

**THE JOINT SELECT COMMITTEE ON ENVIRONMENT RESEARCH AND DEVELOPMENT MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART, ON TUESDAY 28 JULY 2009.**

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**SHACK SITES**

**Mr GLEN DOYLE AND Mr ROBERT ARMSTRONG WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.**

**CHAIR** (Mr Hall) - Thank you and welcome, gentlemen. Obviously you have parliamentary privilege whilst you are giving evidence here which enables you to speak freely. It is probably better if you do not get into any detail on your submission outside the hearing but you can speak broadly in terms of it. We have your submission here so I will hand it over to you to speak to your submission.

**Mr ARMSTRONG** - Thank you, Mr Chair, and thank you for the opportunity to speak to the committee today. I think our major issues have been set out in the correspondence that we sent on 22 September 2008. The three key issues were how the process was dragged out; the issues with the road with the Aboriginal heritage part of it; and the waste water treatment plant, which is not working. I am sure you have been told this yesterday and will be told later on again today, but it is just not appropriate the way it is put in there, and it is just not working. I have been getting complaints about it continuously over the last three to four years. The one at Eggs and Bacon Bay is the same; I am starting to get complaints about that one too. It is the odour that is coming from it; you hear where people actually have to leave their shacks because of the odour and it is just not acceptable the way it is.

As to the road issue, we were given \$152 000 to upgrade the road. We believe we were handed a red herring because of the process we have to go through now to get approval for that. We've put in two submissions to get approval through the -

**Mr DOYLE** - Aboriginal Relics Act - a permit just to do works.

**Mr ARMSTRONG** - Yes, but we just haven't been able to get the approval to do it. So where do we go from there? Glen, do you want to add anything?

**Mr DOYLE** - Mr Mayor, I think that summarises it fairly well. Aside from the process and delays, the council's issues are really based on the infrastructure and, as the mayor says, council is placed in an embarrassing situation in as much as we now have a cheque in the bank for some \$152 000 which is rapidly ageing, and price escalations are going to mean that road costs are going to exceed that undoubtedly. But our difficulty is our inability to secure the required approvals to enable the road construction to go ahead. In the meantime, we have an expectation from shack owners who have, in good faith, contributed. As the mayor says, council could be cynical and say that perhaps we were sold in a pup in as much as someone might have recognised that this was going to be a difficulty so they gave it to the council to sort out.

There were plans and specifications prepared. To expedite a longstanding process, the council took some money to enable the titles to be issued. We took it in good faith but, after two attempts, we have been unable to secure the necessary approvals. We did write to Minister Llewellyn in April 2009 to see if he could intervene and assist. That led to a subsequent meeting between one of his officers and the council's then general manager to explore options but there are limited options available. I guess the committee is aware of the site. Whilst the road reservation was formed as a part of this process, the actual existing road corridor is narrow and winding and there is no way that substantial upgrading work can be carried out without necessary excavations.

So we are in a real dilemma as a council, having a community expectation, an outdated costing, and an inability to secure the permits to do the works. That provides us with an immediate problem. The waste-water treatment plant, as the mayor has alluded to, has been a longstanding problem. Of course the first people who are contacted when there are complaints about its operation is the council and we have a litany of approaches from shack owners. There has been ongoing communication between the council and various members of the shack sites group to try to establish some sort of improvement but given the proximity of the actual siting of the plant to the shacks, it is very difficult to operate any waste-water treatment plant without some odour. This is virtually in amongst the shacks.

**CHAIR** - Just remind me, who designed and built the waste-water plant?

**Mr DOYLE** - I'm not sure, Chairman. Certainly Pitt and Sherry were involved in the design of the road works. The plant of course isn't a council project. Council has never taken it over and, with the establishment of the new regional water authority, it will not be taking it over. However when the mayor corresponded to this committee in September 2008 it looked like we were going to assume responsibility for the plant and hence the concern. I guess that concern is now duplicated inasmuch as similar technology has been installed at Eggs and Bacon Bay and complaints are already coming through.

**Mr BOOTH** - So the design of the road - the reservations, the planning for it and the widths and so forth - and the waste treatment station, do they meet the normal standards that would apply to a private development subdivision in that area?

**Mr DOYLE** - In terms of design, yes. However, in terms of operation, the waste treatment plant has not fulfilled its obligations but in design specifications, yes.

**Mr BOOTH** - Is that an operational issue, then?

**Mr DOYLE** - I think there are two issues. One is, there are certainly ongoing operational issues and that has been accepted. One of the reasons for the problem has been put back to intermittent use because it is shack site usage. However there is also a view that the proximity of the plant to the shacks is a real problem. In the days when council was operating its waste-water treatment plant, as you would well know, Chairman, waste-water treatment plants usually have a buffer around them because the best operated still at times emit some degree of odour. This plant is within metres of shacks.

**Mr BOOTH** - That's the point I'm making. Would you approve the same application from a private developer to put a sewage treatment works that close to housing in a normal planning application?

**Mr DOYLE** - I think, given the experience of Surveyors, never again. But without that experience and benefit of hindsight, if a proposal was put up that came with guarantees that there would be no emissions and certainly there was a planning permit issued and it was advertised as a discretionary use and went through the process and there were no objections -

**Mr BOOTH** - Through the council?

**Mr DOYLE** - Yes. However, with the benefit of hindsight and having the experience of Surveyors, we would probably not approve one in such close proximity again.

**Mr BOOTH** - What are the options, then, if it does not comply? You were saying there were guarantees given with regard to it?

**Mr DOYLE** - Guarantees, assurances and certainly permits were issued on the basis that there would be acceptable emissions, but the emissions have been unacceptable and very difficult to measure. If we want to measure them anecdotally in terms of complaints, they are numerous, but the measurement of odour, as you can appreciate, to talk about contravention of a planning permit, is somewhat more difficult.

**Mr WILKINSON** - The big question is how do we fix it, isn't it? We have heard for the last *x* amount of days the problems people have. There has to be a solution to it. It is not just one of these things where we put our heads in the sand and let it all go away. What do you believe would be the best way of sorting the matter out?

**Mr ARMSTRONG** - The first thing you would have to do would be to move the plant from its existing position.

**Mr WILKINSON** - Where would you move it to?

**Mr ARMSTRONG** - There are other sites further away from the shacks, a couple in the area.

**Mr DOYLE** - There has been some interest expressed to council for private subdivisional development in the locality and there is the opportunity, perhaps, for that development to utilise the plant, which might solve two problems. It might give a new location to the plant and it also might provide some sustainable usage of the plant which could correct its intermittent problems.

**Mr WILKINSON** - With all the inquiries you would have had obviously you would have looked into what to do at one stage before Southern Water took it over. Was moving it the best option that you came to? Would you be able to get approval to move the plant elsewhere? Is that able to be done?

**Mr DOYLE** - A couple of things there. Firstly, we did not explore moving the plant because it was not our plant. It was never council infrastructure. However, we did express a very

strong view that relocation of the plant seemed to be the best long-term solution, but that was met with a fair bit of reticence, I guess, by those involved in the administration of the shack sites project.

**CHAIR** - Any indication of what it might cost to move it?

**Mr DOYLE** - I wouldn't hazard a guess. It is certainly a package treatment plant that is a moveable item but undoubtedly there is an expense associated with that and there would need to be a new planning approval process and, given our problems with the road, we would have to dodge Aboriginal heritage as well. So there would certainly be process and, yes, there would be a cost. However, the council was simply unprepared to take it over until it was resolved.

**Mr WILKINSON** - Therefore we do the best we can, we move the plant. There are still some other issues down there so how do we fix those?

**Mr DOYLE** - The road is going to be difficult to fix. It seems to me that there needs to be some improved communication between the council and the Aboriginal community to see how the best outcome can be achieved. There is an engineering design prepared for the road and that requires the usual road construction techniques - excavation, appropriate treatment, put in the gravel, base and so forth, seal the road so it meets the required standard. As you can imagine, that is a very intrusive project in terms of lands concerned and that is what has the Aboriginal community concerned. I would hope that there would be some opportunity for compromise that might give us the ability to utilise road construction techniques that are going to be acceptable to both the Aboriginal community and to shack owners.

**Mr WILKINSON** - In relation to the area there - to my mind anyway and this is just my point of view, I do not know the rest of the committee's - there are significant middens. Are there significant middens or significant historical sites in that area which the road would impinge upon, in your belief?

**Mr DOYLE** - I do not think that I am qualified to answer that. The advice that council has received is that there would not be a permit issued at this stage based on the proposed road construction.

**Mr WILKINSON** - Is that based on the unknown or based on actual fact at this time?

**Mr DOYLE** - I am not sure that I have that advice other than advice that the council's application has been refused twice.

**Mr WILKINSON** - Who do we ask?

**Mr DOYLE** - There would need to be consultation with the respective Aboriginal and heritage authorities in that regard.

**Mrs RATTRAY-WAGNER** - Is there more than one?

**Mr DOYLE** - We have been dealing with one as I understand it. I need to confess that I have not been involved in that process.

**Mr GUTWEIN** - What is the relationship with the Aboriginal heritage group that you are dealing with at the moment? It appears to me that you have been knocked back twice, and the point being that improved communication might be something that would be required to move this forward. How would you describe the relationship at the moment and what needs to be done to improve the situation so that this matter can be moved forward?

**Mr DOYLE** - Peter, I do not think that I can describe the relationship. In terms of council we are going through administrative change. Our former GM has just concluded, as has our former manager of the technical area that was managing this. The new manager has provided me with a briefing this morning and has certainly provided me the information of meetings that others have held with the Aboriginal Heritage Office. My discussion with her was about needing to get these people on site to see what can be achieved. To that end I hope that we can build a reasonable relationship that is going to try to find a way through it rather than trying to find a way to stop it.

**Mr GUTWEIN** - One of the matters raised yesterday by one or more witnesses was that Aurora managed to do significant work in regard to shifting the powerlines and a fair bit of excavation in regard to changing the route of the power through. The question was asked that since council seem to be hitting a brick wall how was it that Aurora could get through this when council could not.

**Mr ARMSTRONG** - Was that actually in Surveyors Bay or was that on Esperance Coast Road?

**Mr GUTWEIN** - I thought it was Surveyors that we were talking about.

**Mr HARRISS** - That is what we understood.

**Mr GUTWEIN** - In fact the young lady who was not here representing Aurora but was actually employed by Aurora made some reference to that.

**Mr DOYLE** - I think that it is a fair comment. I have also asked how come they can build the waste-water treatment plant where they have if we cannot build a road. I think there is an opportunity for us to re-explore this and I would suggest that with administrative changes that are taking place at the council that might happen.

**Mr WILKINSON** - We have gone through the issues with the waste water and the Aboriginality aspect. Are there any other issues that are stumbling blocks at the moment?

**Mr ARMSTRONG** - There was the process that we went through. That was the other issue that we addressed in our letter.

**Mr DOYLE** - I guess it is just the longevity from start to finish that certainly caused other issues for the shack owners. We are aware that other waste-water treatment plants were proving problematic prior to council's removal - for example, the absorption trenches at Roaring Beach. A side issue that I briefed the mayor on yesterday that has come through and one that council needs to look at is that the majority of these shacks under our

existing planning schemes are zoned open space, which is very restrictive in terms of their utilisation. Once a shack owner gets freehold title and expends some funds on the shack they then like to explore other opportunities for the use of that shack and it could be something fairly passive such as tourism use. We have had three applications we have had to reject because under the open-space zoning, a tourism usage is not possible. Council is now in the process of developing a new planning scheme and it needs to look very carefully at the areas where freehold shack ownership has taken place to see whether a change of use is appropriate to perhaps give greater flexibility to the new owners or not. It may be that the open-space zoning is still an appropriate zoning, but it may not be. That is another one that has come through in recent times that I am aware of.

**Mr BOOTH** - You mentioned there was a DA for the treatment works, so was there also a DA for the roads?

**Mr DOYLE** - No, the road reservation was created as part of the subdivision that divided up the shack blocks. Given that the road reservation is in place, a DA is not necessary, however an approval under the Aboriginal Relics Act is.

**Mr BOOTH** - What I was trying to get to before in terms of development standards being a level playing field with a private developer, for example, it seems to me - and this is my opinion from looking at other areas, for example Ansons Bay - that the development standards that councils were forced to accept under the Shack Sites Act were completely inappropriate in terms of the normal stand - in other words, the road designs and layout.

**Mr DOYLE** - My honest response, Kim, would be that the advice I have been provided with is that the plans and specifications for the road were acceptable in terms of council's normal requirements. I will be honest - I don't know what other conditions applied at the time and how they compare to what we might have applied to a private developer.

**Mr BOOTH** - It just seems strange to me that you have had a DA process up the road but the subdivision has gone through a process which you say you think would meet normal council requirements. You have a situation where you can't construct the road because you can't get heritage approval. Wouldn't you ordinarily require that, as a precondition of it proceeding, they would obtain heritage approval to build the road subject to the plans et cetera?

**Mr ARMSTRONG** - That's where we were saying that we believe we have been handed a red herring because that approval was a part of the process.

**Mr BOOTH** - That's exactly the point I'm getting to. If on the one hand you're saying that the council has been handed a red herring, which I accept, if the council approved it as if it were a standard development - and it is contradictory in that sense - you can't make your normal planning conditions.

