and that the land values that he has determined, as early as I think it was the eleventh month of 2008, are basically fixed.

**Mr BOOTH** - Do you believe then that you could sell the lease you have for \$9 000 given the \$2 500 a year?

**Mr HARDY** - The thing that is not really challenged is that there have been some blocks of land that have sold for, let us say, \$100 000.

**Mr BOOTH** - Leasehold ones?

**Mr HARDY** - Leasehold shacks that have sold for \$100 000. Those people had documentation that was telling them that they would be paying \$500 a year lease fee. That fee now is closer to \$3 500 to \$4 000 so how that affects the valuation is really untried. It would be fair to say that I personally could not see why a person would transact in this time, but certainly people have.

One side of it, in terms of the leasing arrangement of shacks, we certainly have a large issue. The second point is -

**DEPUTY CHAIR** - Sorry, can I interrupt. What do you think your shack would be worth today if you were to sell it, forgetting the 6 per cent per annum rate that has to be paid,

the lease fee? What do you think would be the capital value if you went to the market today, based on evidence in the same area?

**Mr HARDY** - There are two very distinct opposites in this particular case. In one case, which I know well, unfortunately, a brother-in-law got from his wife in a settlement \$5 000 for a shack that is probably worth, and I am estimating, \$50 000. That was simply because the lawyer looked at it and said, 'You've got no long-term tenure, you've got nothing'. If I were to be truthful in the option of saying what the shack would be worth, ours was done up in consultation with the Government of the day in 1991 - so it is brick and tiled - and I would say that we would get between \$75 000 and \$100 000 if there was a lease arrangement cemented in place.

**DEPUTY CHAIR** - In regards to the 10-year options, who is the onus on to renew? Is that your option to renew in 10 years?

**Mr HARDY** - That is an open haggle. To fill you in, when we received the information pack - this probably sums more of it up - not only were we of the opinion of where the lease would go, it was explained in the documentation that we got that the cost of the infrastructure would come off the cost of the lease. If you did the numbers back then it was quite a bizarre option because effectively we would be paid to take the situation. But at the time it was determined, the shack sites people had done due diligence, I have no problem with that issue, but effectively their recommendation was, 'If you guys put in a system yourselves, if you had to go it alone, then it would cost you around \$22 000 for the infrastructure'.

**Mrs RATTRAY-WAGNER** - Each?

**Mr HARDY** - Each, yes.

Kingfish Beach is quite unique in some ways in that the freehold title, and the shack that I am talking about, straight behind us in the same valley is a freehold title shack - it butts right up against us. It has the same issues and in fact it is pointing downhill so any overflow from sewerage or whatever, or any overflow - we have no issue with any of these people - feeds into our water table. So the fact is that if we have an issue, because our shack is a certain number of years old, generally the people behind have the same issue.

So the wisdom and the foresight and understanding of what was trying to be achieved was tremendous. Basically, the Crown in the shack sites project were trying to get the council to put in a bay sewerage scheme and effectively the picture they painted was that if that went ahead, 'You guys would be paying \$11 000'. We would not be paying the \$400 a year for three years, we would pay an \$11 000 proportion, each of us, for an upfront contribution for infrastructure if a total beach system went into the scheme. Looking through the documentation, the council was always sceptical of being able to fund it themselves; they were wanting money from the Government to support that system.

Therefore we were told for our shack it was going to be \$22 000 maximum or \$11 000 if it was a communal scheme. So obviously we lobbied council and, yes, there might be a hope of getting it for \$11 000, blah, blah, blah. They had workshops. Basically from

2002 until June 2005 when we received a letter from the acting head of the department saying, 'There's a big meeting, come down', we were of the understanding that the department, the shack sites project and the department, were working with the council to try to come up with a workable solution for the total bay system. It makes sense. It is what you would do environmentally to come up with the right solution for the whole of the bay. That process broke down, for whatever reason, but the understanding that I have, from speaking to councillors or whatever, is that it was not cost-viable to them. As a ratepayer in the Huon municipality, I can understand that.

Where I live there are other projects that are probably a priority, and I can understand that. So that meant we had to go stand-alone. The department then went to Pitt and Sherry, the engineering company. They got some new numbers. They came up to us at that meeting and said we had to pay \$47 000 each for the infrastructure. We still had no answer as to what our lease was going to be but we had to pay \$47 000. We had to pay \$1 000 up front within two or four weeks to commit to going ahead with that. If we did and it didn't go ahead, that money was not refundable.

**DEPUTY CHAIR** - Sounds like a good deal.

**Mr HARDY** - Yes, it was. So at that time I became involved in this as a subcommittee to look into a replacement. With the support of the council we spent \$12 000 ourselves. We spent hundreds of hours searching the nation for a cheap sewerage alternative to sewer the shacks at Southport. We pulled the information from fairly comprehensive engineering reports. We engaged a consultant engineer. He nominated a product that was effectively an AW2S grinding system. He came over twice. He got another consultant to look at the sewerage ponds. He came up with a recommendation that we work with council on that.

At the end of July 2006, as was requested by the council, we submitted a development application for that sewerage scheme. Fifty-two days later - and we got the letter of acknowledgment and so on, so it was after the 45 days - I rang them and said, 'We have had no feedback from the application we put in. What is happening?' A new guy had started, which is a consistent process, and the bloke said, basically, 'That development application - I have had a look at that' - sorry, this was after he came back to me - 'and that was invalid'. So they never told me it was invalid until after the period. I had sat there and worked through them, with them, on this solution. We had spent the money in consultation with them. Basically, they came back and said it was invalid because you have to run the pipes through council ground.

**Mr HARRISS** - Did they tell you that after 42 days it is deemed approved if not -

**Mr HARDY** - That is correct. That is probably my point. I said 45 because I thought it was 45. But, as I understood it, that would have been approved under the council; under the planning scheme that would have been approved. But, again, we are not here to make waves. All we want is to get the thing done. We understand that we have to work with council on this. We did not believe it was an appropriate solution to try to fight it because at the end of the day there are a number of complex issues where it could have affected our go-forward process.

So then we had a number of meetings, which took a year because nobody wanted to answer us, because it all got too difficult, because we were making waves where we should have gone away. But, in effect, we worked through the issue of this sewerage system. Basically our system was an AW2S grinding system where our waste water and our grey and black water went into a system that got pumped up to the hill and went into the sewerage scheme that the council owned. That system was built a number of years ago and it has no fencing. It is a disgrace but then again, we are not here to make waves. We have actually put in recommendations of what we would do in kind to try to improve it. But our engineering reports and the technical information that the consultants have given us said, 'Leave them alone. They are fantastic. They work well. The only thing we might do is to do this', which is basically put a trench in front to stop seepage to improve the situation and to fence it.

So we go to the meeting and the council tell us that the sewerage scheme was built for 50 people even though there are only 10 people connected to it now, and if you add your 28 people in that. At that particular point in time the second stage of the subdivision was also included in, I guess, the memorandum of why they acquired these sewerage ponds and that had to be taken into account. The vacant blocks that were sitting there that had not sold since 2000 or whenever, had to be included into those ponds and the council did not want to take responsibility if the connection went ahead and it was overloaded and all of their costs impaired on them.

I can understand that. The council do not want to lose money and I can understand that. I asked whether they wanted me to price a sewerage system, a secondary treatment plant. Was that what they were after? Yes, that is what I would need to do. I would need to build a treatment plant to service not only us 30 but also the whole of the 80; the 50 that are already there plus the 30. I said, 'No worries. Do you want to get some costing on that and then we can meet to discuss it?' Obviously if we are putting a treatment plant in we can understand that we are going to have to make a significant contribution, and hopefully as little as possible. He said, 'Yes, but we would like you to do some numbers on that'. So again I contact the consultant, I pass on the Pitt and Sherry reports, I make some estimates - which are a bit of a finger in the air, but I am involved in the construction industry.

I walked into the meeting and said, 'I believe it will cost \$380 000 to build a treatment plant to service 80 people'. He said, 'Oh no, no, it is going to cost at least \$500 000. I said, 'Let's make it \$500 000 then. How much do we have to pay each? I am happy if it is \$500 000. I have no idea. I just made that up.' At that point in time the general manager - nothing to do with the engineer - turns around and says, 'I have grave doubts. If the shack owners connect and there are the people we already have connected, the ongoing maintenance and running costs of that treatment plant will not be recoverable.' He turns around and says that even though in 2005 the department said they had a solution, and the solution was you pay \$47 000 and pay a deposit in a month, it is all solved for you and you can go on with life, the guy from the council says it's never viable to go alone because you do not recover the costs. So I walked out of the meeting with a department guy and I said, 'Where do you think we are at with this, Sean?', and he said, 'Well if you ask me, Brent, I really don't know, other than back to square one where we were in 2002.'

**DEPUTY CHAIR** - Roughly what date was that?

**Mr HARDY** - I have the notes that I have made on that and I have probably got e-mails. It was around July 2007. We met with the minister shortly before that or around that time.

Anyway, to continue on, unless anybody has any questions.

**Mr BOOTH** - I need to step back a bit to the land valuations again. You mentioned that the land valuation I think was \$42 000 today.

**Mr HARDY** - That is for the Hardy residence, yes.

**Mr BOOTH** - For your shack, yes, but that the overall sale value of the lease with your building on it would be roughly \$75 000.

**Mr HARDY** - Just a real guesstimate on that.

**Mr BOOTH** - That is okay. But that leaves about \$33 000 for your building. What would that cost to replace today? You mentioned that it is a reasonably substantial brick and -

**Mr HARDY** - Yes, it's probably one of the better ones because it has been done up. It is a small A-frame place. My guess would probably be around \$50 000 to \$75 000 to build it. It was owner built. My father built it. It's probably not any more than that. It would probably be \$75 000.

**Mr BOOTH** - Your assumed value then that you are saying your place would sell for, and I accept that you are not giving an actual legal valuation, appears to be that if you sell it you only get the value of your infrastructure that you have put on it. You get the value of the house but apparently nothing for the land, because at \$75 000 for the building you are not getting anything for it and yet you are paying a massive lease fee on the block. It seems in that transaction to be worth nothing.

**Mr HARDY** - That would be my understanding. I have an understanding of what could happen with the lease. They say you have a lease but if the climatic conditions change and there is a liability to them they could pull the pin on it in a year. They can give you notice. Again, it is a lease. They have to cover their own issues with that.

**Mr BOOTH** - So is a vacant block worth anything to sell then as a lease? Is the land saleable then in that sense?

**Mr HARDY** - The determination that was given was no, otherwise we could have had title. If you look at our particular shack, which is one of the nine of the 24, the other 15 are beachfront. There were a number of issues but, again, I wouldn't have said they were significant. What it says is that we take no liability. If somebody at Surveyors Bay, on the beach, has bought their shack for \$160 000 and the sea level rises by two metres - which is obviously fictional - and takes out their shack, there is still no right for those people to come back and sue the Government for selling it. It is written in black and white; that is what they say. I am unsure why they wouldn't sell them all because effectively -

**Mr BOOTH** - Because they've already sold some that might get (*inaudible*) and they're accepting no liability.

**Mr HARDY** - That's right. It is the same for places in Sorell and everywhere else that's on the waterfront. You don't have the right to go back, as far as I know, to try to sue whoever made the determination that it was a saleable block.

**Mr GREEN** - As a result of the determinations, have those blocks been sold? Are the transactions finalised with respect to the sale of those blocks?

**Mr HARDY** - No. There has been one sold recently, where the person basically said, 'I've had enough; I'll go it alone', so he acquired more land, but I believe he is appealing the sale's value.

**Mr GREEN** - But of the shacks that have been determined for sale - yours is for lease - have any of those blocks been sold?

**Mr HARDY** - One of five.

**Mr GREEN** - So the transaction between the Government and the people who were on those blocks has been concluded in one case?

**Mr HARDY** - Yes, in one case.

**Mr GREEN** - And the rest are outstanding because of sewerage issues et cetera?

**Mr HARDY** - Correct, and this ongoing process that I am talking about.

**Mr GREEN** - So it's not just the leasehold shacks that are affected by the sewerage issue?

**Mr HARDY** - That is correct, yes. The engineering report was fairly clear that 29 shacks had to be on the one system. They didn't determine that anybody could go it alone. Obviously technology has changed and somebody has said, 'This doesn't seem to be going anywhere'. You can solve any issue with a number of products - which I will get to if I have time - but effectively that person believed he had to connect to the system. He was active on our committee right up until he retired and he really wanted to make a decision. He was worried that the land values would continue to grow and therefore his sale price was going to be affected.

**Mr BEST** - It seems as though a lot of the problems you're having are concerned with the waste treatment. To break down the problems, in essence - because the submission we have is largely the e-mail that has been received - is your contention about the valuation? Is that an issue you have, or are you prepared to accept that on the basis that, had the sewerage treatment been worked through, you would be in a much better position?

**Mr HARDY** - I had multiple issues in dealing with the department. Unfortunately this is a bit of a scattergun approach that I'm trying to portray to you, but we have problems now with the determination because the goalposts have changed.

**Mr BEST** - I just want to get to the nub of it and understand what the priority concerns are for you. I think it would be nice for us to get a good understanding of what you see as, say, the top three issues from one to three.

**Mr HARDY** - We had a meeting with the minister last week and he basically gave us the final warning to get something done. I said, 'I've got to get something done. I think you guys need to get your act together, but the first thing is a solution to the sewerage scheme'. We have gone from the Huon Valley Council and are now working with Southern Water who have only just begun, so we know that is going to be difficult, but fundamentally we need to come up with a solution for the sewerage. We have two options. Our preferred option is that we contribute money to a fully-reticulated sewerage scheme for Kingfish Beach, Southport.

**Mr BEST** - So that is for the 80 shack owners?

**Mr HARDY** - No, it would be 140, I believe. You would run infrastructure that would service the bay and in that case the shack owners would make a significant upfront contribution to that. That has been put in by the Huon Valley Council to Southern Water to expedite that process. More importantly, it is to get people to realise that never again will there be an opportunity where shack owners will be made to pay a significant contribution. We are expecting it to be in the vicinity of \$20 000 to \$30 000, so basically the shack owners will fork out of their pockets \$500 000 to put into a sewerage scheme. If it does not happen and they try to solve these issues for the people who are left - the freehold title people - the sewerage scheme will still cost \$2 million, it is just that there will be 28 fewer people to contribute to it.

**Mr BEST** - So the number one issue for you at this point is the solution of the sewerage scheme?

**Mr HARDY** - Correct.

**Mr BEST** - So what you would like - not that you can tell us what to do - is some direction from the committee or some finding in that regard?

**Mr HARDY** - Correct. The other side of it is that, after the rigmarole I told you about before - when we were told we could not put a treatment plant in because they could not service the ongoing costs - we then presented council with an option of putting in a water treatment plant to treat our grey and black water. Because we have no land we have to get rid of that water so we would pump that water through the lagoons. We have had no answer, no correspondence whatsoever in respect of that solution that we put forward to council in any acknowledgment.

**Mr BEST** - What was that called?

**Mr HARDY** - There are a number of products but basically it is a treatment plant.

**Mr BEST** - You mentioned it was through some lagoons.

**Mr HARDY** - It is a form of treatment plant but we would treat the sewage and grey water into water. I do not know what class it is called.

**Mr BOOTH** - That is after it has come out of an on-site plant - it takes the grey water and black water out?

**Mr HARDY** - That is correct. Aussie Clean is a proprietary product.

**Mr BEST** - Are you saying you have not had any feedback on that proposal?

**Mr HARDY** - No.

**Mr BEST** - Obviously you have raised a number of other issues for us today. That is number one.

**Mr HARDY** - The lease would definitely be number two.

**Mr BEST** - What would you see as the solution? I am asking an obvious question.

**Mr HARDY** - We want the Valuer-General to look at it from a commonsense point of view and say the land is not saleable, therefore it is worth a token figure to make people pay a reasonable amount for rating purposes and to have a reasonable lease, and I would expect that amount to be common for everybody. I believe that when you are looking at anything greater than \$1 000 per annum for people who are spending probably a maximum of five weeks a year at their shacks that have been there for a number of years, it depends where the goalposts are, but really, it needs to be an amount obviously that is respectful to owners and is workable.

**Mr BOOTH** - And which recognises the fact that the shacks would be demolished in 30 years' time - is that within your consent or agreement?

**Mr HARDY** - My hope is that it will not because I want to pass it onto my children, but the understanding is the certainty of tenure we have been given is 30 years.

**DEPUTY CHAIR** - Are there any other issues apart from the sewerage and the cost of the lease?

**Mr HARDY** - They would, if you like, probably summarise it all.

**DEPUTY CHAIR** - Can I come back to the cost of the lease? You said the land is valued at \$42 000?

**Mr HARDY** - Currently, as it is.

**DEPUTY CHAIR** - So on that basis you were talking about in regard to up to, say, \$1 000 per annum, rather than the 6 per cent factor being used, 2 per cent to 2.5 per cent would be more appropriate?

**Mr HARDY** - In the case of the shacks that have land values worth \$100 000, their leases are \$6 000, so certainly the ratio changes in terms of that number. But realistically, what difference do they have to us? We are probably one of the cheaper ones and that is because our block is smaller and not right on the beach. But realistically, the advantages

of being on the beach can be seen as disadvantages because people are in their backyard or whatever else. So there is a myriad of things but effectively, for tenure, they have no greater difference to us.

**DEPUTY CHAIR** - If your shack was knocked down or blown away but you still had your leasehold agreement with the Government, what would the value of that be if you sold it or went to market? Would it be \$42 000 if it was just the block of land and you were just selling the lease?

**Mr HARDY** - It's difficult to tell because we really don't have a test case. From my point of view, people are selling things that they have apparently got only one year. A lot of people still believe that they are on 99-year leases or basically have fairly permanent tenure. Why wouldn't they think that? They are not doing anything wrong. The issue that we can see is that there is no sewerage issue that is driving us putting a sewerage plant in. The issue is that we are trying to comply with the act. We are not really getting any more certainty in some cases but certainly if you look at the four people that are able to buy their land, at best they would have been paying when the determination was made - the sums that we looked at if we fought this - probably \$50 000 to \$60 000 to buy their land.

Now, after the surveyors debacle, whatever, people are expecting \$100 000 to \$150 000-plus and then it really is what number will we pick today? So those people have been horribly disadvantaged by trying to stick with us in this process. In some cases some of them had to because there may not have been a technical solution in an individual sense. But realistically we could put in the treatment plant that I have discussed, we could put it in tomorrow and if a kid falls in a drain and gets sick because of the shacks that are behind it and some person has a septic that is not working, or whatever the issue is, then it has not solved the sewerage issue if there is one.

**Mr BEST** - Is there one?

**Mr HARDY** - My understanding is that where there is a communal bit there are always issues with smell, whether that is through not really sewerage but I understand that there have been some complaints or issues raised previously. We had the drain behind us and really that drain is just there because it is there. There has never been any technical or other solution looked into for fixing that. I would probably say that you categorise it as no.