**Mr DOYLE** - The situation, as I understand it, was that the design of the road and subdivision was satisfactory. What we would normally do with any developer is say, 'Design and complete the works so that we can approve the subdivision' or 'Give us money in lieu of the works so that the subdivision can proceed'. The second option was the one that was progressed. As I say, I am not sure of the discussions but certainly the

agreement between the council and the Crown was that the council would construct the road and would within 12 months of signing that agreement secure the necessary permits to enable the road construction to proceed. There is a view within the council administration that those in the shack site administration had already identified that this road was going to be problematic so the easiest way was to move it to the council - in the mayor's words, 'sold a pup' - rather than the shack site authority secure the approvals and build the road to be able to finish the job. Whether the council was taken advantage of, I am not sure.

**Mr BOOTH** - So really in some senses it would be a reasonable proposition that it's the State Government's problem and they should fix the heritage issues and make sure the roads can be built?

**Mr DOYLE** - One option open to council now is to send the cheque back.

**Mr ARMSTRONG** - The cost of the road, if it was approved within the next 12 months, has blown out. It was two to three years ago that we would have received this money, so you've got three years of inflation to go on top of that.

**Mr BOOTH** - Are you able to provide current costings for the committee?

**Mr DOYLE** - We could have them arranged.

**Mr BOOTH** - I think, Chair, that would be something useful for us, would it not?

**Mr ARMSTRONG** - We do not have all the costings at the moment, but we can acquire them.

**Mrs RATTRAY-WAGNER** - Glen, I want to take you back to the technology for wastewater treatment that has been installed at Eggs and Bacon Bay. You said that is a recent installation -

**Mr DOYLE** - Yes.

**Mrs RATTRAY-WAGNER** - and you have already started receiving some complaints, so can you tell me how that has been installed? Is that one that has not been taken over either by a council?

**Mr DOYLE** - That is correct. It is a much newer one. In fact I have been back with the Huon Valley Council two years and very soon after my return I was involved in a meeting where we strongly suggested to the shack sites people that they should ensure they get Surveyors Bay resolved before they replicate that technology elsewhere. Their view was that the technology at Surveyors could be corrected and was entirely suitable for use elsewhere, and I understand that same technology has since been installed at Eggs and Bacon and certainly has not been taken over by a council or new authority.

**Mr ARMSTRONG** - I know I am getting complaints about it.

**Mrs RATTRAY-WAGNER** - Where was the development application? Did that come to council and you approved it as a council, given that there were already issues with Surveyors Bay?

**Mr DOYLE** - I would need to check this, Tania, but my understanding is the size of the plant at Eggs and Bacon Bay did not require a development application to be lodged. It was approved under a special planning permit.

**Mrs RATTRAY-WAGNER** - Approved by whom?

**Mr DOYLE** - By the council, but the council's ability to refuse a special planning permit is very restricted, unlike the DA process. I need to confirm that, but it is my understanding and I can, Chairman, if you would like me to.

**Mrs RATTRAY-WAGNER** - Obviously it may not be in your time, but you may be able to provide it to the committee. Did the council write and give that relevant information about the issues of Surveyors Bay? Was it clearly laid out for the shack sites team?

**Mr DOYLE** - The issues of Surveyors Bay were abundantly clear to everyone, given the barrage of complaints coming from shack owners to the shack sites team, to the council and to anyone else who would listen, the Department of Environment, and I think you will get more evidence on that today. So the problems with Surveyors were very well known.

**Mrs RATTRAY-WAGNER** - Can you give me an indication of the discussions with the shack sites team because it is my understanding - and I am not sure whether other members of the committee share this understanding - that there is not a shack sites project team anymore? Who do you have these discussions with? Is it particularly through the minister's office?

**Mr DOYLE** - Yes, predominantly with Sue Chapple, who has assumed, I guess, responsibility and, as I understand it, she is the director of policy and services with the minister.

**Mrs RATTRAY-WAGNER** - So there is only one person in your mind that you can have any dealings with over these issues other than the minister?

**Mr DOYLE** - Like all government agencies, and very much unlike councils, we try to target a single individual because otherwise it is very easy to get the run-around. I understand from Ms Chapple that there has been expertise engaged by her agency to look at how an engineering focus can take place to improve the operations, but our relationship now is between the council and Ms Chapple.

**Mr BOOTH** - What is her standing? What is the Government's standing in the relationship between you and Ms Chapple? Does she represent some responsible entity within government?

**Mr ARMSTRONG** - I believe she represents the old shack sites committee and the minister.

**Mr DOYLE** - Yes, that is as I understand her responsibility.

**Mr BOOTH** - So there is some sort of job description you think?

**Mr DOYLE** - Put it this way, Kim: she is the one that we have been trying to develop a relationship with to work through some of these issues.

**Mr BOOTH** - Would you anticipate then, in dealing with Ms Chapple through that process, for example, that the smell issues with both the treatment plants would be fixed, that the Government or somebody would assume responsibility other than the council to fix it?

**Mr ARMSTRONG** - It was not the council's responsibility because we had not taken over the -

**Mr BOOTH** - I do understand that, yes.

**Mr ARMSTRONG** - So we assumed it was still in the hands of the shack sites project -

**Mrs RATTRAY-WAGNER** - You are the meat in the sandwich really between the Government and the owners of the shacks?

**Mr DOYLE** - Yes, and I guess, without wanting to be critical about any officer or anyone else, the council has been increasingly frustrated that this longstanding issue hasn't been resolved.

**Mr BOOTH** - Presumably there may be issues between the designers of the plan to make sure that the operation is satisfactory. Who would you go to, then, to ensure that it does either get relocated or repaired to operate in a proper way?

**Mr DOYLE** - We're dealing with the owner of the facility, which is the State Government, and requiring them to fix it.

**Mr BOOTH** - Have you served a notice on them?

**Mr DOYLE** - We haven't as yet, but we've certainly been very close to it.

**Mr ARMSTRONG** - There is correspondence on that. You talk about the plant at Surveyors Bay with the odour, as soon as it was commissioned, that's when we got the problems. Virtually from day one it just hasn't worked, so from day one on there have been problems with the plant. They were aware of that plant not working when they installed the one at Eggs and Bacon Bay.

**Mr HARRISS** - Tania went down the track with Surveyors Bay and then subsequently Eggs and Bacon. Glen, you said you'd had some meetings not long after you returned to the council, and so on. Can you provide for the committee at some stage - probably not right now, you might not have it at your fingertips - the actual dates of all of that so that we might get a bit of a grab on exactly when it was and how long after the installation and the so-called operation of Surveyors Bay plant the department still went ahead and had the consultants design a facility for Eggs and Bacon Bay? If you can provide us with those dates, it will be helpful. You might also be able to identify in that process the date that the Eggs and Bacon facility was both proposed and then installed, if you've got that.

**Mr DOYLE** - I will also clarify the process to ensure that I am providing the right information there.

**Mr GUTWEIN** - If you could instruct the Government to fix this, what would you instruct them to do?

**Mr ARMSTRONG** - The first thing to do I think is to move the plant away from where it is. It's just not in an appropriate position where it is at the moment, right on the back door of shacks.

**Mr GUTWEIN** - Is it as close as we heard yesterday? A gentleman said he could open his back door, walk two steps and basically put his hand on it.

**Mr ARMSTRONG** - Virtually. There's a road in between. There's sea, shacks, road, plant.

**Mr GUTWEIN** - So instruct them to move it.

**Mr ARMSTRONG** - That would be the first thing I'd ask them to do.

**Mr GUTWEIN** - You indicated that no costing had been done, but this is a pre-packaged plant that would work in any location, it's really just a matter of picking it up and moving it and then the associated pipe works, taking into account the challenges that might be presented regarding Aboriginal heritage issues, both in regards to getting the effluent pipes to it and also the site. What would be a ball-park figure? You guys deal with this sort of work. Are we talking hundreds of thousands, are we talking a million dollars?

**Mr ARMSTRONG** - It would hard to say because you'd be bringing pumping into it, and so on. I wouldn't like to put a figure on it myself.

**Mr DOYLE** - I learned long ago not to guess what engineers might use as estimates, but you would certainly be talking hundreds of thousands.

**Mr GUTWEIN** - But we wouldn't be talking millions of dollars.

**Mr DOYLE** - I don't know, Peter. I could secure some advice in that regard if the committee was interested, but it would be a costly exercise, there's no question.

**CHAIR** - Glen, would you describe the dimensions of the plant. How big is it? It's only servicing a small number.

**Mr DOYLE** - It is, and others that will give evidence after me will probably be able to describe it better. I would think it's something in the order of perhaps 10 to 15 metres by 6 or 8 metres in an enclosed area with the relative components in it.

**Mr ARMSTRONG** - It all comes back to the same situation, though. You've got shack owners down there now who can't use their shacks because this plant is just not operating properly. So if you think about it that way, there's no choice but to act immediately.

**CHAIR** - Only with the odour issue, apart from that it's functioning okay?

**Mr ARMSTRONG** - I believe so. It's the odour issue that's the problem.

**Mr GUTWEIN** - I note from your submission that this matter had been raised with the State Government. It says here, 'A suggestion has been totally rejected by the bureaucrats administering -'. Is there any written correspondence back from the State Government rejecting the notion and any reasons that they have stated in that regard, or has it simply been discussions either at mayoral level or at officer level with the State Government?

**Mr DOYLE** - There has been exchange of correspondence and certainly a series of meetings at the mayoral and minister level and at officer level. Again, I can provide the committee with that advice if you would like me to.

**Mr GUTWEIN** - That would be good, thank you.

**Mr BEST** - During this whole situation have council been consulted about your view about any alternative sites that have been offered to people? So where someone has applied under this whole process and have been deemed that it is probably not a suitable site either for relics or for any other reasons, then someone has suggested, maybe from government, 'Here is a good site over here', were any of those sites referred to you? I know I am not being specific but have you been provided with any?

**Mr DOYLE** - Are you talking road or waste water treatment?

**Mr BEST** - Sorry, I am talking about shack sites, for people to relocate on shack sites.

**Mr DOYLE** - Their actual shacks?

**Mr BEST** - Yes.

**Mr ARMSTRONG** - Not that I am aware of.

**Mr DOYLE** - I am unaware of any discussion in terms of shack relocation.

**Mr ARMSTRONG** - I do not think it has ever come up in the correspondence or the conversations that I have had. I am not aware of them.

**Mr BEST** - It is just that we had a couple of witnesses that said that they were offered alternative sites.

**Mr ARMSTRONG** - Is this at Surveyors Bay?

**Mrs RATTRAY-WAGNER** - It was the Cockle Creek people.

**Mr BEST** - It might have been but I thought there might have been some at Surveyors Bay.

**Mr ARMSTRONG** - It could have been raised for other sites but not for Surveyors Bay.

**Mr BEST** - I am just intrigued as to whether or not the council has been contacted, but you are saying that you have not ever been involved in any alternative site.

**Mr DOYLE** - To my knowledge, in respect to Surveyors Bay there has never been any discussion about relocation of shacks themselves.

**Mr BEST** - What about any others that you are aware of?

**Mr DOYLE** - None that I am aware of. There has certainly been a lot of discussion about the potential relocation of the waste water treatment plant, but not shacks.

**Mr ARMSTRONG** - There might have been at Eggs and Bacon Bay at one stage but I am not 100 per cent sure on that.

**Mr BEST** - It is just that some of the witnesses indicated that, whilst these other sites were presented when they did express an interest, they were somehow told that it looks like the council would not be keen about them having that site. I am just interested because it seems like you have not been involved in that.

**Mr HARRISS** - It is a matter which does need some resolution. The specific area was Kingfish Beach at Southport. We had significant evidence to the committee yesterday that there was a proposal by shackies to build a brand new plant to pick up not only the shackies but the other subdivided area which is already connected to the previously privately installed facility. A DA was lodged with the council. It sat with the council for 52 days and therefore went outside the 42 days. When contact was made by the shackies who were proposing the new facility they were told that it was a non-compliant DA which had been submitted. Our proposition then to the witnesses was that the 42 days had expired so you could deem it approved. They had been shopping on the mainland to find a plant or a design or a process which would work. They were putting up a 'you beaut' system to pick up everybody but the council's attitude, on their evidence, was that the council was not interested in that process.

**Mr ARMSTRONG** - I can remember a process that we went through, and that was Brent Hardy and the group of shack owners. That is going back three or four years ago.

**Mr DOYLE** - So we are talking about a waste-water treatment plant and not the relocation of shacks?

**Mr HARRISS** - That is right.

**Mr DOYLE** - The situation at Southport is that there are effectively three groups. There is a pre-existing subdivision which has a sewerage scheme serviced by a lagoon and which is some years old. There is then a group of freehold shacks, each with an approved septic tank. There is then a group of crown land shacks, which are subject to this process. There have been all sorts of ideas and notions as to how the waste-water treatment at Southport, which is particularly problematic given the topography of the area, can be addressed. The council's view was, 'If you're going to fix it, fix the lot. Don't have an incremental fix or one that just fixes this component and leaves the rest effectively unsewered'. Even though the current freehold shacks have septic tanks, they're not all performing beautifully. The council, as late as early this year, commissioned work and prepared engineering advice as to the costing to resolve the Southport issue.

Prior to the transfer of waste water from the council to the new authority, the council prepared long-term asset plans for both water and waste water in the Huon Valley. In the plan prepared for waste water there was the identification some years out of the installation of a waste-water treatment plant at Southport which would serve the entire Kingfish Beach area, effectively collecting all the blocks and solving that problem.