**DEPUTY CHAIR** - We have two minutes. Is there anything that you would like to say that you have not said so far or a point that you would like to make?

**Mr GREEN** - Could you include in your response how many people permanently live there, as of December?

**Mr HARDY** - In terms of the shacks that we are talking about here?

**Mr GREEN** - Yes.

**Mr HARDY** - I do not think there are any.

**Mr GREEN** - And out of the 80?

**Mr HARDY** - Of the 80, I think that there might be four or five. I think that council might have a better understanding of that but that is my understanding. One of the last bits that I would like to touch on is that we had 29 shacks. We had one block that was able to be sold because basically I would say roughly 20 per cent of their land was encroaching on this Crown Lands (Shack Sites) Act. Unfortunately that 20 per cent of land had 50 per cent of the shack on it.

The decision was made by the department to sell that piece of land back in 2002. Effectively that decision took one twenty-ninth of the cost of infrastructure so when it was up to \$40 000, or even if it was \$20 000 today, somebody decided that that person could actually buy that particle of land and all of a sudden with a determination that clearly says that it is 29 in, one in all in, sit with it, toss it out the window. So the effects that that has on these multiplying numbers is bizarre.

I really think that the crux of the matter is that it is a very difficult circumstance. I have worked with some wonderful people. There has been some great effort made from the department on this. There have been some wonderful efforts made by council but clearly if you are running a business, you would get the job done and it would have been done in the time frame they said, it is not that hard, but because we have this crossover and it is mentioned in the terms of reference, you have a council who has a job to do of putting in infrastructure, building up their infrastructure and paying nothing, you have the Crown who is really just trying to get the act implemented and it is very difficult for those two people to come along the same path to the common good. The set-up of the act, as I understand it, was to give people permanent tenure and give them the ability to solve any issues. It was not there to try to get them to pay a \$45 000-a-year lease when they have a 10-year lease left. It clearly would not have been there. I just think that that probably is the difficulty that you see.

**Mr BOOTH** - Are you liable for land tax determination on those blocks as well now that they are leasehold?

**Mr HARDY** - I assume that we are but I am not 100 per cent sure because I am not the owner of our particular block. I assume that it is a second thing but I am not 100 per cent sure.

**Mr BOOTH** - Could I ask you to just send back to the committee if in fact you do have the land tax determination and what it is?

**Mr HARDY** - Sure.

**DEPUTY CHAIR** - Mr Hardy, thank you very much for your contribution today.

**Mr HARDY** - That is no problem. Thanks for listening.

**THE WITNESS WITHDREW.**

**Mr KEVIN ROY THOMPSON AND Mrs CAROL ANNE THOMPSON WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.**

**DEPUTY CHAIR** (Mr Gutwein) - Welcome. When you leave here be mindful that, whilst you have privilege in this room and you can basically say what you like within reason, you no longer have privilege and you need to refrain from commenting on the evidence that you have provided here. If there are matters that are sensitive and that you would like to raise with the committee without the media or other members of the public present, please just let us know and we will go in camera.

We have received a submission from you, if you would like to talk to that and outline your views to the committee.

**Mr THOMPSON** - No doubt the whole committee have the submission so I will not go through the submission unless you wish me to. I will just raise a few other points and we can go back to the submission and through these points, if you like.

**DEPUTY CHAIR** - That would be perfect.

**Mr THOMPSON** - You have to realise in my situation at Surveyors Bay we have freehold title and there are a lot of the problems there naturally. Our main problem was the valuations and when we queried the valuations one of the things that stuck with me was that through the Valuer-General the way the valuations were done there are no shack sites included in the valuation so what I am saying is that 10 kilometres each side or 50 kilometres each side of my shack where they had sold 50 shacks in the last 12 months for between \$20 000 and \$50 000, those prices are not included in the valuation when they do the shack sites. They go up the road and pick out the dearest block for \$103 000, a private block, and ascertain it from there so with all the sales in that time through the shack sites, the people who have purchased before us are not included in working out the average price of the block of land. I queried this and I could not get to the bottom of it because these are private blocks once they are sold and therefore they are not used in valuations. That is the point on the valuation.

**Mr GREEN** - Who did you query it with?

**Mr THOMPSON** - With the Valuer-General - with Lorraine Wright, actually.

**Mrs THOMPSON** - We put in for a review.

**Mr THOMPSON** - Just getting back to that point, the shacks either side of us, if you want to go 20 kilometres to 40 kilometres - and mine is at Cackle Creek - sold for \$20.80 a square metre and mine sold for \$241 all in a period of roughly 15 months.

**Mr BOOTH** - Were they shacks that were sold under the same identical circumstances as yours - they were a lease that was sold as freehold, so freehold blocks sold by the Crown?

**Mr THOMPSON** - Yes.

**Mrs THOMPSON** - But pre-boom. -

**Mr BOOTH** - Okay.

**Mr THOMPSON** - No, the settlement dates were after the boom.. The settlement dates were even up to the beginning of 2006. Some of the valuations were made in 2004, which was well into that time. We missed that valuation for other reasons, as is in the submission, for which we blame the shack sites process because of the way it was handled in approving permits and the time delays. We missed out by a few weeks and my price went from \$66 000 in 2004 to \$155 000 in 2005, so you can imagine how I felt when I opened the letter.

**DEPUTY CHAIR** - Have you purchased the shack?

**Mr THOMPSON** - Yes.

**DEPUTY CHAIR** - What date and what price did you pay?

**Mr THOMPSON** - The date comes in at 2005 but we didn't buy until the beginning of 2007, for the simple reason that there were other issues after we received the valuation. Naturally, first up we called for a revaluation and then we had a time delay for legal opinions and also there were access problems, which was one of our problems as well as for two other people on the beach. So mine was put on hold for over 12 months while they sorted out the access problems. These problems were known to the Crown and documented in 2001 and when we received our papers in 2005-06, it was still not done.

**Mr BOOTH** - Have any of those freehold buildings been sold lately - in the last year or so?

**Mr THOMPSON** - There has only been one after me; the rest were sold 12 months before me. In our situation there are 13 shacks and they all went freehold, so there were no issues with the leasing.

**Mr BOOTH** - I was just wondering whether the market value in any way reflects what the Valuer-General put on them.

**Mr THOMPSON** - This is another issue, and I know you will hear more tomorrow about that, but in my situation we missed out by a few weeks on going from \$66 000 to \$155 000. The value at the time on the paperwork was only \$27 500, for council purposes, or people believed it was for council purposes.

The Huon municipality has just been revalued and the value on my land came in at \$91 000. We have queried this and we believe it to be a legal valuation, and I paid \$155 000, but the Crown of course are arguing about it at the moment. There are other people who know more in regard to that than I do, and I know one of the blokes who is really involved in it is coming in tomorrow. I will not elaborate on that because I am not sure of the figures.

**DEPUTY CHAIR** - Do you know of any other shack owners in similar situations who have had a similar variance in their valuations?

**Mr THOMPSON** - Yes. It applied to the 13 shacks. The 2004 valuation was done to use on our shacks but then there was a muck-up with the contractors, or with the permits. They were getting permits to do the work so therefore they had to put their contractors back. That valuation applied in 2004 in relation to ours - mine was \$66 000 and the one next door to me was \$60 000. Halfway along the beach was valued at \$77 000; the one that was \$77 000 came in at \$150 000. The one that was \$60 000 came in at \$145 000.

**DEPUTY CHAIR** - Okay, so these are the next round of valuations? Have you had any feedback from those shack owners in regard to their valuations at, say, \$150 000? Have they changed since the council rates came out in a similar way to yours?

**Mrs THOMPSON** - Yes, they all have.

**DEPUTY CHAIR** - Have they?

**Mr THOMPSON** - Unfortunately we lost ours last week -

**Mrs THOMPSON** - But I can get it today.

**Mr THOMPSON** - It is only a formality to get it. I believe the revaluations were done on the mainland, which I can't understand either. I believe they were given to a company up north and they got someone on the mainland to do them. It is a bit hard to work out how they do it but ours came in at \$91 000. The independent valuation I might add at the time was \$95 000, and we paid \$155 000. Another thing I was going mention was that Paul Wilson, who is employed by Brothers and Newton, is very switched on; that is his job. I don't know whether he is going to attend this committee but he is very involved in it and he is right up to date on it in the valuation part.

**Mr GREEN** - Your block at \$155 000, would that include infrastructure costs?

**Mr THOMPSON** - Yes, \$46 000.

**Mr GREEN** - So the actual value for the block under those circumstances is, say, \$110 000.

**Mr THOMPSON** - Yes, that is right - the land component is, but that is only for the simple reason that there is a 10 per cent discount if you pay within your 30 days.

**Mr GREEN** - It just allows the committee to understand that the gap is not quite as wide as you might think with respect to the land value itself.

**Mr THOMPSON** - But the land value has to be priced with the infrastructure. When we receive our valuation it is in the act that all infrastructure is to be done and that is part of the price of the land.

**Mrs THOMPSON** - So the value of the land is \$155 000, not \$110 000.

**Mr THOMPSON** - That is correct.

**Mr BOOTH** - Sorry, I need clarification on that. So basically the determination was \$155 000 including infrastructure, and today including infrastructure it is now \$95 000.

**Mr THOMPSON** - No, \$91 000 by the council.

**Mr BOOTH** - Sorry, \$91 000, but at the time you said that somebody else -

**Mr THOMPSON** - The independent valuation in 2007 was \$95 000.

**Mrs RATTRAY-WAGNER** - Less the \$45 000 for infrastructure.

**Mrs THOMPSON** - No.

**Mr THOMPSON** - No, that is the total. The infrastructure is included in the \$155 000.

**Mr BOOTH** - So in terms of what you paid the Crown for your block it was based on the \$155 000 but they must have deducted the value. You didn't pay \$155 000 for your block, did you?

**Mr THOMPSON** - Yes.

**Mr BOOTH** - And you also provided the shack on it presumably.

**Mr THOMPSON** - Oh no, I paid for the land, not the shack. This is only dealing with land.

**Mr BOOTH** - That is what I am saying. But you already had the shack on it, didn't you?

**Mr THOMPSON** - Oh, yes.

**Mrs THOMPSON** - It has been in our family for 70 years and is now our home. We sold two properties - our home and a block of land - pre-boom and did not get enough money to buy this land.

**Mr BOOTH** - So the point I am getting to is that it seems even worse, then, because you paid \$155 000 to the Crown for a block of land with your own asset on it.

**Mr THOMPSON** - Yes, they have said it has nothing to do with it.

**Mr BOOTH** - Yes, but today the valuation which includes your house on it is only \$95 000.

**Mr THOMPSON** - No, the \$91 000 is the land only.

**Mr BOOTH** - Oh, land only.

**Mr THOMPSON** - The annual value I would have to check but I would say it was \$184 000.

**DEPUTY CHAIR** - The \$155 000 that you paid would have been paid whether you had your current house on it or whether you had a shed on it.

**Mr THOMPSON** - Or nothing - it makes no difference.

**DEPUTY CHAIR** - Mr Green was saying that included in that \$155 000 was also the cost of the infrastructure that had to be met as a part of that purchase.

**Mr THOMPSON** - That is right.

**DEPUTY CHAIR** - That seems surprising now that the land is valued significantly less than that. It seems it is discounting completely the fact that you have invested in infrastructure.

**Mr THOMPSON** - This is going to go further than these valuations, naturally, because this only just recently arose.

**Mr HARRISS** - Ken and Carol, one of the issues that I was going to get to you have partly answered in response to a question from the Chair earlier. You have given the committee evidence about the valuation in 2004 of \$66 000. Isn't it true that at that time your shack was assessed as the least valuable in the whole of the 13 which have been categorised but, come the time for purchase opportunity by you, it had shot up to be the most expensive.

**Mr THOMPSON** - That is correct. What happened there was through the Valuer-General. Naturally we know the answer because we followed it up. In 2004 ours was the second-cheapest on the beach at \$66 000; the other 11 were dearer and there was one cheaper. In 2005 mine was the dearest and the ones along the beach were the cheapest, so the value is completely reversed. We asked the reason and we were told our block was better than it was the year before. People wanted my block and not the other blocks.

**Mrs THOMPSON** - We are slightly off the beach and the other blocks are right on the beach.

**Mr HARRISS** - So that's as a result of those valuations at those times. I am thinking of other submissions that we will address later, but isn't it true that at an earlier time you were given to understand that the purchase price opportunity was nowhere near even \$66 000?

**Mr THOMPSON** - When the act first started, the valuation on the blocks then was \$17 500. We were told at a meeting at a Huonville Council Chambers by the shack site department, and I have no proof of this, that the valuations would roughly be - and this was in the first few months of the act so no-one really knew what was going on - 10 per cent above the valuation of the council's rating paper. At that time it was only \$17 500 but, as time went on, naturally, we soon were to realise that there was no way we were going to get that because the minimum you could pay was \$1 000 above the cost of the infrastructure. The infrastructure value in 2002, when they sent us a letter congratulating us on being able to purchase the block, was \$22 600, with everything covered possibly a saving on that, the words say.

**Mr HARRISS** - Accounting for every possible eventuality.

**Mr THOMPSON** - Those are the words. It was \$22 600 for the possible savings. Three years later the infrastructure value is \$46 000, so therefore I wasn't going to be able to buy a block for \$27 000 because the infrastructure is \$46 000, which I might add was the dearest subdivision in Tasmania at the time.

**Mr HARRISS** - You have just indicated that in 2002 you got a letter from the project team congratulating you on the categorisation that you could purchase.

**Mr THOMPSON** - We got the determination but we didn't get a price. All that was given was the price per block on the beach at \$22 600 each for the infrastructure.

**Mr HARRISS** - Was that at about the time that you saw the necessity to sell your house for the purchase?

**Mr THOMPSON** - That's when I sold the block of land. The wife and I were always going to go back to the Huon somewhere because that's where we came from. We knew the shack situation was a bit dicey because they'd done away with the 99-year lease and at the time you were on a yearly lease. We bought a 5-acre block just up the river further, and it was nowhere near this sort of price. When this came in at \$22 600 for the infrastructure we sold our 5-acre block, with a shed and roadworks and a fence, for \$34 000, thinking that I would be able to pay for the block of land and the infrastructure.

**Mr HARRISS** - With your evidence earlier about the access problems - and there is another one we will look at later as well - are you suggesting clearly to the committee that those access problems, which the department knew of at a much earlier time, delayed the opportunity for you to purchase through no fault of yours? The access problems needed to be sorted out but it wasn't up to you to sort them out?

**Mr THOMPSON** - No, it was nothing to do with us to sort it out. It is documented here in 2001 that the shack sites had to purchase land or come to some arrangement for right of ways to some of these buildings, mainly two or three. Mine was one and there were a couple of others. To say that it altered the valuation, I had the valuation of \$155 000 and then I pointed out to them that I didn't have access and others didn't. So my shack was put on hold for the whole 12 months or more while they visited that and sorted it out. When they sorted that out, I still could not purchase it because of access problems to another shack as they might have wanted to put a right of way through my block.

**Mr WILKINSON** - It is a situation, isn't it, that you were always, after you sold your block, ready, willing and able to purchase this block at Surveyors Bay? You always wanted to do that. You let the powers that be know that you were able to purchase it at that time and it was not as a result of anything that you did that stopped you from purchasing it at the time?

**Mr THOMPSON** - Certainly not. It was taken out of our control, unfortunately.

**Mrs THOMPSON** - What was your other point?

**Mr THOMPSON** - If we move off that a little bit, onto the infrastructure. Naturally, everybody seems to be having problems with the infrastructure and one of our problems at Surveyors Bay is the road which has been paid for through the infrastructure and the Crown gave the council the money with the condition that the council act on the road within two years while the permits were in place. The two years went by and the permits went by and, of course, now the council cannot do the road because they do not have the permits and they have to go back through it to try to get the permit.

**Mrs THOMPSON** - But we have all paid \$5 000 towards it.

**Mr THOMPSON** - Every shack owner has paid for the infrastructure towards the road and the road that is in place is nearly undriveable.

Getting off the road, then of course there is the infrastructure like the tank works. Originally we had to have two communal tanks for fire-fighting. In the end, right on the purchase time, we received a letter saying that we each have to have a tank at each site because they could not position two tanks for Aboriginal heritage reasons. So now we will have 13 tanks. We could not have two, so we will have 13.

**Mr HARRISS** They're a good look too, aren't they.

**Mr THOMPSON** - They're beautiful, mate. They ruin Surveyors Bay.

**Mrs RATTRAY-WAGNER** - Ken, is that the reference in the bottom of your submission to the Aboriginal Heritage Council and the forms issue?

**Mr THOMPSON** - No, that is another issue. I will come to that.

**Mrs THOMPSON** - I might do that one.

**Mr THOMPSON** - The sewerage, the road and the tanks were the infrastructure. It has all been paid for and none of it works properly and there is no argument about that. Anyone on the council will verify it and they will not take it over. We are not sure what has happened now since the Water and Sewerage Board was set up. We do not know who has control but I do know that the Crown was still paying for it to be serviced and so on up to that time. The council definitely did not take it over and would not touch it. I do not know who has it at this stage.

**Mrs THOMPSON** - With regard to the tenders and why we were forced into the second one, on 11 March 2004, the tenders were called for Surveyors Bay and Little Roaring. Surveyors Bay was to be completed first as there was a problem at Little Roaring. We have the letters that say that. Ken and another lady, Dina Palmer, attended the meeting at Surveyors Bay as observers. They were not allowed to talk. They were not introduced to anybody, they were just there as observers and it was that day that somebody from the Aboriginal Heritage Council said, 'You cannot go ahead here because the permits are not finished, they were never filled in correctly.' I was not there but Ken was there and he will be able to tell you what was said.

**Mr THOMPSON** - That is right, and then there was a gentleman, whose name we tried unsuccessfully to get through the shack sites freedom of information. We did get a letter back with the wrong names in it, so we did not go on with it.

**Mrs THOMPSON** - I have that here.

**Mr THOMPSON** - The Aboriginal Council fellow offered to go to Mike Jones's office and help him fill in the right forms and applications for it. Of course, Mr Jones declined very severely and did not like being offered help. He told the Aboriginal Heritage he would

handle the forms and fill them in. That went on from that meeting, and that day they decided to split the contract from Surveyors Bay and Little Roaring. Therefore the contractor rubbed his hands together. Once you split contracts everyone knows that the cost blows out.

**Mrs RATTRAY-WAGNER** - So Surveyors Bay did not come first after all?

**Mrs THOMPSON** - No, it did not and we were forced into another valuation. Through freedom of information we got our valuation, had it gone ahead then, and it was \$66 000. But because the 12 months had elapsed from when they could do a valuation, and that was in the act, they came to revalue again and it was \$155 000.