I don't know the circumstances regarding DAs for other smaller facilities but I am aware, from a strategic point of view, there was a concern from council about a piecemeal resolution. So you would effectively have this small group which has a lagoon and another packaged plant, which may or may not be as successful as the Surveyors Bay one, and then there would still be freehold shacks effectively unsewered. I am guessing that that might have been some of council's concern.

**Mr ARMSTRONG** - It was the old heather subdivision at the back that is sewered to the one lagoon up the back.

**Mr HARRISS** - It might be something that we want to track down with you to get a complete picture of what's going on. We've heard the evidence but we probably need to test that.

**Mr BOOTH** - Have you carried out a risk assessment as a council with regard to the likely liabilities and ongoing maintenance costs of taking over the area that has now been created as a result of the shack sites legislation?

**Mr DOYLE** - In terms of open spaces, the road or -

**Mr BOOTH** - The long-term risks, particularly to do with sea levels rising under climate change scenarios and the liability of the corporation. I imagine some of those shacks would be below the 1.5 metre AHD?

**Mr DOYLE** - Yes. The answer is no, bearing in mind this process is now of some years standing. If we were all to go back seven or eight years perhaps climate change and sea level rise wasn't as close to the attention of council as it is today. The answer is that there has been no risk assessment undertaken.

**Mr BOOTH** - Have you considered the likely problems that is going to cause you as a corporation if, for example, there is an inundation and erosion and shacks under threat?

**Mr DOYLE** - It would certainly be a consideration of any applications that come before us now.

**Mr BOOTH** - So for anyone who wants to do a DA, for example, and rebuild, what is your minimum AHD level for development?

**Mr DOYLE** - It depends on the planning scheme. We operate under three. It is something that is becoming increasingly challenging to us in assessing DAs.

**Mr ARMSTRONG** - We are in the process now of doing a new planning scheme for the whole of the Huon Valley and it will be addressed in that.

**Mr DOYLE** - It is certainly an issue in a lot of locations.

**Mr BOOTH** - Getting back to the previous question I asked in regard to whether this would be a compliant development application from a private developer, then clearly it wouldn't in terms of the AHD levels.

**Mr DOYLE** - With the benefit of hindsight, Kim, if the council were presented this proposal today we wouldn't accept that the waste-water treatment plant would operate within guidelines. We wouldn't accept that the road could be built and we would certainly have issues with sea level rise.

**Mr BOOTH** - Thank you for that frank report, but isn't that a serious issue in terms of the sustainability of the council having that obligation for all of those risks imposed on it as a result of State Government legislation which hasn't provided any commensurate funding to protect you from the long-term risk?

**Mr DOYLE** - Certainly that is why the council would never take over the waste-water treatment plant, and didn't. To remove that risk from ratepayers was the decision that the council took. In terms of the road, we need to find a way through it all, or return the cheque. But in doing that, we recognise that we effectively have a subdivision that doesn't conform with the standards that should be applied to it.

**Mr BOOTH** - Have you taken back that area under your planning controls now, in terms of the fact that suspended LUPAA and coastal policy and a number of other acts?

**Mr DOYLE** - Yes, we have.

**Mr BOOTH** - So it is now totally your responsibility?

**Mr DOYLE** - As I understand it, yes.

**Mr BOOTH** - There is no maintenance funding provided by the Government?

**Mr DOYLE** - No.

**Mr BOOTH** - Should there have been?

**Mr ARMSTRONG** - Maintenance, as far as roading?

**Mr BOOTH** - There are a lot of aspects of these new subdivisions that do not comply with any of the current regulations and therefore there is likely to be a fairly substantial cost burden to your rate base to maintain infrastructure. For example, it might be an inundated or inappropriate in certain ways; if you cannot get the sewerage scheme removed, for example, there is substantial cost. Do you have any idea at all what that likely long-term liability could be?

**Mr DOYLE** - I am conscious of the chairman's body language and we are probably running out of time. In normal circumstances, a subdivision is made sustainable by the rates that are collected from the properties. I am unsure whether there was a public open space

contribution made to the council in terms of cash or land in lieu. I do not know and I can check. I am unaware of any transfer of funds other than the money to build the road.

**Mr BOOTH** - Could you get back to us as to whether there has been a commitment through the Government, as a normal developer would have to pay for things like public open space and headworks charges or whatever?

**CHAIR** - I am aware, gentlemen, that we are running down to within five minutes of your time before the next witness comes. I noticed in your submission you mention that this project is not being administered as effectively as it may have been, and that is probably a given from the State Government's point of view. We have heard previous evidence from other witnesses that they have been very frustrated that the shack sites team seems have personnel changes on a regular basis and therefore it has become very difficult for anybody making representations or trying to get information. Has that been your experience?

**Mr ARMSTRONG** - I think the first person we had in charge was a gentleman. I can't think of his name but, yes, it has changed.

**Mr DOYLE** - Scott Marston?

**Mr ARMSTRONG** - That's right. Yes, that is one of the issues. We started dealing with Scott and Sue Chapple.

**Mr DOYLE** - I guess that's why we do our best now to nail Ms Chapple's feet to the floor, inasmuch as she is our contact.

**CHAIR** - Yes, and there are other junior people who have changed within the system as well, it would seem, on a pretty regular basis.

**Mr HARRISS** - Kim was investigating with you the road issue and the fact that, as I recall as well, the whole project facilitated non-compliance with all sorts of standards. For instance, planning schemes were set aside. Remind me whether road construction standards were set aside as part of the process, because we set aside all sorts of things to facilitate this freehold title of shacks.

**Mr DOYLE** - I asked that question this morning, Paul, and was informed that the plans and specifications prepared by the engineers for the road met council requirements.

**Mr HARRISS** - But that you might not have to go to that standard? Was that a directive by the project?

**Mr DOYLE** - Look, I didn't ask that question but certainly I said, 'Was the expectation that we would be building a road of appropriate quality in that location?' and the answer was yes. I haven't seen the plans and am not sure whether it included kerb and channelling or footpath or whether that would be a normal requirement in that locality, but it certainly was a reasonable quality road with a sealed surface.

**Mr HARRISS** - You can see where I'm coming from. It may be that you can simply upgrade the gravel road which is there and keep it pretty much on the same alignment and within

the same width, because people have been happy with that. I don't know where the shack owners sit with that but it is possible that they would accept that and you might accept that as well.

**Mr DOYLE** - It is acceptable. There has always been an expectation that the road would be made wider for two-way traffic and it would have a sealed surface. The real issue is that for us to put a sealed surface on it we need to do the excavation and get the base in place.

**Mr HARRISS** - But again, that has been an expectation. It may not be the most practical outcome, given the dollars involved and the problems you are confronted with regarding Aboriginal relics?

**Mr DOYLE** - Absolutely, and the practical outcome may be, as you say, something of a lesser standard.

**Mr HARRISS** - But nonetheless an acceptable one?

**Mr DOYLE** - Well, that is a matter for the shack owners to decide, I suppose, given that they have contributed to a certain animal, if they get another one.

**Mr HARRISS** - And an expectation. Finally, with regard to waste water, was there any requirement for the council to provide information to the new water authority as to the assets they were taking over?

**Mr DOYLE** - Yes.

**Mr HARRISS** - Were any questions asked of you by the authority?

**Mr DOYLE** - We made the new authority aware that this infrastructure existed but was not a part of the handover because it wasn't a council asset.

**Mr ARMSTRONG** - Same as Eggs and Bacon Bay.

**Mr HARRISS** - Any indication from them as to where they might be going?

**Mr DOYLE** - No. In terms of the new authority, we've had no indication as to where they're going on a whole range of things.

*Laughter.*

**CHAIR** - We have run over time; I am sorry. Thank you, Mr Mayor and Mr Doyle, for your evidence this morning.

**THE WITNESSES WITHDREW.**

**Mr LINDSAY DOYLE AND Mrs SALLY DOYLE, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.**

**CHAIR** (Mr Hall) - Good morning, Sally and Lindsay. Lindsay, would you like to be first cab off the rank to speak to your submission?

**Mr DOYLE** - Our issues have mainly been covered by the council representatives who just spoke. The road infrastructure was one. Our shack, unfortunately, is problematic with both issues, because we are the closest resident to the sewerage plant.

**Mr WILKINSON** - How far are you away from it?

**Mr DOYLE** - My boundary to my shed is 10 metres from the closure of the waste water system.

**Mr GUTWEIN** - How bad is the smell?

**Mr DOYLE** - You can go down there for a weekend and not smell it but then the next weekend you have to go home because of the smell. It's intermittent and depends obviously on the weather, but when there's no breeze at all and at this time of the year when there are very still mornings, that's when it's at its worst.

**Mr BOOTH** - How bad is it?

**Mr DOYLE** - Well, it's bad enough to have to -

**Mrs RATTRAY-WAGNER** - To go home.

**Mr DOYLE** - Yes, to go home. You can shut yourself in your shack and the smell won't go inside as long as you have the door shut. We have a barbecue area at the rear, which is the major problem, but especially on a nice evening as the weather drops off we can be out the front of our shack and it just becomes unbearable. When it was first noticed in January of 2006 just after it was commissioned, we actually went home early that Christmas break because it was so antisocial. Our friends couldn't stand it and left, we apologised and left the following day - or at least they were our friends!

*Laughter.*

**Mrs DOYLE** - We had kids in little tents outside and it was horrible; they couldn't be out there.

**Mr DOYLE** - They had to come inside the second night. They were the two worst nights. Other times, to be quite honest, we've been down there for a full weekend and haven't even noticed a whiff.

**CHAIR** - As you said, it seems that the proximity, 10 metres away, was always going to be an issue, but the other fact is the intermittent use which does not allow the plant to operate properly or function as it should.

**Mr DOYLE** - There have been a lot of measures to combat that. There has been a recirculation system put in. We are earth-moving contractors and we have worked with a lot of other systems, especially the facility out at Forestry's AirWalk, but that has a large buffer area around it. We have actually been involved in replacing parts of the plant with our machinery, and they have long-going problems with that, especially in the off season when it does not have the use, but fortunately for them that does have a buffer area around it. I have had private advice from plumbers that I have been involved with over the last few years since this system has been installed, and they say that it is not a sealed system and there is no way that it cannot emit odours. As I will point out down the track, we have had assurances from everyone that we have associated with with the Crown that it can be fixed and it will be fixed.

**CHAIR** - But where it is at the moment, can it be fixed?

**Mr DOYLE** - Yes.

**CHAIR** - You as an earth-mover - and it is probably a bit of a difficult technical question - you said you have talked to plumbers, and we asked the council and they didn't have any idea what it might take, how much it might cost. Have you heard any figures bandied around as to what that might be?

**Mr DOYLE** - No, not at all, but certainly it would not be millions, but I guess it depends on the land acquired. It would be all private land apart from what has been subdivided areas, our freehold titles, so it depends I guess on a range of things depending on what the price of land would be to acquire, for starters. But physically to actually do the earth moving and the physical removal of it, \$100 000 maybe, but that is just a figure out of the air. I am not qualified to really -

**CHAIR** - I am not holding you to that.

**Mr DOYLE** - No, but I would think that, as far as the logistics of it go, probably \$100 000 to \$200 000 would not be unreasonable. I wouldn't think it would be any more, but I guess there are a lot more problems than just the removal or shifting of it.

**CHAIR** - Yes.

**Mr GUTWEIN** - Lindsay, while you are on this theme of waste water, what discussions or correspondence have you had with the State Government or other State authorities in regard to this matter, and what assurances have you been given, and have you received any assurances in writing?

**Mr DOYLE** - Yes. We have the documentation here to back up our points. If you want me to briefly go through this it would probably put you in the picture better. In January 2006 Ashley McQueen was actually our contact with the shack owner authority. January 2006 was when it was commissioned, when we first had the complaints. It has taken so long and we were never allowed to give any input or complain against anything or put in any opposition because we were not actually landowners, we were only leasehold, so there was a technicality there that we really could not address. We had no recourse really until now that we have freehold title. I had a lot of suggestions, being in the game that we are in, of envirocycles and all different types of plants. We had no consultation

about it and we were not allowed to give any advice or put forward suggestions such as an envirocycle rather than a treatment plant. That is something that I guess the Crown's engineers would devise, but we are in a shack situation and there was a constant use system put in an intermediate shack area, if you know what I mean. Why was this system, which does not work well on limited sewage, put in a shack situation?

**Mr GUTWEIN** - That is a very good question.

**Mr DOYLE** - That was our first complaint. We really could have no input in making suggestions as to what should be put there and should not. But then, following on from that, that was put in. The plans that we were given in the early days, which I think Mr McKibben would have, were that it was an underground holding tank, so the original idea was something totally different. Then all of a sudden this system appeared there. There was no consultation with the exact system that is there now, so we had to live with that. That is not a problem, we were still lucky that we didn't have to pull our dwelling down so we thought we'd put up with the visual aspect of it, given that it would enable us to get freehold title. Once it was commissioned these odours were obviously the main problem. In January 2006 I rang Ashley McQueen and he advised - and by letter, which we have - that the Huon Valley Council was to contact Lionel Clark with all further complaints because Huon Valley Council was responsible.

The situation of the payment of our parcel was the next thing on the agenda. We had a meeting with Lorraine Wright from the Valuer-General's office. All the shack owners from Surveyors Bay met at our home and we discussed issues of valuation and different things. We were given a deduction off ours for two reasons. One was erosion problems because we'd just had a big erosion problem on our end of the beach and our shack was probably one that comes under that problem with rising sea levels. The close proximity of the sewerage system was another devaluation issue, so we did get a deduction on the value of our property.