**Mr THOMPSON** - There were several representatives from Aboriginal Heritage and shack sites. It was brought up by Vicky Shilvock, who is a member of shack sites, that it would cause a revaluation if it were not resolved in a short period of time. That was brought up at the meeting. They went away and months later we get a new valuation.

**Mr HARRISS** - Going to your submission you make it quite clear that you requested information regarding that permit process. The minister's office said you could get it from the shack sites team but they refused to give it to you.

**Mr THOMPSON** - First up they did, but in the end they were told to give it to us.

**Mrs RATTRAY-WAGNER** - Did you make contact when you were aware that Vicky Shilvock had said that a revaluation would have to take place if this process did not get a move on? Did you make contact with the shack sites office?

**Mr THOMPSON** - Michael Jones was in charge and Vicky was under -

**Mrs THOMPSON** - Doing our area.

**Mr THOMPSON** - Yes. I spoke to Vicky after the meeting because I was not allowed to be involved. I said words to the effect that if we have to revalue we are going to end up in court. She said, 'Well I hope not' and walked away. Therefore we knew then what was going to happen. Yes, we approached shack sites several times on why there were delays and everything.

**Mrs RATTRAY-WAGNER** - Knowing that you were going to cop a bigger -

**Mr THOMPSON** - Because they had said it at the meeting. I naturally was hoping that they would sort it out quicker than they did. We queried why they did not. As I have said, Aboriginal Heritage, which I believe is correct, kept asking for more information from the Crown, from the shack sites. It just went back and forth.

**Mrs RATTRAY-WAGNER** - Even though they offered to assist in addressing some of the issues in the forms to Michael Jones at an earlier time?

**Mr THOMPSON** - Yes, that is correct. After they offered, it went on for probably eight months with that piece of paper. We are talking about one permit. I believe it to be one permit.

**Mrs RATTRAY-WAGNER** - But because you could not actually get that information you are not entirely sure if it is one permit?

**Mr THOMPSON** - No. It could have been a couple.

**DEPUTY CHAIR** - Moving on through your submission from June 2004 then into August, the contractors split and then the next date we have is 22 November 2005 - notification of sale price. But there was not access to the block. Can you just explain what went on and what happened there?

**Mrs THOMPSON** - Ken is looking at it and he has maps; he has been to lots of meetings and he is really good with things like that. He goes, 'Hang on, we have no access; they have not acquired the land off lot 18'. I can name the people, but there were two lots of land. When we got our determination, which was 2002, it said clearly in there that they had to obtain land off two landowners, yet they offered us that shack for sale and we did not have access. So they said quickly, well you will have to go on hold. It was all right to put our shack on hold for well over 12 months and we did not have to be revalued. But when there was a mistake with the permits, we could not be put on hold then and we had to go back and be revalued. They keep changing the goalposts, I think, to suit themselves.

**Mr THOMPSON** - Every time you had correspondence with the shack sites to do with finalising anything you had one week to do this and then two weeks to do that and a maximum of four weeks to do this, otherwise you would miss out. That is okay, they put you under pressure but then when you find a fault in it they go away and come back eight months later and ask for a revaluation, which we all know is not real hard and they take eight months.

**DEPUTY CHAIR** - The smell from the plant on 12 January 2006 is the sewerage issue, I presume?

**Mr THOMPSON** - Yes. As I was saying before the council refused to accept responsibility. The idea of the shack sites was that they do the infrastructure and then the council take it over when it is commissioned.

**Mr GREEN** - Did the supplier of the equipment take any responsibility?

**Mr THOMPSON** - I believe they have been working with the council to try to resolve some of the issues.

**Mrs THOMPSON** - But it still smells.

**Mr THOMPSON** - It is still not done. Heaps of people wrote letters to the shack sites. I actually wrote to Mr Llewellyn about the sewerage and he has sent me a letter stating that that system is the only system available so that you can retain and get freehold to your shacks. That is complete and utter rubbish and that can be proved. To say that is the only system that can be put in there so that you can retain and obtain freehold is way off the ball. There are heaps of systems that can be used and it can be proved today that they could have been used.

**Mr HARRISS** - The committee is going to hear from the council tomorrow, by the way.

**Mrs THOMPSON** - Getting back to the smell, on 7 June, as we said in the submission, we got a letter from the project office stating that if they continued to receive ongoing complaints they will limit their involvement in solving the issues. I have that that and Ashley McQueen wrote it. They choose that system and put it in and then tell us to stop complaining about it.

**Mr WILKINSON** - It smells a bit, doesn't it?

**Mr THOMPSON** - Naturally when the prices go up you forget about the other little things like \$4 500 stamp duty on top of it and \$131 for title fees and \$1 000 for lawyers and revaluing - all this goes on top of it.

**Mrs RATTRAY-WAGNER** - A little 5-acre block down in the Huon, Ken, is probably looking pretty good at the moment.

**Mr THOMPSON** - Well, actually it was advertised for sale for \$170 000, unfortunately, but then again you can go the house. When we decided that we had to move it was \$120 000 and now it is \$320 000.

**Mrs THOMPSON** - We were rapt to get \$120 000.

**Mrs RATTRAY-WAGNER** - It would be fair to say that had this process been completed at a much earlier time you would have been more than happy at Surveyors Bay.

**Mr THOMPSON** - No-one in their right mind would think that it would take this long. Even today after 12 years it is still nowhere near complete. They can say what they like because it is nowhere complete, as the other gentleman stated.

**Mrs RATTRAY-WAGNER** - And to suggest not to complain about it.

**Mr THOMPSON** - Yes, that is right, as it only drags the process out.

**Mr HARRISS** - You have both referred to a few occasions where you have pursued information under FOI; what was the reason for that? Was it that the information was not forthcoming from the department?

**Mr THOMPSON** - They would not supply the information of the 2004 valuation of the shack site. They tried to say that it did not exist but we knew that it did exist because I was actually there at the time it was done and at the meeting that it was mentioned.

**Mr HARRISS** - Have you any documentation where the department said to you that there was no valuation as of 2004?

**Mrs THOMPSON** - I think we have.

**Mr THOMPSON** - That was one of the reasons that we went to FOI.

**Mrs THOMPSON** - We got it under freedom of information.

**Mr THOMPSON** - So that was for that purpose, to get the valuations. As I said, with those valuations we used kilometres each side of us but then, all of sudden, there was \$100 000 difference. In regard to the names of the people that attended that meeting that I and Ms Palmer attended, at first Mike Jones would not give us the names of the people. Then Mr Llewellyn or Mr Pearce told him that he had to.

**Mr BOOTH** - It could be worthwhile, just following that, getting the copies of the FOI submission and the response from you too, I think.

**DEPUTY CHAIR** - Would you be happy for the committee to have access to the FOI?

**Mrs THOMPSON** - Yes.

**DEPUTY CHAIR** - Thank you.

**Mr THOMPSON** - That is no problem.

**DEPUTY CHAIR** - Would you like to take a couple of minutes and sum up or make any other points that you would like to?

**Mrs THOMPSON** - I think we have about covered it.

**Mr THOMPSON** - Apart from getting a raw deal, I think we have been robbed blind.

**DEPUTY CHAIR** - I think your submission was quite comprehensive.

**Mr BOOTH** - What would your desire be in a perfect world? You would basically go with your original revaluation, I guess.

**Mr THOMPSON** - Naturally for them to admit that there were delays that were well beyond the normal times that you would expect when applying for permits and getting the answers. So the perfect thing for us naturally would be for them to admit that they, by a few weeks, forced us into another valuation and therefore reimburse us. To me, there is a difference between reimburse and compensation. I only want my money back.

**Mrs THOMPSON** - We are not looking for compensation. We just think we got a raw deal with the second valuation.

**Mr BOOTH** - That original \$66 000 was what you ultimately -

**Mr THOMPSON** - That is the ideal, yes. Even at present-day valuation it would be a lot better than what they came up with.

**Mrs THOMPSON** - I do not know how many shacks were done there before the boom or thereabouts. Was it 50 or something? It just does not seem fair that they paid from \$25 000 to \$45 000 and then suddenly we have this boom and people are paying over \$100 000 for a smaller size. It just does not seem fair that it took 12 years and we have to pay for it.

**Mr BOOTH** - And it was their fault, not yours.

**Mrs THOMPSON** - Yes.

**Mr THOMPSON** - First up, we were involved in a certain amount of it; they would correspond and discuss issues with you but then, as it started to bog down, they did not want to know anything: 'Shack owners? They don't know anything. They don't know where the sewerage goes' and all that.

**Mr BOOTH** - You have only been there for 40 years.

**Mrs THOMPSON** - Seventy.

**Mrs RATTRAY-WAGNER** - Ken and Carol, do you think it would be fair to say that the evaluation of March 2004 would be a realistic outcome?

**Mrs THOMPSON** - I do.

**Mr THOMPSON** - We believe so because we spoke to Paul Wilson for an independent valuation. He looked into it and we have paperwork comparing our site with other sites. This is what I am saying. It is very hard because when the Valuer-General does it they do not include the shack sites on either side.

**Mrs THOMPSON** - That had been sold.

**Mr THOMPSON** - At Little Roaring Beach there are 17 shacks. They range from \$20 000 to \$45 000. That was done at the same valuation as ours at \$66 000 for 2004. So when you work it out, the dearest shack at Little Roaring Beach and the dearest shack at Surveyors Bay at that time was approximately one-third of the difference which anyone would accept because Little Roaring Beach and Surveyors Bay are two different places and Surveyors Bay is worth one-third more than Little Roaring. But then, when you get to the next valuation - and I do not have the figure here - the independent valuer, Paul Wilson, came up with something like 312 per cent difference and it was 33 per cent. So it is a big jump - enough to break us.

**DEPUTY CHAIR** - Thank you very much for your evidence today. You both did very well.

**Mr THOMPSON** - Thank you.

**THE WITNESSES WITHDREW.**

**Mr RONALD TERENCE BECK WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.**

**CHAIR** (Mr Hall) - Welcome, Mr Beck. We have a submission from you so I will ask you to speak to that submission.

**Mr BECK** - Back in 1999 I had the privilege, through Mr Thompson, to buy the shack. He gave me the information that it was up for sale so I decided to buy it. Before buying it, though, he had informed me that there may be problems as to whether there would be a termination on my shack. I went to Mr Scott Marston to see how I would go. Whilst I was there I thought I would ask how much. He couldn't really tell me but he came up with the figures of \$17 500 to \$25 000 thereabouts. That was to buy the land and infrastructure. I ended up paying \$145 000 and it was no fault of mine that it dragged on to that extent. When I went to buy it we were all sent a letter - the only thing is that it is not dated. That is from Sue Finnigan, the person I bought the shack off. That came from Mr Llewellyn's office.

**CHAIR** - Do you mind if we copy that?

**Mr BECK** - Fine. In that letter it states that if there were any mess-ups or anything through their fault I wouldn't be paying any more because of it. We were going to be the first ones out of the whole lot of the sites to be done and it would be cleaned up pretty quickly.

**CHAIR** - Have you got a rough idea of when you received that letter?

**Mr BECK** - There is a date there because Sue put on the bottom of it when she received it.

**Mr BOOTH** - Was it your understanding of at least an oral contract with the Crown, through Scott Marston, that you would be paying between \$17 500 and \$25 000?

**Mr BECK** - Yes, that was oral. That was how he said it to me. He said we would be one of the easy ones, we would be fixed up first out of the whole lot of them and would be pretty much right to go ahead. I was quite happy to pay the \$25 000 - or more.

**Mr BOOTH** - Was there no apprehension in your mind that it would escalate beyond what he'd said?

**Mr BECK** - None whatsoever. No indication. He said we were the easiest one out of the lot of them to clean up.

**Mr BOOTH** - And that included any infrastructure, whether it be electricity or sewerage or roading or anything that might be provided?

**Mr BECK** - Yes. He said he couldn't foresee a problem with it.

**Mr BOOTH** - Was that the general understanding of other shack owners, in your mind? Did you think that you were unique in that you'd only be paying that? Did you have an understanding that others had been made the same offer?

**Mr BECK** - Well, going on the previous people before me, one was my brother-in-law, so obviously, yes, that's what we thought we were going to be paying.

**Mr HARRISS** - Ron, you mentioned that you became aware of the possibility to purchase the shack in 1999 - is that right?

**Mr BECK** - Yes.

**Mr HARRISS** - Were you given any indication from the shack sites project team at that time that they would not deal with possible purchases by anybody, or possible transfer to freehold title to do with anybody other than the current licence-holder? What I am saying is that you have been able to purchase. We have heard evidence from people elsewhere around the State who wanted to purchase during this period of assessment and determination that the shack sites project team said, 'No, we're not going to deal with anybody other than the current leaseholder as to the transfer to freehold title'. There was no impediment like that imposed on you?

**Mr BECK** - No. I was able to take the lease off Mr and Mrs Finnigan - well, Luke passed away, but from Sue. I was able to take the lease off them and then go into the shack sites project and pay for the land at a later date.

**Mr HARRISS** - Thanks, that has clarified an issue of interest and concern that I had. Not for you, no concern for you.

**Mr BECK** - No, I understand.

**Mrs RATTRAY-WAGNER** - I just wanted to ask Ron about the determination. You have in your submission, Ron, that you were aware that there was a valuation done in March 2004 and it was \$53 000.

**Mr BECK** - That is exactly right.

**Mrs RATTRAY-WAGNER** - Were you willing to accept \$53 000 at that point in time? Obviously it's more than \$25 000.

**Mr BECK** - Obviously I would say yes on the current figures but at the time, no, because of what was said to me by Scott and the Crown Land Shack Sites Project at that time.

**Mrs RATTRAY-WAGNER** - But if you had been told that if you do not accept that you might be paying \$145 000 -

**Mr BECK** - No; we got that figure of \$53 000 through Freedom of Information also.

**Mrs RATTRAY-WAGNER** - So you were never aware of that at that point in time?

**Mr BECK** - No, not until we got the second valuation, which was \$145 000.

**Mrs RATTRAY-WAGNER** - And that's when you looked to see if there was a valuation or an assessment done prior to the \$145 000 between when you had been given some sort of verbal evidence from Scott Marston. You indicated that it was between \$17 000 and \$25 000, give or take, I guess.

**Mr BECK** - Yes, which was a fair figure at that time. The actual infrastructure went from 20-something to 40-something thousand, so obviously I wasn't going to be paying \$25 000, but I didn't expect to pay \$145 000 either.

**Mr GUTWEIN** - Can I just cut in there? It says here that one of the issues that were uncovered in 2002 was that you needed access across that land owned by the Benders. How long did it take, do you believe, to negotiate the access arrangements, because the next date that we have here is 2005?

**Mr BECK** - They started on that when I first got the lease and that wasn't actually cleaned up until two years ago - 2007.

**Mr GUTWEIN** - So it took five years to negotiate the access?

**Mr BECK** - Yes. When my termination came in 2005 I, with Mr Thompson, approached them and said, 'I'm not buying this. I've got a piece of land that's land-locked'. I was totally land-locked.

**Mr GUTWEIN** - This is the delay that we heard about from the Thompsons earlier.

**Mr BECK** - Yes, and I went another 12 months after that, after Mr Thompson.

**Mr HARRISS** - I bet that's the last time you call your brother-in-law Mr Thompson.

**Mr BECK** - We were actually having problems because I needed a bit of his land, so we weren't drinking real good!

*Laughter.*

**Mr GUTWEIN** - Why do you think it took so long?

**Mr BECK** - I have no idea, because Mr and Mrs Bender were more than cooperative. They were like, 'Yes, we'll sign over', but when you talked to Crown it just fell into black holes all the time.

**Mr GUTWEIN** - I am presuming that the basis you required access was that the Benders property comes right up to your boundary, so they're your closest neighbour?

**Mr BECK** - Yes.

**Mr GUTWEIN** - So it took five years to sort out the access issues?

**Mr BECK** - Well, five solid years but it was more than that really because it is documented back when they actually came to a determination back then that I was land-locked and

they needed land off the Benders. I will go back to 1999. I can't confirm that here but it was something like 1999. Therefore they have worked on that from then to 2007.

**Mr GUTWEIN** - Any reason at all? Was it lost or just the wheels turning slowly?

**Mr BECK** - The wheels turn very slowly there, mate, very slowly. I have made numerous phone calls. Mr and Mrs Bender lived behind me at the time; we were friends. They actually lived behind me at two places, both at Huonville and Surveyors. We were friends as such. Therefore I was negotiating with them to get things moving but it was your side that was not moving. We can't get movement out of your side. It was always to-ing and fro-ing. That didn't cause my valuation, though; that was just another one of those balls-ups.

**Mrs RATTRAY-WAGNER** - Can I ask you when you actually purchased?

**Mr BECK** - Actually paid the money?

**Mrs RATTRAY-WAGNER** - No, before that - when you purchased from Sue.

**Mr BECK** - In November 1999. Don't quote me as 100 per cent right but it's within weeks of that. The reason I know that is because Sue sent that letter to me, because that was sent to them on 13 December 1999, which was just after.

**Mrs RATTRAY-WAGNER** - Yes - saying that it was more appropriate that you have that as you were purchasing. But obviously the paperwork had not been done at that time to pass the lease over to you.

**Mr BECK** - Well, I had the lease but the actual paperwork hadn't come across, yes.

**Mrs RATTRAY-WAGNER** - Okay - but that was after, and you were well aware that the shack sites project was up and running at that point in time.

**Mr BECK** - Yes, definitely.

**Mr HARRISS** - Just a moment ago when Peter was talking about access issue with you, you said that it didn't impact your valuation, but isn't it true that because of the delay caused by that access issue you were caught up in an extra valuation process and the property boom that occurred?

**Mr BECK** - In that sense yes, definitely.

**Mr WILKINSON** - It seems that, like a lot of people, you were caught up in the property boom. I am just trying to get a summary of what you've been saying in your documents as well. Do I take it that people like yourself feel aggrieved because your properties weren't valued within what you believed to be a reasonable time, and that properties that were valued early in the piece benefited far more when you look at the land boom and therefore to some degree for those that hadn't been valued up until 2005-06 or whenever, the value shot out of all proportion and it was just a lottery really when you got your property valued as to how much you had to pay for it.

**Mr BECK** - You're dead right. If you go back to the valuation behind us, go around to Little Roaring Beach - and this has already been spoken of - they paid a maximum \$46 000. We are 3 kilometres up the road and, yes, our beach is better; there is no question that we're in a better location but we're not that much better. We're not \$100 000 better off than they are, and that was all only because of that valuation. I should only have paid \$53 000 at that time. I thought that was a bit rich but I was happy to pay the \$53 000 because of what we have which pretty unique, and we all know that.

**Mr WILKINSON** - Would you be happy if there was a valuation done on all those properties that were not settled prior to 1 January 2003 and accept the valuation of the properties up to 1 January 2003?

**Mr BECK** - Yes, definitely.

**CHAIR** - Anything more you would like to add? Right at the end of your submission you talk about your paying money towards road infrastructure. How much did you pay there, do you recall?

**Mr BECK** - That was \$5 000, from memory.

**CHAIR** - That was your contribution?

**Mr BECK** - Yes, my contribution.

**CHAIR** - How many other shack owners had to -

**Mr BECK** - Thirteen.

**CHAIR** - That is still not completed at this time?

**Mr BECK** - No.

**CHAIR** - Have the Huon Council indicated when that might occur?

**Mr BECK** - No, no idea.

**Mr HARRISS** - Mr Chairman, on the road issue that you have just mentioned, Ron, I do not know whether it is in your submission or somebody else's at Surveyors Bay and it might be Ken and Carol's, but somebody indicated to the committee that the road will service other previous freehold land and there's no contribution required by any of those to the upgrade of the road, just the 13 shack owners. Is that true? I am just going by memory from somebody's submission.

**Mr BECK** - I must ask someone else that question because I am not 100 per cent sure.

**Mrs THOMPSON** - That is the owner's submission, that they get to use the road, all the facilities and they did not pay anything.

**Mr BECK** - I just wanted to make sure that was true, but I was pretty right.

**Mr HARRISS** - I thought I read it somewhere and that is the case, thank you.

**Mr BECK** - I am pretty sure that they didn't but I just wanted to make sure because, and this is another issue, there was some talk that they were to contribute a bit to the sewerage and be hooked on the sewerage but I was not sure.

**Mr GUTWEIN** - A point of clarification but I also want to get an understanding of just how you felt about this. Did you pay \$145 000 in the end?

**Mr BECK** - Yes.

**Mr GUTWEIN** - Originally thinking it was going to be around \$26 000. Your submission points out that in March 2004, under Freedom of Information, there was a valuation of \$53 000?

**Mr BECK** - That is correct.

**Mr GUTWEIN** - Did you ever, in your wildest dreams, believe that you were going to be asked for \$145 000 for that shack?

**Mr BECK** - No. I can tell you where I was standing when the figure of \$145 000 came out. You could have knocked me over. I just could not believe it. I was going to sell, I was so upset, but I have held on. I am only an ordinary worker and \$145 000 isn't easy to find. I am a little bit like Mr Thompson now. I sold a house, too, to do it and I now live in a unit, not wholly and solely because of that but partly because of it because I could not afford the \$145 000 and I did not want to lose it because I have a young family and they want the shack, so I fought for it. I have paid for it, and too much. No way did I ever think I was going to pay that. I thought \$53 000 was rich.

**Mr BOOTH** - In your view, has there been any improvement in life at Roaring Beach or wherever, in regard to the fact that the shacks have been determined and there is freehold title and there are roads and sewerage systems? Or would it have been better to have left it as it was and leave you with the licence to erect a structure on crown land and -

**Mr BECK** - No, I am happy that there is a sewerage system because of the rivers and so forth. If you are talking about my personal life, no, my health has gone downhill because of the worry of it. It has gone on for all these years. My health has gone downhill big-time. I hold down a job but I am going to psychiatrists because of all the mess-up. It is work and the shack.

**Mrs RATTRAY-WAGNER** - Do you think that bearing that cost as well has impacted?

**Mr BECK** - Yes, it is just ring and ring and getting nowhere and the cost. It's just talking to a brick wall all the time. Every time you get into someone's ear, next thing you know, they say they have left and we have someone else. Here we go again, and we start again. It is just not right.

**Mrs RATTRAY-WAGNER** - Ron, you said that you were happy that the infrastructure has been put in place, especially the water and sewerage, but obviously you are not that happy about the lack of a road?

**Mr BECK** - Yes, the sewerage -

**Mrs RATTRAY-WAGNER** - It is obvious there are some issues still surrounding the sewerage. Is that an issue for you or are you situated a bit differently?

**Mr BECK** - I am right because I am at the opposite end of the beach. It is an issue in the sense that when I or my family walk the beach we do smell the plant - the thing that actually works the system. It is not a major issue for me now because the fact is I am up the other end of the beach. You will hear some others that come in and yes, it is a major thing to them, but it is not quite so bad for me because I am up the other end.

**Mrs RATTRAY-WAGNER** - Can you tell me what the infrastructure component was of your \$145 000?

**Mr BECK** - \$46 000.

**Mr BOOTH** - What I am wondering is whether the infrastructure that they have imposed on your area is appropriate for the shack community or whether it is over the top. Is it an unnecessary imposition there in terms of the determination?

**Mr BECK** - They could have put the actual plant in a better position. It is not for me to say where but it could have gone somewhere else yes, because it is right behind the shacks. It is only from here to the wall behind the shacks and they are grinding away all the time, 24 hours a day all year round, and it does not even have Christmas off. It just goes all the time. They could have done something better, but in the early stages when we were allowed to have our input into it, we were not allowed to say anything. We had no input and all of a sudden it was just said what was going to happen and it just arrived and that was it.

**Mr BOOTH** - Did it stink more before they put the sewerage system in when everybody just looked after their own service?

**Mr BECK** - No, it was all right. I never had an issue there. I did not see an issue there, no.

**Mr BOOTH** - Do you know of any evidence that says that they needed to put this sort of infrastructure in?

**Mr BECK** - That particular type you mean?

**Mr BOOTH** - Just a reticulated sewerage system.

**Mr BECK** - I am of the understanding that it is probably a good thing in the sense that it cleans up the rivers. You have to have something.

**Mr BOOTH** - Because of e-coli leaking into the river before.

**Mr BECK** - Yes. This stops that to a point.

**Mrs RATTRAY-WAGNER** - Ron, you said that you were able to have input early in the process and then you felt like you were not encouraged after that. Can you tell me was it that perhaps people could not come to any consensus or do you think that negotiations were going along okay until you were not encouraged to provide any input anymore?

**Mr BECK** - I do not really know, to be honest. I think they just wanted to do their own thing and they were going to do it their way and we were not to have our say. I do not know.

**Mrs RATTRAY-WAGNER** - But you do not believe the shack owner community were causing any particular problems that caused the shack sites project team to walk away and say that they did not need any input?

**Mr BECK** - No, all we wanted to do was help. We wanted it to go ahead. We wanted to finish it off - start it and finish it - and it just did not happen. It is all going even to this day and it is still not tidied up.

**Mrs RATTRAY-WAGNER** - The fact that you have no road.

**Mr BECK** - There is no road. The smell is still there. I cannot remember the date but it would be about 14 months ago we got a letter to say that we were to meet at the Huonville Town Hall.

**Mrs RATTRAY-WAGNER** - In May 2008, it says here.

**Mr BECK** - Does it? Well, that would be 14 months ago, so that was a good guess. I attended the meeting and it was chaired by Sue Chapple, from memory.

**Mrs RATTRAY-WAGNER** - Yes.

**Mr BECK** - What she was going to do was unreal. She said she had an iron glove and she was going to clean this up and fix this sewerage thing. Now, 14 months down the road, one of the things she was going to do was put trees around it. She was going to change the water system to it and she was going to do all these sorts of good things. The only thing we have seen is about seven or eight plants put behind it and we have heard no more. We were to have a meeting a fortnight after the meeting to see that everything was going well and we never heard hide nor hair from her. I personally haven't heard a thing. She has gone away again. It is just another one of those things. This is how it all started and it went on and on. We were getting nowhere.

**CHAIR** - Is it fair to say that probably one of the greatest frustrations amongst all shack owners is the change of personnel within the bureaucracy?

**Mr BECK** - That's certainly one of the biggest issues that was causing a lot of trouble.

**CHAIR** - Thank you very much for your evidence. We appreciate you coming along and giving us both your written and verbal evidence.

**THE WITNESS WITHDREW.**

**Mr LANCE ROPER** WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** (Mr Hall) - Welcome, Mr Roper. We have your submission and it is quite a large one.

**Mr ROPER** - I have tonnes of it. I started off trying to write something compact for today and to find new points within what I had been reading and every time you read it you come across things that are different. I kept reducing it and I have a five-minute statement I will read to start with.

I received a letter from Tony Rundle in 1997 that said:

'We are so pleased that this process will continue to solve the many problems shack owners have.'

I thought that was really good because it really has helped.

*Laughter.*

**Mr ROPER** - Mr Chairman and committee members, thank you for the opportunity to address you. I have shown in my submission how the Government failed to follow the section of the shack sites act 1997 in relation to issuing determination for the shacks at Egg and Bacon Bay. I believe, from what I have heard today, that it is probably at Surveyors Bay as well. I have shown how the Government made a clear and precise promise and offer to the Egg and Bacon Bay shack owners and how the Government then chose, without proper process, to go outside the act in arriving at the contracts offered. I have shown that surveys were redone and boundaries changed after the determination was presented to the shack owners. The determination offered me land identified and shown as PID5868538 on Lot 3, on attached plan, taken from a survey done in 1999 to the final land offered being identified as P138460 Lot 3 from a survey done in 2002. But I got my determination in September 2002 and they surveyed it again afterwards.

I have shown how the infrastructure costs increased from a promised \$163 000 divided over 10 shacks to \$880 000 over nine shacks. I have shown that I was discriminated against and bullied by the department. I have shown how the Part 5 agreements have exposed the shack owners to future legal action in the event of a fire because the procedure covering their usage is not clearly established, even though the minister and the head of the Fire Service reviewed the agreements.

The whole process covering the determination and the events thereafter lack procedural fairness and transparency and accountability. The manner in which the department oversaw this process was misleading and deceptive. I believe the law was broken and this act should be referred to the correct authority for investigation.

The document from the RPDC explaining their decision to deny the amendments to the Port Cygnet Planning Scheme 1998 demonstrates that on 29 June 2004 the RPDC recognised that the secretary of the department was operating outside the act. With my

concerns not being properly resolved and the minister referring it back to the department I was told by the director to buy it as it was or they would sell it someone else. It was either buy it or demolish it.

The contract was worded in a manner that we signed away our right to sue those responsible for the broken promises and misleading information. The method used to calculate the stamp duty needs investigating. During the whole process we were told we were paying for infrastructure and land and they were identified as two separate entities. In the final document these two tables were added together and described as land value and stamp duty was calculated on it.

Why was the contractor not called in when I notified the department of problems with my access after the works were finished? They should have a warranty period. The tender process was not transparent and it was carried out on behalf of the shack owners. We should have received the information as requested. My major concern here was who paid the three-phase power which was omitted from the tender price that was in the tender documents. Did this process disadvantage the original other tenderers?

Why won't the department ensure that the boundaries of the property are clear? The survey shows they are not. Why was one shack owner given permission for a much cheaper sewerage option by the minister and why was this option never given to the other nine shack owners and how did this affect the allocation of the remaining infrastructure costs? Why won't the department supply a breakdown of the dollar for the increased infrastructure? We received a dollar breakdown on the original costs supplied with the determination. As a further example of the department's inability to conduct what should have a fairly simple transaction, after paying in full all moneys requested on time on 9 December 2008, I still have not received title to my property. In fact only last week I received a message saying I would be charged penalty stamp duty.

The department use the excuse of many staff changes for the many problems over many shack sites. As a voter and a citizen of this State, I feel it is unacceptable to give this an excuse when I believe what we are dealing with is deception and law breaking and the cover up of an ability and understanding on behalf of the minister and his department to what was an honourable intention by the Parliament when it passed the law in 1997. This was to quickly transfer the shack sites to the lease owners as freehold property. My lawyer advises me that, yes, he could probably get my \$60 000 back but he would charge me \$100 000 to do it while the Government spend my taxes to fight it. I would be working twice as hard to pay my lawyer and when I finally got settled I would be much older and the people who caused the problem would have moved on.

Originally I thought I was the only person affected in this manner but from the evidence given by shack owners I realise a class action may fit very well, especially given the available documents showing a clear offer and promise in Eggs and Bacon Bay determination in 2002. This process was supposed to be cost neutral to the Government, however they made a considerable profit. It is not a lot of money really but it is still a profit and rather than the money going into the Land Trust Fund this money should go to a compensation fund for shack owners who have been disadvantaged.

The question now remains what I want through this presentation to you. I want my money back, the difference between the \$13 000 quoted on the determination and the

final cost of \$73 000 which is approximately \$60 000 and that is for the infrastructure. I want my boundaries as offered and promised to me in the determination of September 2002. I want a pro rata payment for the lease difference and interest on the money that I paid in December 2008 for the title I have not yet received. I want compensation for the discrimination. I believe that Parliament has a duty to all Tasmanian shack owners to rectify the injustice that has taken place during this whole process.

My final point refers to this committee's request on behalf of the shack owners requiring extensions to the deadline for the final demolition orders. Your committee wrote to the Minister for Primary Industries requesting their extensions. The minister denied the extensions, based on the fact that the determinations were made lawfully and cannot be changed. I add, therefore, the minister's decision must apply to my own determination of 2002, that the boundaries and costings provided should never have been changed as the Eggs and Bacon Bay determinations were lawfully made.

**CHAIR** - Thank you very much for that. You have certainly raised a plethora of issues, many of which we have heard before. You mentioned you have taken your own legal counsel over some of those issues?

**Mr ROPER** - Yes, I went to a lawyer. We had a meeting with Mr Pearce and Sue Chapple and that is when she told me, 'Buy it or pull it down'; she would sell it to someone else.

**CHAIR** - On some of those other issues you have raised, what sort of legal advice have you had?

**Mr ROPER** - The advice was that if I had \$100 000 to spend on a lawyer, go and buy a property in Goodwood and sit down and wait, because that would be worth more than I will get back in the meantime. By the time everyone else gets their superannuation I will still be working my butt off trying to pay for the legal costs. Take into account that I had a shack that was costing me \$300 a year in lease - about \$800 a year all up - but which is now costing me \$800 a month because I had to borrow the money to buy it. I used to go there two weeks a year and now it's not worthwhile. The real estate people tell me it is now overvalued because of the infrastructure costs and that I probably wouldn't get my money back if I tried to sell it.

**Mr BEST** - In discussions that you've had with your legal counsel, has there been any reference by them to say that if there was a tribunal that wouldn't cost you to go and prove your case legally, this would be the solution to getting your matter resolved?

**Mr ROPER** - For sure.

**Mr BEST** - Can you share any of those ideas with the committee?

**Mr ROPER** - There is an easier way to do it than taking legal action. He suggests the Ombudsman but the Ombudsman doesn't have any power to enforce anything. This committee doesn't have any power to enforce anything, just make recommendations. A previous Public Accounts committee made a recommendation that it be set up and the minister said no. Well, that was a few more words than he told me. It was blatant ignorance; he wasn't interested - 'Go away'. We signed our legal rights away when we signed the contract to purchase. We just got screwed.

**Mr BEST** - You have presented your case pretty well here today, baring the fact that what you're saying has to be substantiated. I'm not questioning that, sorry; I don't mean it in that context. What I am saying is that if there was a mechanism where you could present yourself as you have done today and then that could be substantiated somehow -

**Mr ROPER** - I'd be happy to do it.

**Mr BEST** - and we could get something resolved and you'd be happy to move on. It has been an awful experience for you.

**Mr ROPER** - It would need to be very simple because dealing with a department is just too hard. I don't need the stress.

**Mr BEST** - Would you like to offer an opinion on that?

**Mr ROPER** - I and a couple of shack owners will do it.

**Mr BEST** - I thought you might say that. You mentioned the Ombudsman but obviously he doesn't have the power.

**Mr ROPER** - The Office of the Ombudsman doesn't have the power now but if the power was given to that office, which is what you have talked about with regard to the ethics committee as well, that is probably the way the State would need to head.

I honestly believed, naively, that I was probably the only person. Through hearsay I was told I was a whinger. I just tried to get things done and it was nothing. I went to my shack - not to talk to anyone and never did. I didn't realise that everyone else around the State had the same problems and I was confounded when I found that out. There must be hundreds of people in this same situation. It's absurd; it is just ridiculous.

**Mr BOOTH** - Lance, you have indicated that you thought the departmental secretary had acted outside of the act. Do you want to expand on how that occurred?

**Mr ROPER** - The act clearly states that the secretary must be convinced that waste water and sewerage problems have to be solved before they can offer a determination. It is pretty simple in the act. The act is very simply written though unfortunately it could be more encompassing.

In the case of Eggs and Bacon Bay, they then got that information and we have gone, 'Beauty, they have given us our determination' - a bit like a raffle ticket - congratulations. It gave a clear set price; it indicated that it would even be sorted by the end of the year. Considering it was September, we thought 'okay'. Do nothing because you have to get the money for this. I accepted everything that was written because in that determination it said that our involvement with the process as a shack owner was pretty much finished. We never took a lot of notice of what went on from then on. It turned out that the sewerage and waste water treatment plant at Eggs and Bacon Bay had been knocked back by the Huon Council. The problems were not solved prior to the determination. They did not have the way of disposing in what they were planing to do. The council then had to amend the Port Cygnet planning scheme of 1998. So they put in a proposal

and then all the other people in the area objected. They did not want a sewerage treatment plant on what was effectively public land. So it then had to go to the RPDC, who then knocked it back as well because it did not comply. They then had to go back and change the Port Cygnet planning scheme to then get it done.

If you are being really simplistic the secretary issued a determination for us, mislead us completely, before they had resolved the sewerage issues. It was quite possible that sewerage was never going to be connected there - unlikely, but quite possibly. That has to be a breach of the act.

**Mr BOOTH** - You mentioned 'deception' and 'dishonesty'; I think they were your words.

**Mr ROPER** - Yes.

**Mr BOOTH** - That was in relation to breaking the act or were there other issue as well?

**Mr ROPER** - The letters were all misleading. You do not have to have any more involvement; that is going to be sorted; this is going to be fixed. But they were not sorted and they were not fixed. If I did that in my business I would be in the small claims tribunal every week. It was a joke. We have no mechanism to deal with that at all. If we get an ethics committee and they get retrospective powers, this should be the first thing that they deal with. I bet they don't.

**Mr BOOTH** - You provided those areas to the committee in that form, the areas we find from your submission that they acted deceptively and dishonestly?

**Mr ROPER** - Yes; I will leave this copy with you. I have tried to write it as clearly as I can there.

**Mr BOOTH** - And those points are clearly made?

**Mr ROPER** - Clearly made, documented, filed and referenced. Unless I am a really simple idiot, they broke the law. If I go up the highway too fast and break the law, I get a ticket. There has to be something done. In getting the determination that set out a clear price of that parcel of land, it was surveyed, it had been pegged, it had all the pink ribbons on it. I rushed down and I measured it and checked and thought, 'You bloody beauty'. But no, they changed it all.

**Mr BOOTH** - After they had told you -

**Mr ROPER** - After they had told me that that is what I was going to buy. Do that outside in the normal public arena and see how you get screwed. That would not happen.