**Mrs DOYLE** - But she did say to us that the smell issue was not a problem because that would be fixed. We were only getting a deduction because of where it was, not because of the smell. She stated that quite clearly. We said to her, 'What about the smell?' and she said, 'That's not an issue. That'll be fixed'.

**Mr DOYLE** - In August 2006 we were given that reduction and we paid our deposit and in January 2007 we purchased the shack. In January 2007 also we complained to Lionel Clark concerning the smell - and we have the correspondence.

**Mr GUTWEIN** - You complained to Lionel Clark at the council - and we have heard from the council this morning that it is not their responsibility, they've never had responsibility for it, and we've accepted their evidence on that - what response were you receiving from Lionel Clark at the council when you were making these complaints?

**Mr DOYLE** - Lionel was saying to me, 'We're not responsible. We haven't taken it over'. Ashley McQueen, back in 2006, referred me to Lionel Clark of the Huon Valley Council and he implied that the council had taken it over.

**Mrs DOYLE** - In the e-mails it also shows that Lionel forwarded all our e-mails to the Crown.

**Mr DOYLE** - So Lionel virtually acted as a go-between. I guess he was doing that in good faith from the council's relationship with shack owners, so they were trying to resolve the problem.

**Mr BOOTH** - Can I ask a couple of questions in regard to the discount for erosion you got on the block? Can you describe to the committee what that precisely means? You no longer have as much land as you'd originally staked out?

**Mr DOYLE** - No.

**Mrs DOYLE** - It's probably stated somewhere in our letter where it was reduced.

**Mr DOYLE** - It's just that erosion was going to be a future problem. We had a major erosion problem there, which I personally rehabilitated and had to do it under pretty strict guidelines, so I suppose that rehabilitation was going to be problematic to us in the future, and at our cost.

**CHAIR** - That rehabilitation was done under whose auspices, the council's or the shack sites or Parks?

**Mr DOYLE** - Mine. There was an issue there that no-one would take any responsibility for.

**CHAIR** - Was there approval?

**Mr DOYLE** - No, no approval. I had to rehabilitate it because it encroached on my land. I sought some private advice from an engineer, but not with any authority.

**Mrs DOYLE** - We did have an Aboriginal representative.

**Mr DOYLE** - At the time they were there checking other things and I asked him.

**CHAIR** - Has your rehabilitation been successful?

**Mr DOYLE** - Yes, totally.

**CHAIR** - So there was no comeback on that, nobody came and said, 'You haven't done that correctly, you have to take it out'?

**Mr DOYLE** - No.

**CHAIR** - I am just asking the question because we had some evidence where that did occur in another place and that remediation work had to be removed.

**Mr DOYLE** - No, I took that on my own bat and my own risk. But there were 2 metres of the foreshore and a metre of my private land within my area so I rehabilitated how I saw fit. No, I have had no recourse and for anyone to look at it now it is probably the best way. I understand, true, that you can't put in rock walls and things like that so we rehabilitated as more of a natural way of rehabilitating it from some outside advice - an engineer.

**Mrs DOYLE** - Crown Land did come at the time.

**Mr DOYLE** - Crown Land came but they put their hands up in the air, so I continued on with it. I nearly named the guy but I probably will not.

**CHAIR** - No.

**Mr BOOTH** - Just to be clear then, the Crown sold you a block that was effectively washing away and then gave you a discount because of that fact, but still sold you the land?

**Mr DOYLE** - Yes.

**Mr BOOTH** - When they discounted did you have to sign some sort of waiver with regard to any further liability issues that the Crown might have?

**Mr DOYLE** - No.

**Mr BOOTH** - Then with the smell - getting down to that issue - you said that you got a discount because of the location of it, not the smell.

**Mr DOYLE** - Yes.

**Mr BOOTH** - Was there any waiver that you had to sign in that regard too in terms of removal of it?

**Mr DOYLE** - No, we have signed no waiver whatsoever concerning the sale of the land.

**Mr BOOTH** - Are you aware of whether there would be - and I should have asked the council, and I cannot expect you to know but you might - a standard attenuation zone that is supposed to be around these sorts of things - sewage treatment plants, for example?

**Mr DOYLE** - I have made personal inquiries about certain standards. I have been a minor property developer myself and my understanding is that there are quite significant buffer zones and regulations and rules that you have to comply with. If I were to do this subdivision - if it was my land and I were to do it - I shouldn't speak for the council, but I am sure that I would not get approval to do what has been done at Surveyors Bay.

**Mr BOOTH** - It is certainly my understanding that the development standards are sub-zero in many cases in regard to the requirements that they put on a private developer.

**Mr DOYLE** - I guess, as shack owners, we look at that. But we wanted to keep our dwelling there. We obviously wanted to get the land so we probably would have agreed to whatever the restrictions were because we wanted to stay there.

**Mrs RATTRAY-WAGNER** - The alternative would have been to go?

**Mr DOYLE** - Yes, to pull our place down. It has been in the family for three generations and we want to continue with it in the family.

**Mr BOOTH** - Had there been another determination you might have been able to keep the shack there for another three or 10 generations or whatever just as a shack, whereas now what you have effectively is a subdivision with all sorts of substandard development standards. Is that a fair proposition?

**Mr DOYLE** - Definitely. But there was no option. We did not have any alternatives.

**Mr BOOTH** - Because the Government did not give you any alternatives?

**Mr DOYLE** - That is right.

**Mrs RATTRAY-WAGNER** - There was never a lease offer?

**Mr DOYLE** - No, there was never a lease offer. We always had it under lease.

**Mrs RATTRAY-WAGNER** - To continue.

**Mr DOYLE** - There were three options that were put on the table, we were told in the early days. One would be to remove the dwelling. The second would be a lease option. The third would be a freehold title. But we were never given any option of the three. They were the three criteria that were going to be met.

**Mr BOOTH** - Are you leasehold or freehold?

**Mr DOYLE** - Freehold.

**Mr BOOTH** - How much of your land is on the same level as the area that you have had to protect, rehabilitate?

**Mr DOYLE** - The block rises no more than 300 millimetres in total.

**Mr BOOTH** - Over the entire block?

**Mr DOYLE** - Yes.

**Mrs DOYLE** - Our block is 349?

**Mr DOYLE** - Square metres, yes. The dwelling is elevated probably 400 millimetres, which would be a regulation now - not that it was built for regulations. It is virtually the same level, practically.

**Mr BOOTH** - How much was your leasehold then? When was your determination concluded? In terms of land valuation, I am thinking.

**Mrs RATTRAY-WAGNER** - When did you purchase it?

**Mr DOYLE** - We paid the deposit in December 2006. We took it over in January 2007.

**Mr BOOTH** - How much did they charge you for the leasehold on it?

**Mrs DOYLE** - Freehold.

**Mr BOOTH** - Freehold, sorry.

**Mr DOYLE** - The freehold was \$110 000.

**Mr BOOTH** - Unbelievable. As a part-time developer yourself, do you find that extraordinary that the Crown could sell land that low for that sort of price?

**Mr DOYLE** - To be quite honest, we never even thought about the erosion problems because during this process we had exceptionally high tides and bad weather. Erosion isn't normally an issue. We've owned the shack or we've paid lease; as I say, it's been in the family for 50 years, and there's never been an erosion problem like that in 50 years. The vegetation that was eroded at that particular time had been there for the whole time, so it was a little bit of a one-off.

**Mrs DOYLE** - We have got a coast care group and we do try to maintain it.

**Mr DOYLE** - But it did show that it could be an issue, and I guess that's why we argued the fact, we put that up there because we were after a reduction in price. That's probably the only reason the erosion issue was even brought up.

**Mr BOOTH** - Can we get advice, Chair, just for the committee with regard to standard attenuation zones around treatment works and subdivisions? Also the AHD issue might be interesting, too, just for the creation of freehold title. I find that extraordinary.

**CHAIR** - Yes. We will take a note of that.

**Mr HARRISS** - With regard the treatment plant, you've indicated that the department have suggested that it can and will be fixed. Do you have any documentation? I don't know whether you've gone down that path with others to confirm that that's the case, and when it was that the department gave you those assurances.

**Mr DOYLE** - I'm pretty sure that there's something in writing there. We quickly went through these last night, and I'm not sure how it was stated, but they've certainly given us verbal assurances.

**Mr HARRISS** - Can you identify a rough date for the verbal assurances?

**Mrs DOYLE** - Back in 2006.

**Mr DOYLE** - Yes, back in January 2006 Lorraine Wright from the Valuer-General's office had been given assurances from the Crown because she had come to sort out this valuation issue and obviously knew that the odours were going to be an issue and everybody was going to say, 'We want to do a valuation because of the odour issue'. So she had been advised at that time in January 2006 when we met with her that it would certainly not be an issue.

**Mr HARRISS** - Clearly what I am heading to there is that three-and-a-half years later you still have the problem, notwithstanding you've been assured that it can and will be fixed.

**Mr DOYLE** - That's right.

**Mr HARRISS** - Am I right in assuming that there's been not too much attempt to fix it? Lindsay, you indicated earlier there's been a bit of recirculation going on.

**Mr DOYLE** - There have been things that have been tried, which gets me to further down the list here. We had a meeting with Sue Chapple at the council office and it was concerning all our problems. At that meeting she was quite abrupt and told me personally that we shouldn't complain too much because what we got for our money was quite good.

**Mrs DOYLE** - And we were very fortunate and that she'd buy it if we offered it to her tomorrow.

**Mr DOYLE** - I told her to get her cheque book out because it was no good to us the way it was. It's a beautiful area, and I guess that's what she was alluding to, but when you've got emitting odours when you're trying to have a barbeque, it takes the beauty away from the place.

**Mr HARRISS** - In that respect we're also tracking down evidence from other witnesses that there is a letter which indicates that if the shack owners didn't stop complaining then the department would be less than helpful in resolving the issue. There's a letter somewhere around that we'll try to get.

**Mr DOYLE** - We will see what correspondence we can come up with, too.

**Mrs DOYLE** - The project will limit its involvement in solving this issue. That's the letter. It says here:

'We will also be ensuring that the system is being regularly flushed, as per our advice. If either of these two important measures are being ignored then the project will limit its involvement in solving this issue until all shack owners can demonstrate that their actions are not contributing to this issue'.

**Mr DOYLE** - There were suggestions made that what we do is -

**Mr BOOTH** - You were using the system, were you?

**Mrs DOYLE** - Yes, we were using the toilet.

**Mr DOYLE** - There were ideas made that because we have pits at every shack they do not get pumped out regularly if you are not using them regularly, so the stagnant sewage was actually in those pits. The idea was that we put 100 litres of water through that system before we leave every weekend to flush the system. Whoever wrote that letter was saying that if shack owners do not do this then the blame can be put back on us. But we are on limited tank water -

**Mr BOOTH** - I was going to say, where to do you get 100 litres from?

**Mr DOYLE** - Exactly. If you go down there every weekend and you use 100 litres of water and you have a 2000 litre tank, you are very limited.

**Mrs DOYLE** - In summer time you could not do it; you would not have the water anyway.

**Mr DOYLE** - In this climate of saving water it is not an issue that you should be progressing with. A lot of ideas were put on the table at this particular meeting with Sue, and she corresponded back to us to thank us for going to the meeting and also said in that correspondence that she would be back to us in a fortnight and there would be changes made to try to make this system work, but nothing has been done.

**Mrs DOYLE** - Trees planted.

**Mr DOYLE** - Just some trees planted in the front of it because I did bring up the visual aspect.

**Mrs RATTRAY-WAGNER** - Seven, I believe.

**Mrs DOYLE** - Yes, seven trees.

**Mr DOYLE** - The visual aspect is another issue, and odours at the moment. Because of the discount we got because of the proximity of it, I guess that was in our mind - our compensation for putting up with the visual part.

**Mr GREEN** - You wanted to purchase your block and you were aware of the sea level issues or the erosion issues when you purchased the block?

**Mr DOYLE** - Yes, of course.

**Mr GREEN** - You would much prefer to purchase your block for \$110 000 than have your shack knocked down?

**Mrs DOYLE** - The \$110 000 was an issue but we had no other option.

**Mr GREEN** - Yes.

**Mr DOYLE** - We are quite happy to accept the sea level problems or whatever problems may occur there but we want to be able to use our shack for the next two generations or so.

**Mr GREEN** - But had the Government come to you and said that in 50 years this block might be inundated to two metres back and as a result they were not going to sell it to you, what would you have said?

**Mr DOYLE** - Well, we would not have had any recourse. We were leaseholders at the time so we would have accepted whatever decision was made. Obviously we were in favour of accepting a freehold title. So we accepted freehold title under those circumstances.

**Mr GUTWEIN** - Am I right in saying that it was \$47 000 you paid for infrastructure?

**Mr DOYLE** - Around that figure.

**Mr GUTWEIN** - You paid \$47 000 for infrastructure but ended up with a road that is not made and you have a toilet waste-water system sitting on your back doorstep?

**Mr DOYLE** - So none of the infrastructure, in our mind, has been achieved. We borrowed to purchase it and we have been paying interest on that money from 2006 when we purchased the property, so we have been paying interest on infrastructure that we have not had.