**Mr BOOTH** - Did you advise the minister of this?

**Mr ROPER** - I did, yes.

**Mr BOOTH** - What were the responses from the minister with regard to the statements that they were breaking the law?

**Mr ROPER** - I was wrong. Just ignore it. If they do not like what you write, if you ask three questions, then they only answer one. If you make a statement and forget to put a question mark at the end of asking a question then you do not get an answer. They do not provide you with anything openly and honestly at all. It's not clear and transparent at all.

**Mrs RATTRAY-WAGNER** - Lance, we have heard in previous evidence about determinations of valuations in about March 2004. They gained those through Freedom of Information.

**Mr ROPER** - I never did that, never thought about that. I accepted that whatever the land was going to be worth at the time I bought it would be what it was. In 2002, I think, land in the area was selling for about \$30 000 down there. It would have been land you would have had to put a septic on, so throw another \$5 000 at it or something, I'm not sure - maybe \$40 000 to get a block of land. Mine was right on the water. The land component of my purchase was only \$20 000, but because they lump it all together are we arguing about a land component or are we arguing about the infrastructure? My beef is about the infrastructure. I suspect if I'd got land valued back in 2002 on what it became in 2007, it might have been \$10 000 or \$15 000 - mate, I'd have a party at that. It's a pretty privileged position to have what we have, and even to be able to buy it, but to be offered a sewerage connection for \$13 000 and then find it costs \$73 000 - mate, that's breaking a promise which was in writing.

The determination says quite clearly that this is the price. It says it's an estimate but it won't be any dearer because 'we are going to be calling tenders for this work right across the State so we'll get a bulk price on it and that will make it cheaper, and we fully expect it will be cheaper. In fact, we've built a 15 per cent contingency into this price to allow for possible increases'. So not only did they give me a price of \$13 000 for the connection and my share of the infrastructure, they told me they had charged me a bit extra to cover contingencies. Well, they bugged up, well and truly! They should have put about 500 per cent on it. I mean, \$880 000! I have a 30-metre piece of pipe on my land; that's my total amount of infrastructure that I personally get. That cost me \$73 000. I've paid the money but don't have the title yet but I guess that will come in good time.

**Mr WILKINSON** - Lance, do you have a copy of that letter that was sent to you in relation to -

**Mr ROPER** - The determination?

**Mr WILKINSON** - Yes.

**Mr ROPER** - Yes, it's all in there - and it was all in my original one as well, the thick one.

**Mr WILKINSON** - The other thing is, in relation to the land itself, you've said that the boundaries were changed.

**Mr ROPER** - Yes.

**Mr WILKINSON** - Can you just run me through that again, please?

**Mr ROPER** - Okay. One of the problems with the Port Cygnet planning scheme was that they tried to push it through in a village process - make it a village rather than a subdivision. The land sizes didn't comply with that requirement so then they rushed around and changed the boundaries to make everyone's block a bit different in size. Originally when I met the shack site committee down there, they said, 'We want you 3 metres back from the edge of the cliff', I thought that's okay. That'll be free land because no-one uses that anyhow because they don't want erosion and degradation of the cliff top. You need  $x$  amount of boundary for development so we need to go that way. My block borders Dougie Wright's - I didn't know Doug had the same bitch I got! The block between Doug and I - 'We'll divide that in two. Not a problem.' So that's what they did.

They pegged and surveyed that - beauty - but in the meantime Doug got permission to do some developments on that block. He built a gazebo, a barbecue area. I rang and said, 'That isn't right. That's going to be mine'. They said, 'Don't worry, mate. He'll have to pull it down. They can do whatever they like now because it is crown land but that'll come down'. When they resurveyed they put the new boundary on the other side of Doug's development, so my block became too small for the subdivision. So what did they do? They pushed it out over the cliff top. Well, I've got a job to walk; I can't walk on the extra bit of land they've given me, let alone the bloody seagulls! It's right on the edge of the cliff.

**Mr WILKINSON** - When you bought the block, though, did you buy a block as depicted to you by the council scheme?

**Mr ROPER** - I bought the block as given to me by the revised determination - for want of a better word - the second survey that they did, to make it big enough to then comply with the planning scheme.

**Mr WILKINSON** - So what I am trying to understand is: what you were originally told - and I know

**Mr ROPER** - planning scheme.

**Mr WILKINSON** - I know they changed the goalposts, but you didn't buy what you were originally told you were buying?

**Mr ROPER** - No, I haven't got what I originally went for. They pulled the pegs out. They got rid of them all. When I went and said to them, 'This is what you've done', they said, 'No, we didn't do that.' I've written dozens of letters about it and I figure I'm stupid.

**Mr WILKINSON** - So then when you paid for the block, you paid for the revised version, as you became aware of it?

**Mr ROPER** - For the revised piece of land, yes, of which the boundaries are still not correct. To be quite honest, Doug has his fence over my side of the boundary and if I was buying a block of land off you, you'd move your fence before I paid for it.

**Mr WILKINSON** - In relation to the increase that you paid from what you originally believed, do you believe it would be sorted out if there was an independent appeal process where aggrieved shack owners could seek ex gratia compensation or redress for

delayed valuation increases, unsatisfactory or incomplete infrastructure, and for other costs incurred by a sale which was not completed until after 1 January 2003?

**Mr ROPER** - I would have to be.

**Mr WILKINSON** - Would that be fair, as far as you were concerned?

**Mr ROPER** - I think so, yes.

**Mr WILKINSON** - Would you accept that as being fair?

**Mr ROPER** - Yes, I'd accept that. The value of the land between 2001 to 2003, in my case because it is only a small block, is not significant. I couldn't buy a decent car for the value of the land. The total value of my piece of land at \$95 000 is still a gift, but it's a bloody broken promise!

**Mr WILKINSON** - I hear what you say. I'm asking, though, because back in 1998 when the legislation came into play, I know there was talk that it was going to take approximately four years for it to be sorted out and that is why that date was stated. So if it did take four years, which everybody believed would be the approximate time it would take to sort the problems out, then that would seem to be a fair date to put valuation on it.

**Mr ROPER** - Yes. Look, if I hadn't received my determination yet; if I had received no documents and it was yet to be sorted and if I had been given no information on price and you came to me today and said, 'No worries, we've got the sewerage in and it's going to cost you \$150 000 for your little block there', I'd say, 'That was cheap, thanks very much'. But argument is that's not what happened. They gave us an indication in 2001 of how much it would be. They had built an expectation. They made a promise, in writing, that that would happen, but to cover their butts, when we signed the contract we had to sign all our rights away and accept what they had done.

**Mr WILKINSON** - But I suppose the other concern you'd have is that those people who were lucky enough to be able to purchase prior to 2002 are far better off?

**Mr ROPER** - In other areas, for sure. It has been very unfair across the State, no question at all. I borrowed the money to pay for mine and it has been hurting. If I had sold a property, I'd be more cross than I am now, no question - I'd be real pissed.

**Mr BOOTH** - You said had 30 metres of infrastructure, effectively, as your share of the \$800 000-odd worth of sewerage treatment. With the location of your block, could you have had some form of on-site treatment works rather than participating in a pooled scheme?

**Mr ROPER** - Well, the shack had been there for some 40 years and at times it had been inhabited frequently and at other times, not. We had a long-drop toilet, like everyone else in the area, which is not much better than going camping, and that had been redug twice in that 40 years. It was never an issue. Some of the shacks had the same system where they just pumped them out. Grey water may be a side issue there but there was never any problem on any sites that I could see where it would not go away. But in this day and age you can't quite have that.

I don't see why we couldn't have very easily had a chemical toilet in some of these modern versions. In my extra information there, the minister gave Doug Wright, on his leasehold shack on the beach, permission to put in a BiPu toilet after the determinations were made. Even though we supposedly had the right to install our own infrastructure, that offer never came to us and said, 'We've been able to get this approved in this shack site. Instead of spending nearly \$1 million putting in a septic down there that everyone doesn't want, why don't we all look at this option?' It was not considered, not known. I didn't even know about that until the article in the paper earlier in the year.

**Mr BOOTH** - How did the minister give permission? Do you have any idea?

**Mr ROPER** - No idea. Doug will be here tomorrow, ask him. Not a clue. Originally this shack was supposed to be pulled down. It then became a leasehold. It is right on the beach. It has been there 100 years but he got permission to put in a modern self-system and the money that was spent is just ridiculous for nine shack owners. When they got the tender for the treatment plant I know for a fact that when he put in the price the guy did not realise that there was no three-phase power to the site. The three-phase power was many kilometres away. They have the thing all set up ready to turn it on and between the engineer and the contractors they say, 'Where's the power?' 'No, there's none here, mate'. They then had an argument over who was going to pay for it. If the tender process was correct the contractor should pay for it because he has bugged up. That is what happens to me out there. But no, the shack sites people gave him a variation of his contract, so did that disadvantage some other person who put in a price in the first place and what was the cost involved with that? If I had put a price in for that job and I had been cheaper than the final price because of that power connection, which Aurora had to put in over many kilometres, you would not be happy and I do not think that is transparent either, and you can ask the question as much as you like and you do not get an answer.

I would like to know whether the public toilet on the beach was connected to the same unit because it says it was and I figure we just paid for the council share of that because in all the paperwork there is no listing that the council was paying for its share of the toilet connection for the public toilets.

**CHAIR** - We are moving towards the end of your submission, Mr Roper, but you are going well. Mr Harriss has a question.

**Mr HARRISS** - Lance, you said earlier that in your dealings with the project team you could either buy, pretty much without further negotiation, or they would sell it to someone else or demolish. Can you clarify what was going on there because if you were not going to stay, would it not be true that the shack sites project team would prefer to have your shack demolished and out of the way? Have you any documentation?

**Mr ROPER** - Only a witness. I met with Peter Pearce, Sue Chapple, my lawyer and my wife to discuss the issues and it was a bit of a waste of time, honestly. There was no way we were going to get any true hearing of what we were trying to say and Sue Chapple simply said, 'You either buy it as it is or we will sell the land to someone else'. Under the terms of my lease that would mean I would have to pull the shack down and with the money in that infrastructure, I have no option but to buy it and stop and arguing.

**Mr HARRISS** - Can you identify a date when that meeting occurred? Is that in your submission?

**Mr ROPER** - I think it probably is somewhere but, if not, I can provide it anyhow. That is no problem. I will get that.

**CHAIR** - Thank you very much. Is there a closing statement you would like to make at this stage? I think you have covered most issues very well and very succinctly. Thank you very much for that. I know that you had a raft of stuff there but you have, as I said, covered that very succinctly. Is there anything else you would like to say before we finish up?

**Mr ROPER** - No.

*Laughter.*

**CHAIR** - A succinct answer, thank you. On behalf of the committee, I would like to thank you very much for coming and giving your evidence and all the written evidence you supplied and also your time today.

**THE WITNESS WITHDREW.**

**Prof. PAM SHARPE AND Dr DEREK PENNINGTON WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.**

**CHAIR** (Mr Hall) - Thank you very much for coming along today. We have your submission that covers some of the issues. I will invite whoever is the spokesperson to lead off and then we will ask you some questions.

**Dr PENNINGTON** - We bought relatively recently, two-and-a-half years ago, in an environment when there was some uncertainty. Doing our due diligence we went to the shack sites committee, we spoke to everyone and were given a very clear indication that this was a good thing. 'Go for it. We'll have this all sorted out in a few months'. I think it was Sean McArdle at the time. We proceeded and now I share this incredible frustration of a process which just isn't going anywhere. Regarding Kingfish Beach Road, Pam can talk about the history a bit. There were nine whaling stations along there and it has had shacks for yonks. It is very mixed in between freehold and shacks so there's no clear thing. It is a whole community of people that really works and gets on together and the council tries to promote community and development in these far-flung places for the locals as well as the incomers who cover all walks of life. You call us professionals but in blunt terms we go from 'redneck' to 'greedy' and back through everything else. It is a real working community but we find that we are passed between the shack sites committee, now defunct, through to Huonville council which was supposed to be sorting out the main issue of the sewerage, with no real connection to how this process of handover would occur. Having listened to the speaker before, I have to say that the valuation change to us was something of a shock. The rents that we were paying at the start, which we discussed with the shack sites committee, were \$500 to \$600 a year, and suddenly a lease was drawn up and it came in at \$6 500 a year. It was totally out of the blue. You say, 'It was in the act, maybe you could have worked it out', but with the way the determination of those prices was done, as a class action essentially of 29 shack sites we can't sign these because, firstly, there is absolutely no sign of a service coming along so we would be paying for something that doesn't exist. Secondly, whatever was going to be put in probably wasn't going to work and solve the problem.

I am an engineer as well and I cannot believe that a reticulated sewerage system down there can be justified in any sense at all, even for the wider community, cost-wise. We have had weather change come along since and half of those shacks are going to be under water in 30 years' time anyway. What is the point of trying to get a whole reticulated sewerage system? What you need is some pragmatic going forward of an appropriate system for low-lying areas. Get this working between the council and the shack sites committee to develop a pragmatic solution for what it is - a short-term community. Two weeks a year is probably what most of those shacks are used for, so why spend \$2.5 million, I think the current estimate is, for a reticulated system?

**Mr GUTWEIN** - Derek, you've had this discussion with the shack sites committee?

**Dr PENNINGTON** - Yes, before they were disbanded. It was rather strange that Minister Llewellyn called us last Tuesday for a meeting in Huonville as well. It is a bit surprising that last week was the first communication in 18 months to two years.

**Prof. SHARPE** - We contacted the shack site committee before we actually purchased the house. Quite a few people in Southport buy privately but ours was for sale with an estate agent, Hooker, who did his duty and told us what he could about the leasehold situation and advised us whom to contact. So we contacted them at that stage. Later on, when we got concerned we went for a detailed meeting with them.

**Mr GUTWEIN** - The outcome of that detailed meeting?

**Dr PENNINGTON** - The idea was, yes, it was still progressing. The shack sites committee, led by Brent Hardy, was sort of coordinating parts of that at the time. It probably coincided with the time we were particularly busy and we just thought, 'Okay, let's just leave it with the group to sort out'.

**Prof. SHARPE** - They were optimistic, though.

**Dr PENNINGTON** - It was very optimistic.

**Prof. SHARPE** - We came from a different State. We came from WA and we did not know about the background to all this. So they told us about how 1 000 shacks had been dealt with and Southport was one of the only remaining areas not to be dealt with and it would be shortly sorted out. That was the message.

**Mr BOOTH** - Can I ask about the purpose of the meeting that Mr Llewellyn called you to?

**Dr PENNINGTON** - Last week?

**Mr BOOTH** - Yes.

**Dr PENNINGTON** - One could be cynical. I would say it was a 'come on heavy': 'unless you sort it out, and we will not give you the resources or the permission to sort it out, then we are going to give you a letter for your marching orders'. That is what it felt like.

**Mr BOOTH** - That was last week?

**Dr PENNINGTON** - Last Tuesday evening.

**Mr BOOTH** - And was it just to you or was it to everybody down in Southport with this issue?

**Dr PENNINGTON** - Everyone with this issue. There must have been 40 or 50 people in the room.

**Prof. SHARPE** - I was not there, but was it just shack owners or was it people who had heard -

**Dr PENNINGTON** - All shack owners.

**Prof. SHARPE** - Not people with freehold, no.

**Dr PENNINGTON** - There were three people there who had been offered freehold, providing they have a signed-off sewerage system. They are saying, if the plan is to put in a reticulated sewerage system, was is the point in us spending \$30 000-35 000 on our own system when we are going to be forced to join the one when it comes through? So there is that dichotomy. Then with obviously the water and sewerage being sold off from 1 July, Huonville Council has now lost its interest. They passed it on as their least priority project. I think that says it. They have also re-costed it again at a yet higher value.

**Mr BOOTH** - You mentioned, I think, 30 shacks that are likely to be underwater in 20 or 30-odd years.

**Dr PENNINGTON** - No, there are 24 which would be shacks. I would say there are probably a handful which are pretty close to it at the moment. Last week was our highest tide of the year and you could see that tide, with no weather or anything else, was just below some of the floor levels.

**Mr BOOTH** - So those 30-odd shacks and blocks, are they freehold or are they going to be leased?

**Dr PENNINGTON** - No, they are all Crown. There are 24 Crown leasehold blocks.

**Mr BOOTH** - They would be paying a similar determination in terms of land value for the lease costs?

**Dr PENNINGTON** - Yes, it is all going up about 1 000 per cent. Ours is one of the larger blocks. That is why it has gone up to what it is. There are smaller blocks.

**Mr BOOTH** - I will not give you my opinion about the whole thing but I have been very interested and concerned about the whole mechanism as to why they actually decided to go for this antediluvian reticulated sewerage system which required in some cases bulldozing middens and clearing reserves to bring electricity from a million miles away to pump sewage that is probably going to dry in the holding tanks or which will be underwater. As an engineer, do you have some expertise in this or some commentary in regard to the appropriateness and why it could possibly be that someone concluded that this would be the appropriate system?

**Dr PENNINGTON** - It is one of those things which I think comes right out of the technical appraisal into the human. Southport has always had a path. The road on which all these shacks are aligned leads to the jetty which brings in, we understand, 30 per cent of Tasmania's abalone. There is money going past there all the time and that road has to be kept open as part of that. So that is not an issue. I do not know the actual numbers, but there are probably 120 properties altogether, 30 of them shacks, so there are another 90 there that would be freehold. They are all polluting the environment. They all have substandard systems, so I guess you could say you now have 120 sites. Maybe that is the argument for a reticulated system.

I read the Pitt and Sherry report and I was appalled. Firstly, there was no assessment of the occupancy or the nature of the community as to why you would go to a fully reticulated system. There was absolutely no consideration. I know sea level rise and its

implications was not a very big event at that time. There was a very poor history on dune shift and things which gave some shack sites people the impression that things had shifted and changed and been washed out. I did my very own quick study to work out that it has been an incredibly stable coastline. There is a bit of littoral drift as it goes up and down but it is not a big issue.

**Mr HARRISS** - If I can go to your submission, you have mentioned in your opening comments that there are other matters than simply the Aboriginal historical matters, and Pam has addressed that in a letter she wrote to the minister back in 2007. Is it that letter that the minister responded to on 23 August 2007 saying that he would give you a more detailed response at a later date? Your submission suggests that, bearing in mind that your submission goes back to 24 August last year, between August 2007 and when you wrote your submission in October last year you had not at that stage received any response from the minister, notwithstanding that he said he would. Have you received a response to this date?

**Dr PENNINGTON** - No.

**Prof. SHARPE** - Never.

**Mr BEST** - You shared with the committee your background in engineering. If there was to be some sort of process to resolve some of these problems, do you think that it could be done fairly simply, some sort of small tribunal or something? Basically if someone stated their case they then could have it verified. Do you think that is possible, outside of the need for solicitors and barristers and all that sort of thing? Do you think that is possible?

**Dr PENNINGTON** - I really do. The community of people there are immensely sensible. We enjoy the place for what it is. It is a privilege to be there, and that is not the issue. There is a huge willingness to do something about it. The last thing we want to do is get all legal about it.

**Mr BEST** - Have you any thoughts then about how that could be - a retired judge?

**Dr PENNINGTON** - The request that we as a group put to Minister Llewellyn last week was to identify someone in his department who could at least come to meetings with us and with the water and sewerage people and the council, who has the ability to sign off so that you can actually get some progress forward, instead of the rules changing every time. The people change so there is no history, no carrying forward of the development of the handover. That is what it needs - someone who is given the brief to act sensibly for the State.

**Mr BEST** - I am not trying to put you in the hot seat here, but do you have any ideas as to who that person might be or what skills that person might require.

**Dr PENNINGTON** - I have not even thought of it.

**Mr BEST** - No, that is why I do not want to give you an unfair question. I was just interested if you wanted to comment on that.

**Dr PENNINGTON** - I would like it to be someone who is fairly pragmatic, who has the social as well as the technical understanding to just say, 'Look, what are we are trying to achieve'. You could draw up in a few hours what the real issues are and then work towards it. We are all of the understanding that we a going to have to put in at least \$15 000 to \$20 000 towards the sewerage system anyway. There is a lot of willingness amongst the shackies and we are going to contribute to getting it all right.

**Mr BOOTH** - Do you feel that there would be any validity in the point that the department may have tried to create the biggest commercial real estate opportunity for the Government rather than doing the determinations in the way that they were originally in the shacks act of 1997, I think it was?

**Dr PENNINGTON** - Yes, when there was supposed to be an even distribution.

**Mr BOOTH** - Yes and the fact that now it may be that you have been pushed into a reticulated sewerage situation because of trying to maximise the number of blocks that would be available to be determined and sold because a lot of blocks that have been determined probably should never have been determined and could not possibly operate their own on-site treatment but could, if you could rig up something that would pump it out and suck it out like a reticulated situation.

**Dr PENNINGTON** - Yes. There is a whole range of reticulated situations. So, yes, you could still go for a fairly cheap reticulation which just dealt with grey water and then composting toilets for the rest. In that sense the determinations would be fine. I have just forgotten what your main question was.

**Mr BOOTH** - Whether in fact there had been -

**Dr PENNINGTON** - Yes, the drive which I think we did allude to to ask for a lease of \$6 500 a year and we borrowed 100 per cent of the money to buy the shack. That means we are going to have to let the place out. It just does not stack up. Places are empty down there. It is not Bicheno. There is just no connection between the valuations given and the community.

We, as a shack community, know that we have to try to somehow get the sewerage system sorted out and then make a class action to say, look, it is unreasonable. But unless we get the sewerage sorted out first, we cannot even start arguing that. That is just unnecessary all round.

**CHAIR** - Do you feel you have covered most of the points that you wanted to at this stage?

**Mrs RATTRAY-WAGNER** - Derek, you have had a demand for the lease payment of the \$6 000, is that correct?

**Dr PENNINGTON** - Yes, we were issued with it in 2007. What came from the minister is not dated, but it was September 2007, I think. It also stated that it was our requirement to provide sewerage and everything else. There was no hint that this was going to be done as a community or as negotiation or we would be given even the power to do it because the council will not let us do our own, it has to be done generally. So, yes, we did have these and then, as a group, the shack sites all decided not to accept them or to

sign them. So that was a risk. Yes, we took legal advice on that. We showed good faith by sending in our licence fees and everything, regardless of what was going on.

**Mrs RATTRAY-WAGNER** - So you continued to pay what you had previously paid under your existing licence?

**Dr PENNINGTON** - Yes. They then resorted straight back to the licence. So we currently have the licences issued each year.

**Mr GREEN** - With respect to the documentation, is there a figure in there that you are required to pay?

**Dr PENNINGTON** - Yes, it says the lease fee shall be -

**Mr GREEN** - \$6 000.

**Dr PENNINGTON** - Sorry, rent. It is not \$6 000. Rent means \$5 550 per year until varied under clause 3.

**Mr GREEN** - Okay, thank you.

**Mr HARRISS** - I want to go to your written submission to the minister, Pam, in July 2007, where you make comment about the previous owner apparently being supplied with erroneous information in September 2006. Do you have any evidence for the committee as to what that erroneous information was that the previous owner was supplied with?

**Prof SHARPE** - The previous owner of our shack bought the shack privately. I had a telephone conversation with him. He actually lives in South Australia so he was not there very often. It was not clear to him what the situation really was with the Crown deal. Similarly, the next-door neighbours now who have bought in the last year are from Queensland. It is quite unusual to have interstate people there but they bought it privately, private sale, and they hadn't a clue that they were even buying something on crown land. That might be the fact that they did not research it properly but also I can see why for private sales you might blur that information for people.

**Dr PENNINGTON**- My recollection is we did see a letter which gave the impression that the ongoing lease was going to be of a similar order to the existing one, not this 1 000 per cent. I might be able to rustle it up but not know.

**Mr HARRISS** - If you would not mind taking that on notice to see if you can rustle that up I think that it might be of interest to the committee.

**Prof SHARPE** - That was the letter that Robin received was it?

**Dr PENNINGTON**- I am not sure if it was Robin or if it was one of the ones being passed around because there were a whole lot of meetings between the shackies and the council. I think they are minutes of a meeting.

**Mr HARRISS** - Thank you.

**CHAIR** - If that is all then thank you, Professor and Doctor. Thank you very much for your evidence both written and verbal. Hopefully the committee will get to work and have some sort of report happening shortly.

**THE WITNESSES WITHDREW.**

**Mr WILLIAM DAVID BLAKE LARK WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.**

**CHAIR** (Mr Hall) - Welcome, Mr Lark. We have your written submission so I will ask you to speak to that and then the committee members will ask you some questions.

**Mr LARK** - As you know, I did make a written submission and in that submission I tendered some evidence from the shack sites hearing and from the Supreme Court case that we attended.

**CHAIR** - Was the shack sites hearing the Public Accounts Committee hearing that you went to? Did you give evidence to that one?

**Mr LARK** - No. I referred, I believe, to the appeal.

I was concerned about this shacks assessment process right from the beginning and whether or not it would be conducted fairly. The reason for that is that I had previously been advised in the early 1990s by the author of an early management plan for Cockle Creek - I think the lady's name was Annie McCuaig - that she personally felt that we were occupying a privileged position and she recommended that our shack be removed. I spoke to her about this and she maintained that position. She said it was a personal opinion but, nevertheless, it seemed to have carried through right through to this whole shack sites process.

**Mr GUTWEIN** - Privileged in what regard?

**Mr LARK** - She felt that why should we have a shack there when, for instance, she could not have a shack. The shack was on the open market and we purchased it. Our response to that was that far from being a privileged position, we have spent a lot of time cleaning up the area around our shack which had been degraded over the years - broken glass, weeds and everything else - and we had always had a policy with our shack, there were three families involved, that anybody could use our shack at any time - anybody we knew. We had government surveyors staying in there, track cutters using the shack, anybody who wanted to and it was not just a shack for ourselves so we felt that that was an unfair assessment of us owning a shack, that we occupied a privileged position.

**Mr BEST** - Sorry to interrupt you, Mr Lark, but who was that person that you referred to? What was their status? Did they work for the Government?

**Mr LARK** - I am not sure whether Annie McCuaig was employed by the department but she was employed to prepare a draft management plan for Cockle Creek.

**Mr BEST** - She could have been a consultant or something?

**Mr LARK** - Yes, she could have been a consultant.

**Mr BEST** - Who might that have been for?

**Mr LARK** - I know her name was Annie McCuaig. I'm not sure how to spell it.

**Mr BEST** - Who do you think she was preparing it for?

**Mr LARK** - The department of national parks and wildlife.

**Mr WILKINSON** - C-u-a-i-g - Annie McCuaig.

**Mr LARK** - Following that advice, I was concerned about the status of our shack. We bought our shack on the open market. That shack was legally transferred to us through the department and we felt that we had the right to use that shack for the term of our lives at least or we felt that we could even transfer that shack to somebody else as we had done. We could put it up for sale. Following that advice I went and saw Mr Bob Tyson who was then a senior parks officer and I explained to Bob that I was concerned about Annie McCuaig's comments and he assured me, 'Your shack will not be removed'. He said, 'Maybe one day beyond your lifetime but I guarantee you'll be able to keep your shack for the term of you natural lives' - they were the words he used - 'and that if you wish to sell your shack or relinquish your shack in the meantime then the department would take up an offer to have the first right of refusal to purchase your shack at market price'. That was the assurance he gave us. We took comfort from that and we continue to enjoy the use of our shack thinking that we could at least have it for the terms of our lives.

Regarding my concern that we might not have been treated fairly under this shack process, I was always concerned, I always had this feeling that that view of Annie McCuaig's was shared by others in the department and they would want our shack gone for whatever reason and they would find reasons to remove it. That concern seemed to be well founded when the decision was made under the shack act to remove our shack. We got notice that our shack was designated for removal and we had the right then to appeal. But the reasons for removing our shack seemed very thin to me. There was some talk about waste management yet in their assessment when you read it their engineer recommended that we could put in a septic tank and there would be no problem with it and so despite their own department's recommendations that waste treatment would be okay, they seemed to think that was a reason to remove our shack.

They found reason to remove our shack because there was some thought that they had found Aboriginal relics around our shack site but there was no real evidence to say what that was. We were concerned but for many years the first thing our young children did when they went to the shack was go into Cockle Creek and get a billy full of cockles and that was the first meal we always had at our shack but then they would go and throw the shells outside the front of the shack down on the beach. I used to say to them, 'Don't do it' but they did it for many years. It was written up that even though the shells appeared to be of recent origin, it could not be ruled out that they were of Aboriginal origin and so there was some notion that they had found an Aboriginal midden.

The decision to remove our shack seemed contrary to certain recommendations in their assessment regarding the waste water treatment, as I said, and the evidence relating to the finding of Aboriginal artefacts appeared to be uncertain and only minimal in impact. In fact the department's officer recommended that the shack remain but subsequently at the appeal hearing, the shacks Aboriginal heritage officer stood up and said, 'In my opinion the best case scenario would be to leave the shack where it is'. There were only a few

artefacts found and he felt it was best to leave things the way they were and removing the shack would be detrimental rather than a positive step, and that came from their own department.

On inquiry from a surveyor who was on the site at the time the department was doing their assessment - the department had surveyors down there marking out possible lease boundaries - I asked him what had happened during that assessment process, how they had conducted the assessment. He said they were out fishing from the bay. I said, 'No, but when they did their assessment'. He said, 'No, they were out fishing in the bay all day. They came in for a few minutes, walked around the shack, kicked the dirt and went away fishing again and from that they made their assessment'. I have no problem with the fact that there are actually Aboriginal relics near our shack and Caleb Pedder has no problem. All of those issues can be addressed and we addressed them subsequently in the hearing. But it seemed that a decision was made to have our shack gone and that the reasons were predetermined.

It was only after we lodged our notice of appeal that the department actually went down and conducted a more thorough investigation. They thought, oh hello, we are getting serious about wanting to keep our shack. They then went down and made another investigation where they found one or two more Aboriginal relics.

During the shack sites appeal hearing it seemed obvious to me that the shack sites commissioner had made up his mind prior to the hearing. He treated us with a smugness that was quite difficult to understand. As the presiding judge, acting in the capacity of a judge at the appeal, I found it really concerning that he continually interjected, offering his own opinion on several matters and making implications regarding the use of our shack. I thought that was outside his role.

**CHAIR** - Who was that?

**Mr LARK** - That was Rob Nolan.

**Mr WILKINSON** - What type of thing was he saying?

**Mr LARK** - One of the things that sticks in my mind is that at one stage I was discussing something and he just interjected and accused me and our family of urinating in the middle of the night on the back lawn instead of going to either a toilet across the way or somewhere else. I thought it was strange for the chairman of an appeals hearing to offer up an opinion. I would have thought his role would have been to sit and take evidence from the crown witnesses and from us, not to offer opinions like that.

There was that sort of interjection throughout the whole hearing and I found it disturbing and inappropriate.

**Mr WILKINSON** - Don't judge by other people's practices, you'd be saying.

**Mr LARK** - That is right.

**Mrs RATTRAY-WAGNER** - He probably wasn't game enough to say that.

**Mr LARK** - I think I did say he might have done something like but our family would never. This is our shack where we barbecue so why would we do that?

It concerned me also that the appointed shack sites commissioner was a public servant who I believe was employed within a department under the same ministerial responsibilities as the shack sites review team. That always concerned me. I wondered how we were going to get a fair hearing if they had appointed somebody from within the jurisdiction that had made the decision to remove our shack. That concerned me at the start; the relationship seemed far too close to be able to ensure complete impartiality. I remember remarking at the time to the other owners of the shacks that, although we had strong evidence supporting our appeal and the appeal seemed to be going our way, it would seem that we were not going to get a fair hearing in what was shaping up to be a kangaroo court. That is how it felt at the time, that this was merely an exercise to go through because under the act they had to go through this exercise of holding a hearing.

**Mr BEST** - Did you give points of appeal?

**Mr LARK** - Yes. We had points of appeal listed and we had witnesses to address those points of appeal. The appeal went over a period of two days.

**Mr BEST** - Were any of the things that you listed for appeal considered inadmissible or not allowed?

**Mr LARK** - All of our grounds of appeal were allowed and in fact even in the commissioner's findings he conceded that we had satisfactory solutions to all of the issues that had been raised, and yet dismissed the appeal. I will get to that in a minute.

**Mr BEST** - Thank you.

**Mr LARK** - The Chief Justice at the Supreme Court made comment on that very issue as well.

Following the hearings the solicitor acting for the department made a comment outside the hearing. She conducted, I believe she said, 30 hearings. Ours was the last one, I believe. She felt that the hearing seemed to go our way. They were her words and of all the hearings she had attended she felt that our case was the strongest in support of our shack remaining. She could not say how it would go but she felt we had a very strong chance of being successful. That was the Crown Solicitor's view. In fact it would be interesting to review the appeal decisions and to ascertain how many appeals were upheld or dismissed out of those 30 appeals. I don't know the answer to that.

**Mr HARRISS** - Do you know who that solicitor was, Bill.

**Mr LARK** - It was a lady. I could go back through and find that for you. Again, our concerns that the hearing was indeed a kangaroo court seemed to be well founded after receiving the decision for our shack to be removed. Given the way the hearing went, we were staggered by that finding.

The commissioner notes evidence in support of our appeal and yet makes comments to the contrary which are not based on evidence. So right throughout the commissioner's

summary of our grounds of appeal, he noted the evidence in support of our appeal and I have it in the submissions previously submitted. But he then made comments to the contrary not based on any evidence submitted at the hearing and it appears from that he then dismissed our grounds of appeal. That concerned us and that is one of the reasons we went to the Supreme Court. We felt that he had made an error in law, basing his decision on evidence that was not submitted to the hearing.

**Mr BEST** - So he accepted, initially, your points of appeal as being heard?

**Mr LARK** - Yes.

**Mr BEST** - He accepted the evidence that you presented?

**Mr LARK** - Yes.

**Mr BEST** - But then ruled, based on evidence that was not presented in the hearings?

**Mr LARK** - Yes, he brought out his own comments that were not part of the appeal, that were not brought up as evidence in the appeal by either the Crown Solicitor or by us and, again, putting his own judgment on things but not based on evidence, which I believe is not his -

**Mr BEST** - Are you aware, Mr Lark, of any people who appealed and were successful?

**Mr LARK** - I am only aware of one other shack that appealed on the basis that they were able to, prior to the hearing, obtain heritage listing for their shack and only on that basis did the Shack Sites Commissioner find that he could work out a way of them keeping their shack. But I had the feeling and they had the feeling that if they had not had that heritage listing they would not have been successful.

**Mr BEST** - Not that you would know all the cases, obviously, because you are really focused on addressing the concern in front of you, but that is the only one that you are aware of?

**Mr LARK** - That is right.

**Mr BEST** - Out of potentially 30 cases?

**Mr LARK** - I believe that number of 30 came from the Crown Solicitor. I am fairly sure she said to me that it was 30 cases she helped handle.

**Mr WILKINSON** - You were saying that the commissioner - after accepting your evidence and appearing to have accepted what the Crown Solicitor said as well which was not contrary to what you were saying - came up with reasons of his own?

**Mr LARK** - Yes.

**Mr WILKINSON** - Yet, you had no ability to test those reasons or no natural justice, so to speak, in being able to say anything in relation to the reasons that the commissioner put up?

**Mr LARK** - That is correct. We went to the Supreme Court because we felt we had been treated unfairly and we knew that the Supreme Court could only look at matters of law and I think that the Chief Justice's words were that he can only look at a matter of law; is the Shack Sites Commissioner allowed to make a bad decision or an error in law, make a decision based on an error in law. He cannot look at anything else. So we felt that there had been a denial of natural justice because his decision had been handed down ignoring the weight of evidence that was in our favour.

**Mr WILKINSON** - So the judge, it would seem to me, said that he had heard what you said in relation to the facts, but that the commissioner was the one that heard the facts and the commissioner was therefore able to make whatever decision on the facts as he heard them at the time.

**Mr LARK** - Yes, against all of this, the Supreme Court Chief Justice Underwood made comment after listening to our submissions regarding evidence. We went through all the evidence and read out the commissioner's finding and submissions to the shack sites appeal hearing, and the Chief Justice said, 'I cannot understand how the Shack Sites Commissioner found against you as he had overwhelming evidence to support your appeal.' They were his words. He said, 'Unfortunately, the Supreme Court can only hear an appeal relating to findings of law made in error.' Unfortunately for us, Justice Underwood found, as written in his submission, 'There is no error of law simply in making a wrong finding of fact.' I think he said to us that he is allowed to make a bad decision but in his finding he wrote it in a nicer way.

**Mr WILKINSON** - Really, they just say, as I understand it, it is up to them to accept what facts they will. But, from what you are saying, he accepted facts that were not part of the case.

**Mr LARK** - That is correct.

**Mr WILKINSON** - So therefore, was the denial of natural justice argument used or not used in that appeal, do you know?

**Mr LARK** - I believe it was. I am not a lawyer and I was there for two days. That side of it is a little beyond me.

**Mr WILKINSON** - Can I ask who was dealing with it for you?

**Mr LARK** - We had Peter Tree acting for us.

**Mr WILKINSON** - He knows what he is doing.

**Mr LARK** - There is no real comfort to us when a wrong finding of fact or, if you like, a bad decision is made by the Shack Sites Commissioner that resulted in us losing our shack against an assurance from Mr Bob Tyson that we would have the use of our shack for the rest of our life. We always felt that we had been treated badly buy this whole process, that it wasn't a fair hearing, and anybody who looks at the decision handed down by the shack sites commissioner can go through and see where he has reported on the evidence in our favour and has simply added at the end of it all, 'I dismiss the grounds for appeal'.