**Mr BOOTH** - Are you paying land tax on the place as well?

**Mr DOYLE** - Yes.

**Mr BOOTH** - Council rates?

**Mr DOYLE** - Yes.

**Mrs DOYLE** - We have always paid council rates.

**Mr DOYLE** - Even under the lease system you always paid council rates.

**Mr BOOTH** - So what would it be costing you per year to maintain that block when you have the interest on the purchase, rates and land tax?

**Mr DOYLE** - About \$15 000 per year.

**Mr BOOTH** - A year! \$300 bucks a week?

**Mr DOYLE** - Possibly. That is probably at the outside. That is with interest, rates and land tax.

**Mr BOOTH** - Touching on what Mr Green was saying, you have gone into this with open eyes but if sea level change occurs at the rate of the worst case scenario and you were looking at losing that block or a big part half way through this century - that is a completely wild and subjective statement, I would have to say - hypothetically would you expect that the Crown would have sold you something that would not occur and therefore you expect some sort of compensation if your block was washed away, for example?

**Mr DOYLE** - I guess it is nothing that has ever been thought about from our side. As Mr Doyle from the council probably alluded to, this process started 10 years ago and at that time there was no media talk of climate change or rising sea levels to the extent that there is now. I guess it was not something that was really an issue. The main issue was, 'You beauty, we can get this little bit of land', so it was not something that was discussed.

**Mr BOOTH** - On your radar, anyway.

**Mr DOYLE** - Exactly.

**Mr BOOTH** - The point I am making is that it very clearly was on the Government's radar. They were very well aware of it. CSIRO has been officially advising and warning of this for years. Do you expect that the Government ought to have taken that into account before they sold those blocks?

**Mr DOYLE** - Possibly. Keep in mind that the shack is not at sea level. This erosion problem was caused through a one-in-100 year event so it is not something that in the next half century at least would even be a problem. By the same token it is something that we have never thought about.

**Mr BOOTH** - Would you anticipate being able to redevelop the shack in terms of applying for a permit?

**Mr DOYLE** - We would hope to be able to renovate it.

**CHAIR** - Sally and Lindsay, thank you very much for your evidence.

**THE WITNESSES WITHDREW.**

**Mr SCOTT ANTHONY McKIBBEN WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.**

**Mr McKIBBEN** - I will just open by thanking the committee for allowing me and the others to address the committee. It has been a long and arduous process for everybody concerned. My main problem with the process is that it has been an unfair and inequitable process. The shack owners have not been treated equally; some have paid in excess due to delays and some have not. That is, from my point of view, the biggest problem. I will start with the dot-point paper. The first two points are covering what I just said. The third point, with 'see attachment 1' next to it, is the letter from David Llewellyn, written in 1998. I have highlighted the sentence which says:

'I wish to assure you that these amendments do not mean you will be faced with increased costs.'

So he's put it in writing that we will not be faced with increased costs due to amendments and changes.

**Mrs RATTRAY-WAGNER** - There's no date on that letter, Scott; are you able to give us a date?

**Mr McKIBBEN** - I know it was written in 1998.

**Mrs RATTRAY-WAGNER** - I find it unusual that you'd get a letter without a date.

**Mr McKIBBEN** - It's very strange that there's not a date on the letter, I admit that. It could be proved fairly easily that it was written in 1998. Mr Beck, who mentioned the letter yesterday, said it was given to him by the previous owner and he bought the shack around the end of 1998, so it was definitely written around then.

**Mrs RATTRAY-WAGNER** - Somewhere in 1998-99?

**Mr McKIBBEN** - Yes, basically about 10 years ago. It's not a big issue really but the fact that it has been written is the main thing.

Attachment 2 is a letter that I obtained from the general manager of the Huon Valley Council. I used to be a Huon Valley councillor and had a good relationship with the council. They have been good through this process but their hands have been tied because it has been a Crown issue. In that letter he is saying there is about \$160 000 for roadworks. From my point of view the road is not a big issue. At Easter time or Christmas time there could be 60 or 70 small children around the beach area. They have bikes and run around on the road and whatever. They are supervised but with the size of the shacks and the proximity to the road, speed is an issue. I think the better the road the faster cars go.

**Mr BOOTH** - So the shacks are located very close to the road in some cases?

**Mr McKIBBEN** - Yes, bearing in mind that a lot of them are only around 400 square metres. As has been mentioned by Mr Doyle, some blocks have lost their fronts due to erosion

and the road is literally right next to their rear boundary. In a lot of cases it is only metres from their back door.

**Mr BOOTH** - The road?

**Mr McKIBBEN** - Yes. There would be one shack where it would be 2-3 metres - that is along the end where you enter the beach. It is very close in a lot of areas. There is room to do the upgrade, but that is another issue.

The other point he's put there is about the sewerage. Basically that second item has been done to death. You've heard from the mayor and Glen, so that's basically stating their situation. The general manager was quite happy to put that in writing for me.

The next page is a map that Lindsay Doyle referred to. I have written on the bottom of the map page, 'I was given this plan by Paul Curry, supervisor for the contractor, Ron Carthew Pty Ltd'. That was about three weeks before they were to start work on the sewerage plant. He rang me and wanted to know if he could use part of my land to store some material on, which I did not have a problem with. I asked him where the treatment plant was going. The circled area that has 'sewerage station' written underneath it and the two squares, he said, 'That's where it will be, right behind Lindsay and Sally Doyle's shack.'

**Mr BOOTH** - Is that these in the next photo?

**Mr McKIBBEN** - Yes - you can see the back of their shack. There are two photos, I think, of the plant there, so you can see how close it is to their shack and the one next to it. We're a little bit further away.

**Mrs RATTRAY-WAGNER** - There is one in behind the trees there.

**Mr McKIBBEN** - That's the actual treatment plant. That is Fiona Steel, the lady who was here yesterday. Bearing in mind, when the weather is at its best and there is no wind, that's when the smell is at its worst because it lingers in that whole area.

Those two squares are two pits in the ground. Every shack has a holding tank which macerates whatever goes into it and then it is pumped to a holding tank that is shown there. Then it goes through the blivet, which is not shown on this plan. The blivet is what you can see in the photo. He said, 'There is a blivet which is a small treatment plant.' His exact words to me were, 'You won't even notice it, it's painted green. It fits in a container.' As you can see, it is painted green through the wire, but then they put a silver wire fence around it and added the shed and few other bits and pieces and dressed it up like a Christmas tree, so it's a visual eyesore, it smells and there is a noise component as well which you tend to get used to because it is continual, but it's there.

**Mrs RATTRAY-WAGNER** - Is it similar to an air conditioner or a heat pump?

**Mr McKIBBEN** - Probably; it's not loud. There was a crown officer, I suppose you would call him, Gary Evans; he is new. I had several conversations with him at Christmas time. He had been given the job to try to resolve the shack sites problems. He had come from the Meander Dam but his role had finished there. I said to him, 'Where would you rate

Surveyors Bay on your list?' because he had the entire estate, and he said, 'This treatment plant would be at the top of the list.' He said he had a recommendation that it be moved for the visual, noise and smell reasons. He told me he was in discussion with Ray Bender, who owns 3 000 acres surrounding the property, and he had money to move it but I am not sure if he still has the money since the latest recession that we have had to have again. He told me that at Christmas time.

**Mrs RATTRAY-WAGNER** - So in January 2009?

**Mr McKIBBEN** - January, yes.

**CHAIR** - No indication of how much money that might have been?

**Mr McKIBBEN** - No. I have heard there was \$2 million to \$3 million allocated for shack problems. Whether that's hearsay or not, I don't know, but I've also heard that the money is probably not there now.

Going back to my initial discussion with Paul Curry, who is the supervisor for the contractor, he basically said that is where it is going. That is the first I and, as far as I know, anyone else knew where it would be located, and he said, 'You will hardly notice it; there will be little visual impact'.

I used to be a self-employed builder within the area. I have a bit of an understanding of sewerage schemes and whatever. Hypothetically if you moved the plant, if there was an agreement with Ray Bender and moved it 500 metres away, that would not be as difficult as it sounds. You would leave the two pits in the ground there. You would still have the holding tank and then pump from that tank to the new site, let it gravity-feed back to the other tank, and then it goes on to settlement trenches. They could all stay where they are. These two tanks in the ground could stay, just move the blivet and the smell. From a personal opinion, I would move the blivet to Southport. I would give every shack a septic tank next to their holding tank, and the septic tank could treat the effluent, then it could be pumped on to this tank and up to the settlement trenches.

**Mr BOOTH** - Just the grey water?

**Mr McKIBBEN** - Yes, just the grey water, which is mainly detergents and whatever. I think there are ways to fix it, but there would be dollars involved. I have heard it mentioned how much. Private enterprise would probably do it fairly cheaply, but with reports and whatever you would soon spend half a million dollars probably. That is all I will say on the treatment plant, unless anyone has any questions.

**Mr BEST** - So how far away does the odour dissipate exactly?

**Mr McKIBBEN** - Depending on the weather conditions, how many are at the beach at the time, on a hot, humid night without any wind it could cover the entire beach.

**Mr BEST** - So really you would need to find another location, but it would be good to test - hopefully it could operate without odour but we know that is not the case and we cannot guarantee that. It really needs some sort of testing as to the distance that you get away from it as to being undetectable to ensure that wherever it is placed, and also maybe they

need to look at, say, some of the naturally-occurring winds and breezes and that sort of thing.

**Mr McKIBBEN** - I think if there are winds, and if it were a reasonable distance away, it would not be a problem.

**Mr BEST** - Yes. It is a strange thing. We have a problem with odour at a rendering plant in Devonport, and it was quite odd in that the wind could pick it up and actually lift it and jump the odour in certain locations in and around Devonport. It is quite bizarre, really, as to how it can do that. I know this is not that situation, but I think you need to be careful.

**Mr McKIBBEN** - But having said that, Surveyors Bay is at the mouth of the Huon River. There is a natural draught goes down the river and down the channel where the two meet. The ground around Surveyors Bay is quite steep to get down. It is a completely different situation to what you have described.

**Mr BEST** - Yes, I know it is not relevant, but I think you need to consider where you put it.

**CHAIR** - I just have to mention the time, and there are quite a few issues there that you need to raise.

**Mr McKIBBEN** - So I only have 10 minutes. The AirWalk has a similar thing. It is far enough away that they do not have a problem with smell. The tanks are an eyesore, attachment 3.

**Mrs RATTRAY-WAGNER** - They are for the fire-fighting people?

**Mr McKIBBEN** - Yes. There is a reference further in that is in the FOI document. It should have FOI on the tag on the side, and there is a little orange tag with fire-fighting tanks in that FOI document that we obtained. The reason we wanted it was that we wanted to know the initial cost before that expired. But it makes mention of the 20 000 communal fire tank. Somewhere after that we ended up with the great wall of China with every shack having a 10 000 litre tank which, on a 400 square metre block takes up a lot of space. A 10 000 litre tank is huge. It takes up a good car space or a garden shed, which is a bit unfortunate when you have limited space. It is not a high fire danger area. So hopefully some resolution may be able to be sorted out with the fire tanks.

**Mr GUTWEIN** – Can I just ask a very quick question?

**Mr McKIBBEN** – Yes.

**Mr GUTWEIN** – How far is the water from where these tanks are put? Are we talking about 15 metres or 20 metres?

**Mr McKIBBEN** – Yes, probably.

**Mr GUTWEIN** – I have never been involved with firefighting but I would have imagined you could pump salt water and it would put out a fire just as well.

**Mr McKIBBEN** – It will and then all you have to do is run fresh water through the pump.

**Mr GUTWEIN** – Was that suggestion made in regards to even perhaps a communal firefighting pump as opposed to everybody having to have a 10 000 litre tank?

**Mr McKIBBEN** – It was just never a consideration. It is salt water. We have a boat ramp at one end. I think that can be utilised but we were just blown away. We did not know until just before they were coming that we were all getting a 10 000-litre tank. So somehow it just got wound up in red tape. At attachment 4, with that freedom of information document, that shows the cost of my shack, which I inherited through this process from my father.

**Mr BOOTH** – Is that your shack there, in the photo?

**Mr McKIBBEN** – No, that is next to Lindsay Doyle. If you want, because we are running out of time, we will go to that group of photos. C2 lost their survey pegs. The storm that did this came after we had received and paid for our blocks. This had not happened before. Lindsay mentioned it is a one-in-100-year storm. It probably is, but are they going to become more regular? We do not know. This was brand-new. C2 and C3 are next to Lindsay, and C4. C5 is Lindsay's shack – Lindsay and Sally. You can see their barbecue sitting on the beach. The damage was quite catastrophic.

**Mrs RATTRAY-WAGNER** – But it does not look like that today?

**Mr McKIBBEN** – No, it has been rehabilitated but it is still with loose material. So who knows what is around the corner? Recently, again, the colour photos. That is our shack.

**Mrs RATTRAY-WAGNER** – The one in the background? The blue one.

**Mr McKIBBEN** – Yes. This is where a culvert pipe is in the road. It is obviously not big enough to cope with any substantial rain.

**Mrs RATTRAY-WAGNER** - When you get the new road will you get a new culvert pipe?

**Mr McKIBBEN** – Hopefully we will get a good-sized culvert pipe.

**Mr BOOTH** – Is that impounded on the land or is that the sea level sort of -

**Mr McKIBBEN** – On the other side of the road there is a swamp area. The road track is under that, what you can see.

**Mrs RATTRAY-WAGNER** – The trees beside the road?

**Mr McKIBBEN** – Yes.

**Mr BOOTH** – Where would the water drain to? Whether you had a giant culvert pipe there or not would not make any difference.

**Mr McKIBBEN** – If you had twice the size it would cope. It just backed up. The truck driving through the water is the same spot.

**Mrs RATTRAY-WAGNER** – As the water subsides.

**Mr McKIBBEN** – Yes. Now with my block, the last photo is out the front, where that washes through. You can see a witch's hat in the middle of the pigface. That is my title. That has washed out once. I have reinstated it. As you can see there, it does wash under my block, under the logs, with heavy rain. These blocks are not average building blocks that we are talking about.

**Mr BOOTH** - Is that erosion from the tide or is that from the plant?

**Mr McKIBBEN** - More from the creek, which is adjacent to my block.

**Mrs RATTRAY-WAGNER** - I can see the creek running down the side there.

**Mr McKIBBEN** - Yes. So we have reinstated that. Regarding the small fenced area with the orange fencing and the star pickets, there have been issues with owners who own private blocks on the other side of the road with me fencing the foreshore. I am just trying to protect the corner because once it starts caving in it works back. It seems to work. It has been mentioned that shack owners are in a privileged position. There is animosity from landowners behind the shacks. Obviously they would like to see them go and improve their view. The fact is that the shacks were there first. They have been there for 60-70 years.

**Mr GREEN** - You don't let them walk down through your place?

**Mr McKIBBEN** - I do. I let them walk over. There are a lot of caveats on the blocks: we are not allowed to fence; we have building restrictions. We have a block where part of it could wash away, hopefully not all of it. We cannot fence. We would welcome the people behind to walk through wherever they like; they have open access.

As far as the comment Mr Green made about having the option to buy or not is concerned, my father built the shack and always envisaged his grandkids using it and their kids and so on, as I do. It is not so much the issue of buying it and taking the risk because that is what we are all doing, taking a risk on whether the block will be there in 50 years, the issue is that through this process some owners have been able to buy very cheaply and some have been hit very hard.

With the Thompsons whom you heard yesterday, theirs has gone to \$155 000. They went from one of the cheaper ones to the most expensive. One point that I want to clarify is that where you have land value and infrastructure, the bottom line is whatever the land component was and the infrastructure, the infrastructure was included in the price. Although we bought a vacant block, we paid for a vacant block with infrastructure. If someone has paid \$25 000 for their land and \$90 000 for their infrastructure, they have still paid \$100 000 for their block. I just wanted to clarify that.

I have found the involvement that I have had with the Aboriginal community very good. They had a representative there when the sewerage works went in. He was very good. There was a lot of excavation. We have heard about the famous meeting where Mike Jones in 2004 offered for the Crown to help fill the application out properly and the

Crown declined the offer. Unfortunately then the application sat on the desk until our valuation of that day expired.

That is the sort of thing we have had to deal with. There is another paper with the comments that Ashley made that Sally covered. I have highlighted those. This is for future reference, I suppose, but my mother instructed her solicitor to write to the shack sites group on 29 April asking questions - just questions you would ask about the process. On 30 April we received a very quick reply from Robin Nolan saying that he could not help her. He has referred the letter to Ms Shivlock.

**Mr GUTWEIN** - Which attachment are you on?

**Mr McKIBBEN** - It was on top of the photos and it had the letter from Ashley McQueen on 29 April.

**Mrs RATTRAY-WAGNER** - She is suggesting you send the questions back to the office of the Shack Sites Commissioner?

**Mr McKIBBEN** - Yes, who she was. Because it was not addressed properly she basically says to send your request to her and she would answer the questions. Robin Nolan replied the next day but it took her six months to send that back basically telling mum to send it to her and she would answer the questions, and bearing in mind her desk is within metres of Robin Nolan's on the same level. Then mum sent the letter again titled differently and she never got a response. That is one instance of what we have had to deal with.

**CHAIR** - Scott, we are almost there. Is there any final point you would like to make there?

**Mr McKIBBEN** - Just quickly, the point that I touched on that Mr Green was sort of alluding to, I think, about why did we buy it -

**Mr GREEN** - No, I was not alluding to it in that way. The point I was making is that people were trying to do their best to ensure that freehold title was available effectively. It weighed against a whole range of things that perhaps even in hindsight may not have been done but people were trying to ensure that people got freehold title in line with what shack owners wanted.

**Mr McKIBBEN** - If I can give you this, and there is one copy each, it is the last three government valuations. The first one was \$12 500 when my father owned the shack and that went to \$25 000 to \$86 000. We got an independent valuation from Brothers and Newton saying that the figure for the shacks at Surveyors Bay should be around \$95 000, so it was a bit over. My father had \$30 000 invested. Initially when this started with him he was told \$17 000 or \$18 000 and then it went to \$25 000 so we put \$30 000 in an investment account because his health was failing and fortunately for him probably he died before he got the end result which was \$145 000, and I inherited that debt.

My biggest problem with the whole thing is the inequity. I think Paul Harriss' bill that I am hoping he is going to table will help the people who have paid grossly in excess of what they should have looking at these government valuations. It will bring them back to at least the valuation that should not have expired -

**Mrs RATTRAY-WAGNER** - Are you referring to the March 2004 valuations?

**Mr McKIBBEN** - Yes, which was around \$70 000, give or take \$5 000 for different shacks. The reason it expired was that the Crown did not accept the advice of the Aboriginals to do that application. As far as I am concerned, that is it in a nutshell. The sewerage plant - and I really sympathise with the Doyles - I think will get fixed one day, but God knows when.

**Mrs RATTRAY-WAGNER** - I wonder how they put up with it in the meantime.

**CHAIR** - Scott, thank you very much for coming in.

**THE WITNESS WITHDREW**

**Mr DOUGLAS STANLEY WRIGHT** WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** - Thank you, Doug. I just remind you that we did have quite a bit of evidence from you with regard to a previous hearing on coastal erosion, so we don't need to go back through that again. We will take the previous evidence you gave into account. I think you also gave evidence to the Public Accounts Committee.

**Mr WRIGHT** - Ethics Committee.

**CHAIR** - So it wasn't the Public Accounts Committee on this particular matter?

**Mr WRIGHT** - The Ethics Committee, I thought.

**CHAIR** - Right, thank you, it was. So you can focus today on any new issues that you have.

**Mr WRIGHT** - I have owned a brown shack down there since 1987; it's an historical shack. It was one of the first registered with DPIWE in 1946; it was probably built in 1938. It has been given a mongrel-bred 30-year lease which will make it 100 years old at the end of the lease. Some government - I hope it's a Labor one - is going to pull it down at that stage. I am here as a very vindictive person because I have been denied justice on my shack because there's absolutely no reason why it should have been given leasehold. It should have been freehold and the whole documentation is flawed and tainted.

**Mrs RATTRAY-WAGNER** - Whereabouts is it?

**Mr WRIGHT** - Eggs and Bacon Bay. In 2000 they commissioned a report from Peacock Darcey & Anderson. That report said that all the shacks at Eggs and Bacon Bay were entitled to be freehold, with no reasons whatsoever why they couldn't be. That was confirmed with me by Ray McKendrick at a shacks sites meeting in 2000. He absolutely confirmed that he had the report and it was progressing. All of a sudden they employed Scott Marston. He took over from that point on, and the shack sites committee went into a bureaucratic bungle of absolute major concerns.

**Mrs RATTRAY-WAGNER** - How many are freehold at Eggs and Bacon Bay and how many are up for removal?

**Mr WRIGHT** - Everyone bar mine; everyone bar the brown shack.

**Mrs RATTRAY-WAGNER** - You're the only one up for removal?

**Mr WRIGHT** - Yes, or up for a leasehold and then subsequent removal. They produced a shack sites information package which is flawed, and I will cover that shortly.

I want to read to you a letter from the Huon Valley Council to Scott Marston, dated 25 June:

'The council has considered the circumstances relating to shack no. 1 Wright and has felt that this shack should be retained. While there are

issues relating to the narrow road access and the beach location, future land management problems can be addressed.

Council is currently considering the future management of all the public toilets in the municipal area and it is possible that the toilet block at Eggs and Bacon Bay may be removed. If this is the case, it will reduce potential loads and a proposed drainage easement will resolve some of the access difficulties associated with shack no. 1.

'The views expressed in this letter are not the formal or final views of council. Such an approved position would need to be presented to council in a public forum.'

They wrote to Scott Marston on 13 August 2002 and said:

'The council concurs in principle with the assessment reports for the crown land shack sites at Kingfish Beach, Surveyors Bay, Little Roaring Beach and Eggs and Bacon Bay subject to all 10 shacks being freeholded at Eggs and Bacon Bay.'

There is absolutely no doubt that I had the council's support. What did Sinclair Knight Merz come up with? They finalised a report the next day. They said:

'Council considers that a long-term lease would be suitable tenure for this shack.'

It is all here in writing:

'The shack is located between the beach to the west and the road to the east and a watercourse to the north. To the south is a boat shed and such a location severely limits the access road and potential future upgrade and widening for any such work. Council is likely to face land management difficulties and costs.'

That is garbage. I approached Ken Collis, and his solicitor writes:

'I have been consulted by Ken Collis, the owner of the adjacent property at Eggs and Bacon Bay. Mr Collis instructed me to request that he grant to the Huon Valley Council a right of way over a small portion of his property for future road widening. Mr Collis is prepared to grant the council a right of way as requested providing you pay all costs associated with the transfer in consideration, \$1 500.'

I agreed to that and there were absolutely no road issues. The determination was handed down and Scott Marston signed off on it. Kim Evans and Alan Harradine signed off on it. Scott Marston said the shack site was determined for a long-term lease. The long-term lease had two conditions added to it:

'If a shack site is required for formal public use the lease is to be cancelled and the shack removed. The cancellation of the lease can only take place

following a determination by council and the Crown that that site is required for formal public use and following formal approval of public use via public consultation process.'

Those conditions that were put on that determination are illegal. I panicked and said, 'This is no security for my wife and me'. This was going to be our future home. I went and bought the place next door, 50 yards up the road, and that is a shack too. He said:

'The shack is located on coastal reserve and managed under the Crown Lands Act. The General Manager of the Parks and Wildlife Service was consulted and supports the offering of a long-term lease for this shack site.'

I'm sorry, but he didn't. Scott Marston wrote to him and said:

'It is the intention of the shack sites project to make a recommendation to the secretary of the department that he makes a determination under the Crown Lands (Shack Sites) Act 1997 that all shack sites at Little Roaring Beach, Surveyors Bay and Eggs and Bacon Bay be sold to existing licensees.'

Peter Williams at Parks and Wildlife wrote back and said, 'I concur'. This determination is just rotten with that sort of thing. I haven't got time to go through it again with you but it is all here and available.

I went to appeal with Robin Nolan and the council further supported me. They said at the August 2002 council meeting this particular shack was considered as part of the general report on most of the crown shacks within the Huon Valley municipal area. At that meeting council resolved that it would recommend that all 10 shacks, Doug Wright's included, at Eggs and Bacon be converted to freehold excluding the shed. They are expressing the council opinion of Wright to Robin Nolan to get him to support my application. Unfortunately I had to withdraw it. I was given a lease because I was impinging on public access. This is what was purported. Yet the act itself forbids the secretary from making a determination that the existing lease or licence for a shack should be replaced with a long-term lease or that a shack site should be sold to the existing lessee or licensee in any case in which the secretary is not satisfied, that waste water from the site can be effectively treated or disposed of, or that the granting of a long-term lease for the site or a sale does not eliminate or restrict reasonable public access to and use of coastal foreshore or lake or river frontage.

So on one hand they are saying I am blocking the access, and on the other hand they are saying Kim Evans can sign off on it. Garbage! The act did not allow for it. But that is what they did. I withdrew from Robin Nolan because DPIWE agreed to remove the two illegal conditions on the lease. I was told by Peter Pearce, Bryan Green's secretary, 'That is your best option. We cannot give it to you in writing that we are going to remove those illegal conditions, that they are illegal, but we will guarantee that when you get the lease they will not be on there. That is your best option because otherwise Commissioner Nolan might rule to remove the shack'. The staff from there, Vicky Shivlock, told me if I contested it that is exactly what they would be recommending. So I was left with a gun barrel at my head.

I wrote to Robin Nolan and said that I wished to withdraw the appeal for the above shack as DPIWE had agreed conditions previously imposed in the determination would no longer be inserted on the 30-year lease determination. The reasons for withdrawing were that I couldn't afford to fight an appeal against the Crown's solicitor and that I was unable to appeal against the process under which the determination was made even though I could prove it was a false determination. That was the problem with the legislation: they could ride all over the top of us and you could not appeal against their decisions. You could only appeal against the final determination, and you could not bring up any of this that I have spoken to you about. It was not in the legislation. I was also not prepared to risk the loss of the shack even though I had excellent grounds of appeal against the determination. Athol Meyer would be a most offended man if he could see how his efforts of giving certainty of tenure to shack owners have been abused.

**Mr BOOTH** – Why would Mr Pearce not give it to you in writing?

**Mr WRIGHT** –I don't think they wanted to admit that they brought down a determination with illegal conditions. I have a letter from Mr Llewellyn that says that they will not be on there. They have never admitted in a public forum that they are illegal. The only person who can place conditions on a shack site is the minister of the day. It cost me \$9 000 to get a meeting with the minister. I had a chap from Argyle Law, Ian Duncan. He drafted up all this legislation for the Government so I thought he was the best man to handle it for me. He wrote to Peter Pearce and said:

'Our client's concern is essentially that in the process of issuing a lease of the above shack site, the department has inadvertently overlooked or failed to honour its agreement with our clients to disregard the conditional clauses A and B which were originally contained in the determination by the secretary, issued under cover of Mr Allen in his letter of 8 October.'