We had their star witness. Most of the decision to remove our shack revolved around this issue of relic sites, yet Caleb Pedder sat up in support of us and said, 'You know what, the best-case scenario is to leave the shack where it is. If there's a problem with having to dig a hole to put a septic tank in, we can be there to watch and if we find a relic, we can deal with it then.' It is far better to have a permit to conceal relics, which they can do very easily, than to try to deal with removing the shack and disturbing -

**CHAIR** - This Caleb Pedder, is he an authorised Aboriginal heritage assessment person?

**Mr LARK** - Yes, he is. Under the act he is the officer who is allowed to determine whether a relic is a relic. He was their star witness. Even the ranger made comment that, despite everything else there was really no problem with our shack. They don't get any complaints, so they can't see any management issues, even the department had tried to raise issues of management costs. We had solutions for any of the matters that came up. That was all acknowledged in the commissioner's findings but then at the end he simply says that one line, 'I dismiss the grounds of appeal'.

**CHAIR** - You have given us a list of issues there, but what do you think was the overriding one, or was it a combination of all of them, to order the removal of your shack? What was the primary one in your mind?

**Mr LARK** - I think the real issue was that National Parks simply wanted our shack to go. We were at that start of the Great Southern Ocean walk and they simply wanted our shack to go and had to find reasons. Everywhere they turned we had an answer and witnesses to say there is really no problem with any of this, even their park manager and others.

**CHAIR** - It's a while since I've been down there. Are there any other shacks close by?

**Mr LARK** - There's a shack right across the track from us that has been allowed to stay. It's set back a bit from the track.

**CHAIR** - What, 50 metres or something like that?

**Mr LARK** - Less than 50 metres away from our shack. So it's not as if we were out on our own; we're in a shack area, there are two other shacks not far away from us.

**CHAIR** - And they went through a process as well, looking at all the merits of why they should or shouldn't stay?

**Mr LARK** - Yes, one of them was offered a lease, the other one was determined to be removed but they were the one that went and got heritage listing and subsequently were able to stay.

**CHAIR** - Is yours closer to the water than the others?

**Mr LARK** - Yes, we're closer to the water than the one that has been given the lease.

**CHAIR** - That's the only other one down there?

**Mr LARK** - There's Rose Adams' shack but I am not sure how they have dealt with that. She had some special arrangement where she was allowed to live in it until she died and then I thought it was going to revert to the Crown but I've since heard that it might not be. I don't know.

**Mr BOOTH** - Did you think of heritage-listing your shack - was it suitable?

**Mr LARK** - Probably all too late. Our shack was actually built by Bob Geeves of Geeveston and it was one of the first shacks in Tasmania that was used to run ecotourism ventures from. He used to take walkers from there. We probably could have applied for heritage listing and we probably should have, I suppose, in hindsight, but we felt that we had a really good case for our shack to remain. We felt that commonsense would prevail and fairness and everything else. We had no idea that our shack would lose that appeal, we didn't believe it would.

**Mr BOOTH** - So it's gone now then?

**Mr LARK** - No, the shack's still there - we've got until September this year.

**CHAIR** - Is it 1 September or 1 October?

**Mr LARK** - I can't remember the exact date in September.

**Mr BOOTH** - Why can't you apply for an interim listing or something - interim protection?

**Mr LARK** - Perhaps we could if we could get a stay of demolition, a stay of execution.

**Mr BOOTH** - That would stay it, wouldn't it?

**Mr LARK** - If we could do that in time perhaps that's what we should do.

**Mr BOOTH** - You'd better put your skates on!

**Mr WILKINSON** - Bill, I have a copy of the grounds of appeal and a copy of your letter to David Llewellyn setting out a number of reasons. Was the actual decision a written decision from the commissioner or was it just a verbal decision?

**Mr LARK** - To remove the shack?

**Mr WILKINSON** - Yes.

**Mr LARK** - It was a written decision.

**Mr WILKINSON** - Can we get a copy of that?

**Mr LARK** - Certainly, I can leave a copy with you.

**Mr BEST** - In relation to the shack that received the lease that is within 50 metres of yours, did they go to appeal or was it just granted?

**Mr LARK** - It was granted. The reason they said theirs was granted was that they already had their septic tank in. If they hadn't they probably would have issued a different decision. That's all I know about that.

**Mr BOOTH** - On the basis of the heritage listing, because they have had a septic tank -

**Mr LARK** - No, that's another one nearby. The one closest to us didn't have heritage listing. It's a more substantial shack than ours.

Anyway, we went to the Supreme Court and Justice Underwood was extremely sympathetic, he gave us a very fair hearing, but unfortunately in law - and we always knew it was going to be a tough one but we felt nevertheless we should test it - the Supreme Court wasn't able to help us.

**Mr HARRISS** - What was the cost of that? Did that cost you much?

**Mr LARK** - Yes, Peter Tree doesn't come cheaply. It did cost us, and that's another point I want to make later on. We felt that this shack hearing was going to be a fair and reasonable hearing. We took it seriously so we went and engaged the services of an engineer and an architect and people to help us at that hearing. That all cost us money because we felt that this was going to be a fair dinkum hearing, so we would take it seriously. That is another reason we feel so bad about it. We have spent a bit of money appealing all of this.

**Mr HARRISS** - You will probably get to it but I have been through your submission and you mention in there that you engaged Bill Cromer to come up with a waste water treatment proposal for you.

**Mr LARK** - Bill Cromer was engaged by the department and he advised the department that there was no problem with that. We engaged other independent engineers - I can't think of their names - who also found that, yes, not only would a septic tank be okay but there were two or three other solutions.

**Mr HARRISS** - And Mike Garner from the department indicated that above-ground transpiration trenches would be fine?

**Mr LARK** - Yes, this is the thing: they were happy with all of that, no problem at all. We could put in a system where we didn't even have to dig any holes or trenches; we could put piping under a boardwalk so that we wouldn't have to disturb the ground. We could have above-ground transpiration trenches so there would be no need to disturb the ground at all. There are little disturbing things like the shack site commissioner says, 'We straddle the track'. Well, we don't really straddle the track. Our shack is on one side of it and there's just the bush on the other side that can contain these trenches which nobody will see. We don't use the bush; we don't need to. It is not as if our shack -

**Mr HARRISS** - Some people think you do.

**Mr LARK** - Some people do.

**Mr HARRISS** - The commissioner thinks you do.

**Mr BEST** - Can I just ask what you paid for your shack?

**Mr LARK** - It was 22 years ago and we paid \$10 000 for the shack. We've probably since spent another \$10 000 on it

**Mr BEST** - And you are obviously expected to demolish it or someone does it and you get the \$5 000 or whatever.

**Mr LARK** - To get the \$5 000, yes. I'll address that in a second.

Since receiving that notice from the Supreme Court we then sought to make a direct appeal to the minister who we believed under the act had the power to overrule any decision of the shack process. I think it says in the act that notwithstanding the findings of the shack sites commissioner, the minister could overrule that, so we prepared a submission for the minister requesting a special licence. We thought about this and we thought a lease potentially might be difficult for the minister so we were going to propose we be granted a special licence, just to honour the agreement that we had been given by Bob Tyson, so we could have the shack for the term of our life - or, we said, for 30 years - and make it a non-transferable licence so that there was no chance of us profiting from it. We had no intention of wanting to profit from this, just to use it. We would also relinquish our right to any compensation, and we would pay a bond to cover potential damages. So we were trying to make it easy.

We prepared this document for the minister but every time we went to go to the minister, unfortunately in the last few years the Government has been in all sorts of situations where the ministers were resigning and it never seemed to be the right time. We would go to the minister's adviser and he would always say, 'Bill, if you want the minister to take it you'll just have to wait. We're going through a new Cabinet reshuffle', or there is a problem. So we thought, 'Right, we'll wait and let things settle down. Ours isn't the end of the world'. But sadly, that six months turned into three years when there was never the right time, and our advice from the minister's adviser was that it's still not the right time. We were getting to a stage where we just did not know where to turn next. Then we read in the paper that this joint committee was going to be established, so we have still not submitted that to the minister. If this joint committee had not been activated we would have probably just submitted it and taken our chances with the minister, so the minister has never seen that.

I hope that this joint committee finds that it is able to do something to convince the Government to review their process and perhaps reverse decisions, and certainly put a stay on the demolition until fairer consideration can be given to some of these matters. We would certainly support that and work with this committee to work through a review of our shack under fair conditions.

We believe that the special licence I was talking about would not compromise any of the existing leases or requests for leases by other disadvantaged shack owners and would not put the department in any difficult situation regarding other shack owners. The last time we tried to put that to the minister, his adviser came back and just said, 'The minister is so grumpy, just don't submit it'. Even when we have had a right to go to the minister under the act to look at it the timing still has not been right.

**Mr HARRISS** - Was he ever told that you got grumpy?

**Mr LARK** - That is what I started thinking.

Apart from feeling quite cheated by the assessment and appeal process, we are also concerned about the matter of compensation. Money was not everything but I know my wife was really upset about this. Most people are alarmed when told that we are to lose our shack. People ask, 'What's happening with your shack?', and we say, 'Under the process we've been asked to remove it'. 'What are they going to give you for it? You'll be well compensated, I presume', and we say, 'No, under the act, only \$5 000'. That really upsets some of my family and owners of the shack. Five thousand dollars in no way can assist us to purchase or even put a deposit on an alternative site. We are being kicked out of our shack and that \$5 000 does not come anywhere near compensating us for the loss of that shack.

**Mr BOOTH** - You have to remove it to get that \$5 000?

**Mr LARK** - Yes.

**Mrs RATTRAY-WAGNER** - And rehabilitate?

**Mr LARK** - Yes. The Government have backed down on that a little bit in our case. There is a letter we got recently -

**Mr WILKINSON** - Have you been offered an alternative spot at all?

**Mr LARK** - Right at the start, before the shack hearing, they came to us and said, 'We really want your shack, how about we try to find you an alternative site?'. We said, 'Look, we really want our shack but we're not going to be silly about this. If there's an alternative site we'll have a look at it', so we started to investigate alternative sites. We found an alternative site at Cockle Creek on the other side of the bay. David Llewellyn came down and had a look at it and said, 'This is fantastic, we'll support this'. We went to council and council just laughed at us and said, 'Why would we support this? The Government hasn't even been to tell us about this shack process yet and we haven't been consulted. No, we're not going to support', so that stopped. We said that our best case is to go back and fight for our shack, but it does not seem that will work. We were told at the start of the whole process that - and I believe other shack holders would have been told the same - win, lose or draw, the department had a commitment to try to find us an alternative site. Presumably if we do not make too many enemies out of this that offer will still stand and they will attempt to find us another site. We will be staring down the barrel of purchasing that site at market value, which we know is not going to be \$5 000. That irks us a little bit in that this compensation is totally inadequate in terms of our loss and the potential to find another shack for our family.

**Mr BOOTH** - Can I just ask whether you were under an apprehension that you would be able to maintain that licence to erect a structure on crown land - which I presume your one was - indefinitely?

**Mr LARK** - Bob Tyson - when we made approaches he was the most senior officer at National Parks - gave us that assurance that we could keep our shack for the term of our lives. That was prior to the shack site overriding -

**Mr BOOTH** - With some of the shacks at Ansons Bay there was a letter written about 1987 to other landowners that all the shacks would be removed within 17 years.

**Mr LARK** - No, that was not the case with us. We were allowed to purchase on the open market. We went into the department and said, 'What's the story? If we pay this \$10 000, how secure are we?'. We were told then, 'It's yours forever. If you want to transfer it then you'll be able to transfer it to somebody else and put it on the open market'. That was the reason we went ahead, through the department, and purchased it.

**Mr BOOTH** - But you never had that in writing?

**Mr LARK** - Not specifically in writing, no, that was a mistake, but Bob Tyson could be called. I am sure he would have a recollection of that meeting.

**Mr WILKINSON** - Bill, in relation to this alternative block or allotment found for you, it appears that there was some Mexican stand-off between the Government and the council at that stage. This would have been back in 2004?

**Mr LARK** - Yes, it would.

**Mr WILKINSON** - Because your appeal came up in May 2005.

**Mr LARK** - That is right.

**Mr WILKINSON** - If that was still to apply, do you believe that the cost or valuation at the time should be the most appropriate valuation and cost of that allotment, as opposed to what it would be now in 2009?

**Mr LARK** - Certainly I hold that view. If we could have done it then, we would have and we would have only been paying the price at that time. I read with concern around the State how some shack owners are in terrible situations because this process has taken so long. We have just gone through a property boom and it is no fault of the shack owners. That is what we would expect, that if we could negotiate another site we would hope that we could look at the price according to that of 2004.

**Mr BOOTH** - That is assuming the demolition order was overturned?

**Mr LARK** - If the demolition order was stayed and overturned, our preference is to keep our shack.

**Mr BOOTH** - Buy it at the 2004 value?

**Mr LARK** - No, we will never be able to buy our shack because we are in a national park. We are happy to have a limited special licence for a limited term. It would not be transferable and we would not in any way be able to profit from our shack. We would

waive any right to compensation at the end of 30 years or any stage in between and we would pay a bond to cover any damage that had been caused and left to be corrected.

We are asking simply to keep using our shack, not for the term of our lives but for 30 years. We felt it would be easier for the Government to accept a date. They know on that date the shack is theirs and they can do what they like with it.

At the end of all of that, believing that the appeal process would be taken seriously and fairly, and the fact that we engaged professional witnesses at some considerable expense, again the \$5 000 seemed inadequate compensation. It would seem to us that many others were not treated fairly by the shack site appeal process. Whilst we do not want to relinquish the use of our shack, it would not have been quite so difficult to accept if the department had offered fair and reasonable compensation. I know my wife is concerned about this \$5 000. She said the fact of the matter is that we want the shack but if they really wanted our shack then an offer of greater than \$5 000 would not have been so hard to take. It is a bitter pill.

We remain dedicated to being able to retain the use of our shack and we hope that the result of this joint standing committee might be that the appropriate minister might be able to issue a special licence to occupy a shack for a period of 30 years. Again, it is a special licence that would ensure it is not transferable. We would not be able to profit from it in any way and such licence would reflect the fact that we waive the right to compensation and that the licence would automatically expire at the term of that agreed time.

Failing the issue of that licence, we support any decision to reverse controversial shack decisions such as ours and participate in an independent and fair process of review. Hopefully an outcome of this joint committee might be that you are able to convince Government to stay the proceedings and somehow go back and review some of these decisions that have not been treated fairly.

**Mr BEST** - Do you think there is some avenue where you could have a tribunal of some sort where it could be done fairly simply as to whether you need to sell - without legal representation? If you do, did you have a view about who might conduct that?

**Mr LARK** - That is something I would be very happy to participate in. We have only ever wanted to be fair and reasonable about this. At the end of the day if there is something we cannot satisfy or meet then that is fine. Appointing Rob Nolan was a bad decision. He was far too close.

**Mr BEST** - It needs to be someone independent.

**Mr LARK** - Somebody completely independent, but with the power to make a decision, so that we could all sit back and say, 'Okay, we will abide that decision'.

**CHAIR** - Thank you very much.

**THE WITNESS WITHDREW.**

**Ms FIONA KATHERINE STEEL WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.**

**CHAIR** (Mr Hall) - Welcome, Fiona. We have a submission from you. I would like you to speak to the committee about your concerns and we will have some questions after that.

**Ms STEEL** - I open by saying it has been a bit of an eye-opener for me. I am basically here representing my family and our family shack and I think what has been a real eye-opener to me, in putting together some information for today, is more around the complexity of this shack sites process and dealing with the normal, average person and it is not until you get to the end, where we all were, that it became fairly apparent to us that this is way out of our league really. If we had known what was going to happen, as experienced people, we may well have approached it differently. My parent and my uncle - I am here to talk about our situation today - are just everyday people caught up in quite a significant process and quite a legal process when it gets to the end of it. Maybe we were just a bit naive about the whole thing, maybe it was that we did not understand completely the complexities of it or maybe it was put to us in a way that this is fairly simplistic and is not going to be too much of a drama for you people. Therefore let it run its course and we will deliver at the end something that is quite tangible for you to be able to relate to.

**CHAIR** - So your shack is not earmarked for demolition?

**Ms STEEL** - No, we are, in some respects, fortunate that we have purchased our shack through this shacks process. We just have a number of outstanding issues and some issues leading up to the purchase of the property.

I am not sure whether it is of benefit to you people or not, but I have basically been through the documentation that has been collected and I acknowledge that there may be some gaps in that, given the complexity of it. I am not sure whether we have everything or whether we have most of it. Basically I put together a bit of a time line of when it all started and what transpired in the process. I am not really sure if it is of benefit for me to run through that time line or address the letter as I have the information. Could I have some guidance on that?

**CHAIR** - That is fine.

**Ms STEEL** - I think for us it was in 1997 when the Crown Lands (Shack Sites) Act was passed which basically gave the option for the Government to progress the Shack Sites Project to convert from leasehold to freehold. The correspondence we received in December of that year was that the categorisation part of the process would take 12 months and that the infrastructure might take up to four years. From our point of view, that has been a pretty reasonable type of scenario for the normal person to have a look at.

We then received information - not long after that - that Surveyors Bay would be in stage 1 of the process. So we were pretty high up there in the scheme of things, to start in September 1998 and finish in November 1999.

We were then advised in August that Sinclair Knight and Merz had been engaged to undertake the assessment for that shack sites committee. In December 1998 the shack sites commenced the assessment for Surveyors Bay. We skip through then to January and July 1999 where the cultural assessment for the Aboriginal type of information and a botanical survey was completed as part of the process. We were skipping along quite nicely; things, in theory, were going along quite nicely. We got to October 1999 and we were notified that the lots had been surveyed but not in consultation with the shack owners at that time.

Basically there is a mud map of Surveyors Bay, some pegs were put in the ground, 'This is your allotment', a bit like new settlers - 'This is your patch'. At that point we were informed that if an amendment were made to the set-down boundaries it would be at the shack owners' expense. In relation to our shack we are fortunate, if you like, in some ways because we have vacant land on either side of our site. The surveying of our particular property meant that we barely had enough room to park a vehicle on the southern side of the property, which is where the door is to the shack, and all the land was on the northern side. I am not sure how they came up with that being a reasonable way to survey our site so from that point we did seek to have it redressed and we had it redressed and had a satisfactory outcome as part of that.

I think we then go through to around November 1999 when it was really starting to heat up for Minister Llewellyn and that was when he made a media statement about the \$45 000 being bandied around at that time. It was stated in the paper that although these were indicative only, total costs were likely to drop substantially once consultations between the shack sites project consultants and the shack owners were completed. Although the \$45 000, which I think was bandied around the State quite considerably, was stated, that also led us to the expectation that the process would be significantly less than \$45 000. We were advised in October 2000 that the assessments for Surveyors Bay were completed and the recommendations could be made to the secretary of the department.