The reason for writing that was, those two conditions were submitted to the Huon Council on 9 September 2002, 14 October 2002, 12 November 2003 and 10 December 2003. They were submitted before an RPDC hearing on 17 May 2004, 29 June 2004, and again on 11 January 2006. They were never withdrawn from the public arena. All that the bureaucrats wanted to do was get rid of the shack, and they wanted to make sure that the Resource Planning and Development Commission hearing came down with those conditions implied, and the council came down with those conditions implied. Thankfully we have some good councillors in the Huon Valley and that is why we are supported. I think they appreciate the age of the shack and the nature of the area, and what it has done for the Huon Valley.

**Mrs RATTRAY-WAGNER** - So the council did not support those conditions?

**Mr WRIGHT** - No, but they were put before the council forum - illegally, I say. This is a letter from David Llewellyn to Ian Duncan, my solicitor:

'The issuing of leases for those sites determined for lease have not yet occurred, so any concerns that your client has that earlier commitments given by the Shack Sites Project have been overlooked are unnecessary. I can assure you and your client that at the time the lease is prepared for your client's site it will exclude the conditional clauses A and B.

You also expressed concerns regarding the proposed reticulated waste water treatment systems proposed for your settlement.'

He goes on and he says:

'The RPDC report substantiates the department's assessment that Eggs and Bacon Bay sites cannot accommodate individual on-site waste water treatment systems.'

It is garbage. Here is a letter from Ashley McQueen to me:

'This letter is in response to your discussion you have held with the department regarding the costs associated with connecting one of your shacks at Eggs and Bacon Bay and the shack which was determined for a 30-year lease.'

What they wanted was \$80 000 to give the brown shack a 30-year lease, and I have to pay \$80 000 up-front. I was on the Tender Board for that. I was going to attend the meeting and my wife was accompanying me. She had a stroke after she found out this information. She was admitted to hospital that day. All this has just weighed on our health and it is just garbage.

He goes on to say:

'The department has obtained ministerial approval for you to investigate an ultimate waste-water disposal system in order to service your shack at Lot 1. In the event that you are unable to identify an ultimate system which is supported by both council and Crown, will you be connecting Lot 1 to the reticulated system or do you intend removing the shack from the site?

The department is willing to compensate you with an ex gratia payment of \$5 000 if you decide to voluntarily remove your shack. This payment is to cover costs incurred with its removal.'

In other words, we'll give you approval because you're going to fall on your sword and when you can't produce your evidence, ta-ta, goodbye, Mr Wright.

Well you wouldn't believe it! It's sewerred, it's approved, it's all done. It was just a proposed waste-water system and it is built to Australian standards and could not be denied. Yet, this Government employed three lots of engineering mob, Peacock Darcey & Anderson, SKM, Pitt & Sherry, and they all said it could not happen. Well it has.

**Mr BOOTH** - They all said that system could not work?

**Mr WRIGHT** - Well it's working, it's approved and it couldn't be knocked back because it was built to Australian standards.

**Mr BOOTH** - Can I clarify, they wanted \$80 000 for a 30-year lease?

**Mr WRIGHT** - \$80 000 to connect to the sewer.

**Mr BOOTH** - Then a lease payment on top of that?

**Mr WRIGHT** - Then the lease payment, and I will come to that in a minute. That is the tragedy of the day. We wrote to the minister. I had a meeting with David Llewellyn on 18 July. Peter Pearce, Sean McArdle, Ian Duncan and I were there. I showed the minister the complete list of the anomalies that had happened in this. He said, 'You've been shafted, but what do you expect me to do about it? The act is closed, the determinations are closed and I will not introduce a bill for one person.'

**CHAIR** - What date was that again?

**Mr WRIGHT** - That was 18 July 2006 and it was in the presence of my solicitor.

**Mr BOOTH** - Also Mr Llewellyn?

**Mr WRIGHT** - Yes. I had also had a meeting with Bryan Green. Prior to this, he offered to have a look at it. He went down and had a look from the water when he visited Huon Aquaculture. He came back and said, 'I could not see anything wrong with the shack but I can't make the staff change their mind.'

**Mr GUTWEIN** - Through you, Mr Chairman, Mr Wright, was that a direct quote from Mr Llewellyn, that you had been shafted?

**Mr WRIGHT** - I sat there in his office. It cost me \$9 000 to hear that because that was the solicitor's bills it cost me to get through to that final meeting and hear that. It is a laughing matter, Bryan, isn't it?

**Mr GREEN** - No, it is not.

**Mr WRIGHT** - I wish my name was Doug White, not Doug Wright and I don't think the laugh would be there.

**Mr BOOTH** - So what do you mean, the minister just looked at it from the water?

**Mr WRIGHT** - He offered to have a look at it and then he was on a boat and he was going down to do a tour of Huon Aquaculture so they pulled into the port, had a look and could not see anything wrong. Kim Evans, the secretary, had a look at it and he came back and said, 'My only issue with your shack is the road'. I said, 'Well, I'll fix it. Ken Collis has agreed to give an easement so that the road can be shifted'. He said, 'Well, go for it'. The staff still would not change their mind. He arranged to meet them. I have all the documents here but I am not going over them again.

We wrote to the honourable minister and said:

'Given Mr Doug Wright's situation and the refusal to freehold the above shack site, notwithstanding the original recommendation that it was appropriate for freeholding, the relatively short term of the offered lease, the cost that Mr Wright has been obliged and will be obliged to incur and

Mr Wright's age and other relevant factors, Mr Wright has instructed us to request that you exercise your ministerial discretion in Mr Wright's favour vis-à-vis the lease costs including the lease rental'.

In other words, the minister of the day could have adjusted the lease rental to whatever he thought fit. He had already said I had been shafted. Do you know what he did? He wrote back and he said, 'Sorry, you've got two crown leases, you have the leasehold one and the one you rushed in a bought for freehold so we cannot entertain it'. I have still got two leases because I am still arguing over the value of one and still trying to wipe the tears out of my eyes with the other one because it just sits there as a white elephant.

**Mr BOOTH** - Are you paying any costs on that other one?

**Mr WRIGHT** - Paying any costs, let me tell you about it. The land value on the brown shack originally in 2003 was \$16 000. I have to pay 6 per cent, that is what the act says, and that comes to \$960. That was liveable because the previous annual licence was \$500 plus incidentals and other little things. So I did not considered \$960 was inappropriate. But when the lease was accepted in September 2007 that land value went to \$56 000. At 6 per cent that was \$3 360 I was paying for the white elephant. Now it is valued at \$67 000. At 6 per cent that is \$4 020. It is a 187 square metre block. My other one just up the road, 541 square metres, is \$77 000.

Where to start and where to finish. Paul Harriss, if you cannot incorporate something to save the leaseholders in your shack sites amendment bill or whatever comes of it, that shack has to be pulled down. I just cannot afford it and nobody can. Thirty years at \$4 000 is \$120 000. For the freehold one up the road I am arguing to pay \$70 000-odd.

It is just crazy. I admit that at the time of the day that the legislation was probably relevant those values were there. Minister Llewellyn could have fixed that for me but he did not choose to and I just hoping that the Legislative Council can have some understanding in this and do something.

I want to get on to valuations. I have, like Scott Marston, a list of letters about access to my house that are unanswered by the department. They have just walked away and left me with an unsafe access and it my legal access; I have a letter from them in that regard.

**Mrs RATTRAY-WAGNER** - Even though you have offered to legalise the access with your neighbour?

**Mr WRIGHT** - Sorry?

**Mrs RATTRAY-WAGNER** - Even though you have an illegal access, you said, even though you have offered to make your access legal by taking an easement?

**Mr BOOTH** - That is his legal access.

**Mrs RATTRAY-WAGNER** - Sorry, I thought you said illegal.

**Mr WRIGHT** - That is my legal access. They have left it less than 2 metres wide. It is where they put the pipes in. Originally it was at ground level, 2.4 metres wide; they put

their pipes, covered it with 500 millimetres of fill and left the batter and the road is only 2 metres wide and dangerous. While you are talking about that, they put in two pipes, one stormwater, 80 metres of 225 millimetre pipe that goes to nowhere. They dug it into the ground, inserted it and stopped. Do you know why? Because they were going to put three parking bays up the top for the next three shacks and that stormwater pipe was going to take it off them. When I had an argument over my access - they are selling me 68 Flakemores Road - they tried to say that my access was down the bottom, even though it was illegal. My solicitor wrote and he asked what access and it is illegal to sell a block of land if I demand an access so you know what happened to the car park, all stops; the pipes were all done, the brickwall retaining wall has been built on somebody else's property, all paid for and this was with three lots of engineers.

While we are talking about the stakes of engineers we come to the commencement of it. All the pumps for the sewerage station require three-phase power and six months later we got the three-phase power on and they had not even thought of having three-phase power at Eggs and Bacon.

**Mr BOOTH** - What sort of power did you have?

**Mr WRIGHT** - Just the normal current. It had to be run down Deep Bay somewhere and that \$50 000 has now been added on to our cost. I never ever paid it. I must push ahead because you are going to kill me.

**CHAIR** - Yes. How are you going, Doug?

**Mr WRIGHT** - I want to get into valuations because this is most important and it is new. I appealed against the valuation on the green shack because it was garbage. In 2002, it was valued at \$15 000. In March 2004, a chap called David Ferguson from the Valuer-General's office valued it at \$92 000, a 500 per cent increase in 18 months and it was 23 metres off the sea level, the blocks. There are six. He quoted two spots around the back -

**Mr BOOTH** - When you say '23 metres off' do you mean horizontally or vertically?

**Mr WRIGHT** - He said vertically. I think that is where the office was in Hobart where he was sitting.

He quoted two land sales in the area. Residential land sales at Craig Point Parade at Eggs and Bacon Bay indicate premium prices have been paid. Two allotments, both non-waterfront, sold in April 2003 for \$63 000 and in November 2003 for \$52 000. He forgot to have a look at the lot sizes. One was 2 094 square metres and the other was 2 545 square metres, so he valued mine at \$92 000. Back in March 2004 he valued Kenny Thompson's at Surveyors Bay at \$66 000. We come along to 2006 and he values Kenny Thompson's at \$155 000 and values mine at \$110 000. Mine went up 20 per cent from the \$92 000 and all the rest of the blocks at Eggs and Bacon Bay only went up 8 per cent to 12 per cent.

**Mr GUTWEIN** - Doug, could you just give me those figures again? What was the Thompson valuation in 2004?

**Mr WRIGHT** - In 2004 it was \$66 000.

**Mr GUTWEIN** - And what was your valuation?

**Mr WRIGHT** - My valuation was \$92 000. In 2002 my valuation was \$15 000 and Kenny's was \$17 000, probably \$17 500, from memory.

**Mr GUTWEIN** - The next valuation was?

**Mr WRIGHT** - \$92 000 for mine.

**Mr GUTWEIN** - What year was that?

**Mr WRIGHT** - March 2004, all done within a week of one another.

**Mr GUTWEIN** - So in 2004 it was \$66 000 and \$92 000. In 2002, it was \$17 500 and \$15 000 and the next valuation that you had there was -

**Mr WRIGHT** - The next valuation is 6 November 2006 and mine comes in at \$110 000 and Kenny Thompson's came in at \$155 000.

**Mr GUTWEIN** - Thank you.

**Mr WRIGHT** - You just cannot have valuations of those variances; it is just ludicrous. The tsunami that hit Surveyors got reviews. I have their valuations here - the valuation review was down from \$145 000 to \$100 000. Do you know what I got? Nothing, because Geoff Eddington before the Magistrates Court admitted that he did not have any knowledge of that but he said, 'It would not have made any difference to yours because your block is elevated at the back'. Well, let me tell you, the flat part of my land starts 1 metre from the breakwater that I have had to build since then and the shack is 1 metre back. 'You can flood the shack but you are all right because the back of the land is safe'. What a lot of garbage.

**Mr BOOTH** - Your shack is 1 metre from the boundary?

**Mr WRIGHT** - My shack is 1 metre from my boundary and that is 1 metre from the water's edge. There's nothing surprising about that. That is the brown shack. That is the shack right opposite that got freehold title. It is as close as mine is. It is closer to the car park than mine is and everything else. It got freehold and I didn't. But in relation to this court case, I'm waiting for Arnold Shott to hand down a decision today. There is the shack sites revaluation for Surveyors Bay. That document finally had to be admitted into court. In his ruling -

**CHAIR** - I just want to remind you that if a court case is pending at the moment -

**Mr WRIGHT** - He has reserved his decision and I'm not prepared not to give evidence today, and I'll tell you why in a minute.

**CHAIR** - I am just advised that we cannot take evidence on that, sorry. It is the sub judice principle and we cannot take that. That's the way it is.