We have gone through a couple of years and got to the point where we are now a year behind schedule but we have still been ticking along quite reasonably. It was then that things started to go to what can only be described as pear shaped for Surveyors. We received a letter of advice in October 2001, a whole 12 months later, stating that although extensive work had been carried out previously, these assessments were to be reviewed to resolve outstanding issues.

In that documentation there were no specifics as you will see as we go through. There was not a lot of specifics about anything. The specifics were if you wanted to have a face to face or have a telephone call but not in written material. That shack sites team offered to meet at Huonville to introduce staff members and answer any questions.

January of 2002 was around the time that the newsletters were introduced to get information out about the whole shack sites project around the State. This stated that the vast majority of these shacks would be receiving notification in early March 2002 and that there were still outstanding issues at Kingfish Beach and Little Roaring Beach but there was no mention of Surveyors Bay at that point.

We were then advised in March 2002 that the waste water and road design for Surveyors Bay were at the confirmatory stage of the assessment process. On 12 April 2002 a statewide tender for the supply and delivery of the fire water tanks was called and closed.

**Mr GUTWEIN** - Fiona, at this stage had you been advised of a price for your shack?

**Ms STEEL** - No.

**Mr GUTWEIN** - So it was only what was in the paper about the \$45 000?

**Ms STEEL** - Yes, about the \$45 000, so not to my knowledge. There was the statewide tender for the firefighting tanks right back in 2002. Then we were notified by the newsletter in May 2002 that the shack sites project was still working towards a determination for Surveyors Bay, so the ground we were making seems to have stalled once again.

In May 2002, we were notified of a time frame blow-out due to SKM drawing up plans involving thrust-boring so that the proposed entry and exit points could be assessed for Aboriginal sites. We were then advised that determinations for Surveyors Bay would be made in mid to late September 2002. On 10 September 2002 we received our shack site determination complete with a report from SKM and it stated a couple of critical things that still are issues today. Regarding access it stated that the Huon Valley Council has a standard requirement for rural area roads, which is a 15-metre road reserve and minimum construction standards. As the shack sites are only used by a small number of users, the council was sympathetic to the view that a lesser standard could be suitable for this area. This involved acquiring land from three landowners so as to provide a 4-metre-wide sealed formation with a total 10-metre-wide road reserve.

It also stated that regarding the waste-water disposals proposed to include freehold properties the council felt that this should be considered at some other time in the future. It is from that point on with regard to that particular issue that we have had no reference made to us about actual council itself connecting to the system, so at that point we're not sure whether they paid or what part of the equation that actually played, but it seems a little bit ironic when we have a system that was built for a whole area which could have reduced costs for everyone at the site, that the private people at Surveyors Bay were not allowed to join on but the council excepted themselves from joining on to that system.

The valuation - the comment made in the report was: 'With regard to value in selling your lot to you, it is anticipated that we will commence this phase of the shack sites project in 2003', and that the Valuer-General will value each lot individually once all infrastructure is installed and appropriately approved. So were at the point in 2002 that the valuation could not be done until the infrastructure was installed and approved, yet now in 2009 we still don't have infrastructure or approval of the infrastructure although we have paid a pre-value for our land on that basis.

The other issue of contention is that the communal 20 000-litre water tanks were the preferred option in this report. Preliminary costs at this stage were inclusive of a 15 per cent contingency that SKM built into the price and it was at this point that we were advised of infrastructure costing and that the total waste water cost would be \$17 277 per shack, taking into account that this was including the thrust-boring option because that

part of the investigation had already been done with the Aboriginal people as part of that process, so all of those facts should have been included in that cost.

The total road cost at this point was \$4 480, fire requirements were \$663 and there was a consultancy contingency of \$3 924 per shack, so the total infrastructure cost per shack at this point in 2002 was \$26 345.

We then basically skip forward three years, so we were not going along too badly until then. We were all reasonably happy with what was ticking along then. In November 2005 we received our letters in the mail with our stated purchase price. For our particular example, the total land value at this point was stated as \$109 000 with an infrastructure contribution of \$45 643, so in the period of three years our infrastructure costs blew out by some \$20 000 per shack, given that a 15 per cent contingency for building is a significant cost impost in that period of time.

It was interesting that the total road cost basically stayed about the same. The road costs at this point were \$3 898, but the water costs were \$41 744, so it's fair to say that the waste-water contribution was where the costs arose. It was also at this point that the fire requirement costing disappeared and also the consultancy line item disappeared as well, so the make-up of that other figure we are not entirely sure of.

In December 2005 we sought to review the assessment of the land value. During this time the waste-water treatment plant was put into operation in the November period.

I will refer to a point from the SKM report for September 2002. It was stated to us that the shack site determination presented, complete with cost estimations for SKM, accounted for every possible eventuality and a contingency sum, with a note that there should be actual savings as the Government contracts out the statewide waste water and road infrastructure work. It also stated that there should be either a 10 000-litre water tank or a communal 20 000-litre water tank. So we get to 2005 and I think it is fair to say we are really a little bit unsure at this point. It seems the 10 000-litre option became the tank they stated we had to have, despite the fact that the recommendations were for the two 20 000-litre water tanks.

In amongst all the information as well - and I am not really sure where this came into it - a valuation was provided in 2004 of \$71 000, so that is when we were first getting into written information about land value, as there was no figure in the 2002 SKM component of the report.

In 2004 we had a report from David Ferguson, who is a valuation officer, and it was \$71 000 and, of course, when we got our sale agreement in 2005, only one year later, it was then \$109 000, so in that period of basically 12 months, there is a pretty good profit there of \$40 000, and I am not sure whether anyone around this State would have seen that in any real estate figures.

**Mr BOOTH** - Not bad if you can get it.

**Ms STEEL** - Yes!

**Mrs RATTRAY-WAGNER** - That was in 2005?

**Ms STEEL** - The sale agreement figure was provided to us in 2004. The valuer valuation was also in 2004, of \$71 000.

In 2006 we sought an independent valuation, knowing full well that this could either favour us or go against us, given that the market was doing what it was doing during this period of time as well. The valuation as provided by Brothers and Newton valued the property at \$90 000. Once again, all the valuations that have been provided are based on the fact that all infrastructure is completed, approved and operational.

**Mr GUTWEIN** - Just on that valuation from Brothers and Newton, was that the land value only or for the land value plus your shack?

**Ms STEEL** - Yes.

**Mr GUTWEIN** - The \$154 000 - was it the final price?

**Ms STEEL** - Yes.

**Mr GUTWEIN** - Was that just for the land, though, or for the land plus?

**Ms STEEL** - They call it the discounted land value so I am fairly certain it is just based on the land value. When I read through all the documentation, even the valuation done by David Ferguson at the time was based on that discounted land value.

**Mr GUTWEIN** - So Brothers and Newton valued just the land as well? So it was apples for apples?

**Ms STEEL** - Yes, but that was the reason for us seeking that report.

**Mr BOOTH** - It is likely that a valuation today would be far less than that, given that properties are declining in value.

**Ms STEEL** - Yes, we did go backwards and forwards, whichever way you want to look at it. Later on down the track I will come to that.

As part of that seeking the independent valuation, we called for some freedom of information information to help us with our case. This is where I guess I have uncovered the David Ferguson part because it has not been stated in valuations through the process. Even in 2006 it states that all lots will be required to enter into part 5 agreement of the council and the Crown for the maintenance of two 20 000 litre communal water tanks for fire suppression purposes. So as late as March 2006 that is what the information is saying and that is where we found the valuation from David Ferguson, \$71 000 for our site.

We sought a revaluation, a review of the land and that is when we received the reviewed amount which, as advised, would be the \$130 000 which we ultimately paid for our site, which was a \$25 000 reduction and that is the all-inclusive cost that we paid. The sale agreement for 2005 was \$109 000 land value and with the reduction we received we paid \$84 000 ultimately for the land. The determination there was in line with what Brothers

and Newton were saying at the time. It is, I guess, the 10 years of the process that we went through when ultimately it was going to be done and dusted pretty quickly, where we feel we were disadvantaged.

Although I can speak to you today about what I have just done, that bit of a time line for you today, we did apply for something like an addendum to put into our contracts of sale but we were refused on the basis that the shack site project had not erred in the slightest to deliver our price to us and that they had worked in a fair and reasonable manner to deliver our determination. It was deemed that the period of 10 years from start to finish was acceptable. Although we were part of stage one we were on the end of everything there. The addendum that we sought was to say to put a halt to this until we could seek redress on our issues, which is what we are here for today, to talk about this part of it.

**Mr BEST** - So you did not get an appeal. You sought to get an appeal and you didn't. That the grounds that you sought an appeal on were quashed.

**Ms STEEL** - Yes.

**Mr GUTWEIN** - So Fiona, you did appeal the original price of \$154 000. You appealed and had that dropped to \$130 000, is that right?

**Ms STEEL** - Yes, that is correct.

**Mr GREEN** - Have you got your title now?

**Ms STEEL** - Yes, we do have our title. We basically paid up at the end of 2006 and our title was issued in January 2007.

**Mr BOOTH** - Was that at the discounted rate that you paid up, which was \$83 000?

**Ms STEEL** - \$84 000.

**Mr BOOTH** - That was based on a discount? If you did not do it within a certain period then it would go back to the \$130 000?

**Ms STEEL** - The discounted price that we paid was the reviewed price and they based that on some land change issues that evolved like erosion and things like that which had devalued the blocks. With the discounted price you were sort of over a barrel really; you were damned if you didn't and damned if you did. Ultimately the sale price, to make it simple, was \$130 000 and the discount price was that you saved about \$8 500 by paying up within the 30 days.

**Mr BOOTH** - Okay, then you got a reduction because of the erosion and so forth.

**Ms STEEL** - Yes, that was determined between 2005 and 2006.

**Mr BOOTH** - Did I hear you say that you had to sign some sort of codicil that would have effectively removed any right of yours to claim damages as a result of a 10-year period? Is that what you are saying?

**Ms STEEL** - No.

**Mr BOOTH** - I do not want put words in your mouth. I am not clear exactly what it was that you were saying with regard to a disclaimer with regard to the amount of time it had taken for the determination and other issues. An addendum I think you said.

**Ms STEEL** - What we sought was an addendum and I can read it to you if that is any help to you. You may understand it a little more than I do.

**CHAIR** - Or we may not.

**Ms STEEL** - The legal people had a look at it for us.

**CHAIR** - We have a lawyer here.

**Ms STEEL** - Have we? Okay.

**Mr BOOTH** - A couple of bush lawyers here as well.

**Ms STEEL** - I am a bush lawyer too. The addendum that we sought stated:

'The settlement of this contract by the purchaser pursuant to this contract shall not merge with and shall not take into effect any way the investigation currently being undertaken by the State Ombudsman into the actions of the vendor and its agents and/or the relevant minister of the Crown in respect of the events leading up to the offer contained herein. Such settlement shall be without prejudice to any rights or actions which the purchaser may subsequently acquire against the vendor as a consequence of any findings which may be made by the State Ombudsman in respect of the sale of the property and other adjoining properties at Surveyors Bay'.

**Mr BOOTH** - So they refused to allow that to be an addendum?

**Ms STEEL** - Yes. I have some correspondence here.

**Mr BOOTH** - Was the proposition then that we will not accept that addendum; if you don't seal the deal now we'll sell it to someone else? Is that effectively what they were holding over your head?

**Ms STEEL** - The letter that we received back from Sue Chapple, who is the Director, Policy and Services.

**Mr BOOTH** - Dated?

**Ms STEEL** - That was dated 31 October 2006. We lodged the addendum on 13 October, and this is the response that we had - quite quickly really, in the scheme of things. It states:

'I refer to the sale agreement with respect to the above matter. The Crown rejects your request for the additional clause to be added to the agreement. The department does not accept the claim that procrastination by the Shack

Sites Project has been the cause of delays that have disadvantaged purchasers. The department has responded to the Ombudsman and I am confident that the Ombudsman will be satisfied with the department's actions to date. As per my letter on 27 September 2006 the sale agreements were to be signed and returned to this office by 13 October 2006'.

We got an extension on that until October 2006. That stated that unless you did that you would no longer be eligible for the discount on the sale price and non-discount sale contracts would be forwarded to you for your completion. So we ran out of choices, or we felt we ran out of choices. We sought legal opinion. The legal opinion was that that was probably the only avenue that we had left open to us. Very quickly we were told, and that is the end of the story. We have not heard any more.

**Mr GUTWEIN** - So what price did you pay at the end?

**Ms STEEL** - At the end? The sale price inclusive of the discount was \$121 564.

**Mr GUTWEIN** - So the \$81 000 figure that you mentioned, that \$80 000?

**Ms STEEL** - The land value component was \$84 000 of the \$121 000.

**Mr GUTWEIN** - Okay. So \$84 000 then plus the infrastructure costs were a total price of \$121 000?

**Ms STEEL** - Yes, that is correct.

**CHAIR** - Anything else, Fiona, at this stage?

**Ms STEEL** - The time line - and as I said, I am happy to leave the copy of that here for you today - backs up the improper time elapsing which led to the determination of the final figure that we ultimately paid. I think we also need to note - if you have not realised already - that we actually do not have a road although we have paid for a road, which has been invested now for over two-and-a-half years, which we do not have the money for. We still do not have the road and Aurora Energy has actually realigned their infrastructure for the road, so that is not a stumbling block there.

**Mr HARRISS** - But the distinction there and I think was in your submission, Fiona, is that the council are saying that because of difficulties with the Aboriginal assessment people, the road is being held up. Your point was that Aurora managed to relocate their poles in dealing easily with the Aboriginal -

**Ms STEEL** - I know; I work for Aurora.

*Laughter.*

**Ms STEEL** - Aurora did have to go through the same Aboriginal assessment process and have an on-site representative for part of that process for the excavation of those poles that we had to realign or whatever. Ultimately we did work through the same process that would be required for the road.

**Mr HARRISS** - So based on that, then, it is fair to say that council cannot use that as an excuse for having not done the road.

**Ms STEEL** - That is correct. You read through the paperwork with regard to the road and the Aboriginal people clearly state that they just need a hardened surface. Ultimately it was the council who determined that they wanted a sealed road. As shack owners that is really neither here nor there to us. We are happy to have the road that we have, a gravel road which would more than likely constitute a 'hard surface' on top of any Aboriginal artefacts that they wish to preserve.

**Mr HARRISS** - So is the proposal to seal that road right back up to the coast road?

**Ms STEEL** - No. The proposal is that it be sealed from the bottom of the road where the council toilet block is right through to where the Dow shack is at the end of the beach. That would be a four-metre wide sealed section.

We are unsure about the water tanks part of the process. All the way through you will see that it was two, two and two until it got to the end. Here is your proposed payment and with that you all get a tank each.

**Mrs RATTRAY-WAGNER** - Do you consider that you have already paid for the tank?

**Ms STEEL** - I consider that we have already paid for the tank as part of that purchase price. In the purchasing agreement it states quite clearly that, once transferred, the ownership of those tanks belong to us and it is our responsibility to keep that tank in a functional position should Tas Fire Service wish to use the water. All that costs are imposed on us as part of that sale agreement.

The question to you people is where do we now stand with Southern Water given that we have a sewerage plant that still does not work. It has not been transferred over from the Crown to Huon Valley Council because they refuse to take ownership of it. Huon Valley Council do not actually own it now either. Southern Water would be the potential new owners of the sewerage scheme. So that is a question that we have unanswered.

**CHAIR** - That is a good question.

**Mr GREEN** - They were asking all those questions when Aurora was hived off, so don't worry.

**Mr GUTWEIN** - The time frame that went on meant that you bought the shack much later in the period, after there had been property increases around the State. Do you have a figure that would have been a reasonable price for your shack had matters proceeded reasonably? Have you spoken with your family and said, 'What a bummer. We have paid a price at the end of 2006, but had it been completed in 2002 we would have only paid this'. Can you put a figure on that?

**Ms STEEL** - It was the \$45 000 that, rightly or wrongly, people were told of. In looking back, that was probably an appropriate figure around that time. Property values were not worth a lot. If someone said that you had to pay \$45 000 to purchase your shack at that time, you would have said, 'I do not know if it is worth it'. That same thing has kept

going throughout the years. About that figure was what our family would have paid, and we would have struggled to pay. This is not about acquiring something that we see as a commercial property. This is about acquiring it to keep it in our family and in doing so wishing to pay a fair and reasonable figure.

**Mr GUTWEIN** - There are obviously issues with council here and with the whole shack sites process. In regard to matters like the road, which I guess is one of the outstanding issues, who is most responsible for that delay? Is it a council issue or is it a State government issue?

**Ms STEEL** - I would say, Peter, your guess would be as good as mine. As you will see, 2005 was when written communications ceased. So we got our offers based on the infrastructure. In 2006 we have signed off and paid. After that it has been persistence in ringing up and following up, but there has been no communication post that period. So it is fair to say that the gut feeling is that we are not really sure. It could be 50-50.

**Mr WILKINSON** - Who has been upkeeping the road? Anybody?

**Ms STEEL** - Dad gets a trailer-load of gravel every now and again.

**Mr WILKINSON** - Has the council been doing anything at all on the road?

**Ms STEEL** - Not that I have seen there, no. But that is not to say they have not been. We have always looked after ourselves. It is just like that.

**Mr BOOTH** - So in terms of the effect on your shack community, which is a reasonable way to describe those areas of shacks, what has the shacks determination done to your community? You still have the same shack but you have had all this stress imposed on you over 10 years and you have had to shell out nearly \$130 000 or so and put up with roads that are in the wrong place and inappropriate development. Is that a fair comment?

**Ms STEEL** - It is a fair comment because you do feel as if you have been hoodwinked. If you are given the proposition, 'Do I have a deal for you? Here is your property. You purchase it. These are the conditions that you can have this property under', then you go, 'That seems like a fair and reasonable proposition'. Then you have your money taken from underneath you and they say, 'We will get around to the rest sometime soon', but no-one is accountable. So although we own something - although we have no intention to sell the property - it is almost an unsaleable asset because who in their right mind would want to get tangled up in something like this?

**Mr BOOTH** - So what effect has that had on the shack community? Has it changed it; has it damaged it?

**Ms STEEL** - It has kept us very united. If there is anything special about Surveyors Bay it is that we are very much in it together, so we have stayed united. The individual stresses have varied quite considerably amongst the shack owners. We have been there to support each other through that because we are not there for ourselves; we are there for each other.

**Mr BOOTH** - Would it be fair to say that you wished it had never happened and you still had your licences to rent a shack on crown land and kept on going as you had been?

**Ms STEEL** - Yes, because we have no real advantage by owning a shack.

**Mr BOOTH** - But the Government has got a whole lot of money from it.

**Ms STEEL** - Yes.

**CHAIR** - Okay, thank you very much, Fiona.

**THE WITNESS WITHDREW.**