**Mr WRIGHT** - Okay. Well, let me tell you the facts of the case. I am not referring to anything out of the case.

**CHAIR** - Once again, the same principle applies.

**Mr WRIGHT** - This is relevant. Scott McKibben put forward his latest valuation. My latest valuation came in at \$77 000. This has nothing to do with the court case, so we'll just put that away. I asked the courts to accept that document, and they finally did, and I have a ruling from Mr Shott that the valuation under the Valuations Act for rating purposes and under the Crown Lands Act is exactly the same. In other words, the valuations that have come in now - Kenny Thompson's is \$91 000 but they charged him \$155 000 two years ago. It's money down the drain and it's just capitalising. Every time this committee has reported to Parliament David Llewellyn has said nobody else has paid any more than they should have, so he is not going to do anything. I say to you that this is the proof in the pudding and I would just love Arnold Shott to bring down the right decision.

**Mr WILKINSON** - When is the decision being handed down, do you know?

**Mr WRIGHT** - It was supposed to have been today at 10 o'clock.

**Mr WILKINSON** - Because Arnold Schott is retiring soon, as you probably know.

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

**Mr WILKINSON** - And so today at 10 o'clock it was handed down, you believe?

**Mr WRIGHT** - I believe it was, and that was the ruling, but I have not had the phone call yet. Somebody has my mobile phone down there and I am waiting for it. I know you do not want to take evidence from that, and I am not going to give you evidence, but let me tell you that he accepted that last document into court, and you know what the Crown did, and the Valuer-General? They didn't front up, so when I tried to give evidence to that latest document that he accepted into court he wouldn't deduce any evidence from it. He said, 'I can't because the other parties aren't here.' This is the game that the bureaucrats and the Valuer-General's department have been playing with shack-owners all the way along the line.

**CHAIR** - Doug, I think we get the message, with due respect. Thank you.

**Mr WRIGHT** - Much appreciated.

**CHAIR** - Thanks a lot.

**Mr BOOTH** - Do we want to get anything for reference?

**Mr WRIGHT** - I am happy for you to have it. I do need it back unfortunately because a lot of it is part of what I put before Mr Shott. I can leave it in somebody's care and they can just forward it on. I don't need it right at this very moment.

**THE WITNESS WITHDREW.**

**Mr DAVID LLEWELLYN**, MINISTER FOR PRIMARY INDUSTRIES AND WATER, WAS CALLED AND EXAMINED. **Mr SCOTT BACON** AND **Ms SUE CHAPPLE** WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

**CHAIR** - Thank you, Minister, for appearing before the committee. As you are aware, we have taken quite a bit of evidence from different people around the State. I think we have had more than 50 submissions and we have taken quite a few verbal submissions in accordance with our terms of reference.

I suppose this is an opportunity for your to explain the Government's side of the matter and then I will allow members of the committee to ask questions, so I might hand it over to you, David.

**Mr LLEWELLYN** - I have not prepared anything specifically for an overall statement but I want to say that this has obviously been a very protracted process, going back to 1997, and it is one that I think was certainly addressed from a positive point of view to try to resolve the longstanding issue where a lot of crown land sites that had been operating up until we started this process through an annual licence arrangement which, for many people, was not satisfactory because they had put a lot of money and effort into building structures on the crown land sites. It certainly wasn't appropriate from the Government's point of view either because of a lot of the issues that now, with modern building requirements and so on, needed to be sorted, particularly in regard to access issues, sewerage and waste water and environmental concerns.

The legislation, as you know, received the support of the Parliament in 1997. Then in 1998 I think I was assigned the task, as Minister for Primary Industries at that stage and a number of other areas, environment included, to implement the program. I genuinely have attempted to do that - to try to convert as many properties as possible. Some people say I tried too hard to convert as many properties as possible to freehold ownership. There were a lot of hurdles along the way and, to some extent, we had to make a number of changes along the way. To that extent I guess some people might feel that they were better dealt with than others but I think, by and large, we consistently dealt with people under the provisions of the shack site legislation that I was given to operate under at that time and right through until now. Obviously the termination period has long since been completed and all the determinations have been made. Under the act, that role was given to the secretary of my department and there was then a fairly full process of appeals through the shack sites commissioner and even to the Supreme Court if people wanted to take it that far.

**Mr BOOTH** - Didn't Harry Floyd do that but you brought in retrospective legislation to overcome that?

**Mr LLEWELLYN** - No, that's not correct.

**Mr BOOTH** - You didn't, in fact, take action to change the outcome?

**Mr LLEWELLYN** - I did take action to change the act but he hadn't presented it in the Supreme Court at that stage.

**Mr BOOTH** - You just mentioned that people could go to the Supreme Court.

**Mr LLEWELLYN** - Anyway, I think it would be better if I continue on and then we can ask questions.

Even up to last week I met with a group of shack owners from the Kingfish Beach area down at Huonville, so we are attempting, even right now, to still look at providing for people to maintain their shacks. You would understand, and I think everyone does, that most people through this process, and there are some 1 200 to 1 400 shacks involved, have actually been able to have a determination to convert their shacks to freehold. Some people, where that has not been possible under the guidelines of the determinations, have been allowed to lease their shacks if they wished for a period of time and only at the very end of the process have we asked a small number of people to actually remove their shacks. That is where we really are now, with the very difficult question of removal. Some people have already removed their shacks but others are still concerned that they've been asked to remove them. I guess that is, in essence, why the committee is meeting at this stage because they've been approached by a number people in that regard.

**CHAIR** - Yes.

**Mr LLEWELLYN** - From my point of view I've really bent over backwards to try to accommodate people at every angle, even with respect to the purchase of land and shacks, to making hardship provisions and so on, and extending them to the extent that if people felt strongly about it and could not afford it, perhaps from limited income, they could keep their shacks and the matter would be dealt with out of their estate. Now to date there have not been many in that category, but there have been one or two, I think. So I do not know how on this very awkward situation the Government could have done other than the process that we have been involved in. It has been protracted over a long period of time. A lot of people have been involved in it. Different people have been involved in the process, including myself, because I had a period of some four years between 2002 and 2006 where I did not have responsibility for the shack site legislation; other ministers did during that particular period. I had to pick it up again in 2006 when I came back into the portfolio.

**CHAIR** - From quite a bit of the evidence we have received, it would seem there are quite a few apparent inconsistencies. I refer to the middens, the Aboriginal heritage issues. For example, at Rocky Cape the shacks are built on middens and yet they are allowed to stay, whereas at Eddystone Point there are shacks on middens which have to be demolished. That seems to be a thread that we have been getting, that there are inconsistencies in this matter, so could we just address that issue of the Aboriginal heritage first.

**Mr LLEWELLYN** - There are guidelines by which the determination was made. As I say, I have not been involved in those determinations. The secretary of the department, Mr Evans, made these determinations initially. He has been there through the whole period so I believe he has applied those determinations uniformly. But then there has been also the appeal process where the commissioner, Mr Nolan, has been involved in reassessing the situation. Then there is a further avenue, if people want to take it, to the court. The inconsistency, if there is an inconsistency, would have been by either of those gentlemen through the process, I guess, though I think they followed the guidelines as clearly as I -

**CHAIR** - It has been pretty difficult for the committee to reconcile some of those issues, particularly on one particular site where one shack could stay and the other one had to go. We are quite perplexed, as are the owners of those particular shacks.

**Ms CHAPPLE** - The department and the secretary who made the determinations were relying on expert advice from Aboriginal heritage consultants and advice from the Office of Aboriginal Affairs, and at the end of the day put together that expert advice and made his decision. I would be aware of no inconsistency to that extent. I am not an Aboriginal heritage expert, but I imagine there are differences about the Aboriginal heritage and the impact of a building or a shack on that Aboriginal heritage. But certainly I am aware of no inconsistencies in the way that was applied, and it was the same process used across the State.

**Mr LLEWELLYN** - From an historical point of view I know that we have had issues of Aboriginal heritage on other projects around the State. The view of Aboriginal experts sometimes varies with time, so it could well have been that the response from the Aboriginal heritage assessment in one case using the Aboriginal community to make those assessments was different from other cases because of the different views that individuals had at that stage.

**Mr GUTWEIN** - Just following on from Mr Hall, we visited a shack site at Eddystone Point, the Mallinson's site. Mr Mallinson presented before the committee and whilst I was not present on that day I read his comments in *Hansard*. It was very difficult for me personally to understand, with two shacks not much further apart than the length of this room, why one could stay and one had to go. Then, after reading Mr Mallinson's evidence, his view was that the Aboriginal assessment officer was only on site for less than three minutes. He walked across his site, provided no information, and then the determination was made. Yet there has been other evidence where inspections on sites took much longer. One of Mr Mallinson's concerns was how a detailed assessment could be made - an assessment that would require the removal of something his family holds very dear - in under three minutes.

**Mr HARRISS** - If I could add to that further, another perplexing matter for the committee with regard to that particular issue was that there had been detailed scientific analysis by six experts of the fact that there were no middens - that was documented. Yet a person from the Aboriginal Heritage Office walks on site, allegedly for three minutes, and overturns the scientific assessment. How can that be?

**Mr LLEWELLYN** - Is this a government officer you are talking about?

**Mr HARRISS** - Yes.

**Ms CHAPPLE** - Perhaps I could add something on the Mallinson case. I am not aware of exactly how long the initial assessment took. I cannot answer those questions. What I can say though is that Mr Mallinson did appeal, as he had a right to, under the Shack Sites Act. It went to the office of the shack sites commissioner, Mr Nolan and an appeal was heard in 2003. I have a copy of his decision here and it seems very clear to me that Mr Nolan looked very carefully at the evidence and had a number of expert witnesses on Aboriginal heritage. I will be happy to table that for the committee.

**Mr HARRISS** - You have mentioned that appeal.

**Ms CHAPPLE** - Yes.

**Mr HARRISS** - Are you aware that the Mallinsons were denied the opportunity to call Greg Brown, who, in his three-minute visit to the site, overturned the previous scientific assessment? Are you aware that they were denied by Mr Nolan the opportunity to cross-examine Mr Brown?

**Ms CHAPPLE** - I am not aware of that; I just have the shack sites commissioner's decision with the evidence that he took and the experts that he heard on that matter of Aboriginal heritage.

**Mr HARRISS** - Are you further aware, then, that one of those experts indicated at the hearing that the shack should stay?

**Ms CHAPPLE** - I am not aware of that, no.

**Mr HARRISS** - But you have the document there which indicates to you to the details of the hearing?

**Mr LLEWELLYN** - I think, with respect, even so, the process as set out in the act is that the secretary makes a determination. If that determination is not to the satisfaction of those people involved - the owners of the shack or those people who actually have a licence on crown land - then they can appeal that decision to the independent commissioner and then, even that decision, in some instances, is able to be taken further to the court.

**Mr HARRISS** - Only on matters of law.

**Mr WILKINSON** - That is right.

**Mr HARRISS** - Not on matters of process, not on matters of decision.

**Mr LLEWELLYN** - No, that's right.

**Mr HARRISS** - Only on matters of law.

**Mr LLEWELLYN** - Okay, but once it goes through that process there is no room, because it is an independent process, for the Government to be involved further in that process other than in some direct way, I guess, through the Parliament. So if there has been inconsistency it is the commissioner and/or the secretary of the department, in this case, who have, for whatever reason, made the decisions they have.

**Mr HARRISS** - But surely you can understand -

**Mr LLEWELLYN** - I can understand.

**Mr HARRISS** - the dissatisfaction of an appellant who is denied the opportunity by the commissioner to even examine, let alone cross-examine, a person who overturns a

scientific analysis, bearing in mind that the commissioner's decision is final? So the committee hears this evidence after seeing the shack on-site -

**Mr GREEN** - It was the other way around, we heard the evidence and then saw the shack.

**Mr HARRISS** - Yes - and then the committee somehow has to determine whether there was due process, natural justice accorded these people. There would be plenty of others we can go to but can you set the scene for us as to how the determinations and assessments are made and, as part of that, I think the committee would certainly want to try to understand whether the assessment of the existence of Aboriginal middens was a temporary or a final assessment? How many of those assessments were subsequently reversed, or did they all stay? Once they were determined to be of Aboriginal significance, were any reversed? We understand that there may have been some, so I think the committee needs to understand what was the process and whether they were preliminary assessments.

**Ms CHAPPLE** - Just on that last point - and I think this was the minister's submission back to the committee earlier - we have no knowledge of any reversal of any decisions on Aboriginal heritage.

**Mr LLEWELLYN** - The process was that we went through the shacks systematically. We do not have unlimited resources from a department's point of view. There were 1 200-1 400 shacks. We dealt with the shacks often in discrete groups. At one stage we were dealing with the shacks around the Great Lake, for instance, and at another stage we were dealing with the shacks around the north-west coastal areas. At another time we were dealing with shacks around Ansons Bay and so on. We worked through all of the shacks systematically and that took some time; in fact it took longer than anyone ever expected and it is still going on.

**Mr GUTWEIN** - Can I finish the original question that I asked?

**Mr LLEWELLYN** - Let me finish my answer first.

**Mr GUTWEIN** - Sorry, I thought you had.

**Mr LLEWELLYN** - No. In the process what happened was that all of the shacks were individually visited, assessments were made and a preliminary indication was given of the status of the shacks and what to expect and so on. Then at a later stage a detailed assessment was made, as I understand, and this happened sequentially to the secretary, who then took all of the things into consideration, including the conversion criteria, and then after that full assessment made a decision about it. Then the next step, if people were not satisfied, was that the appeal arrangements kicked in.

**Mr GUTWEIN** - That was the initial path that I went down before Mr Harriss expanded on it a little bit and I would just like to finish that if I could. Was Mr Nolan employed by the department before he was appointed as commissioner?

**Mr LLEWELLYN** - Mr Nolan is part of the Resource Management and Planning Appeals Tribunal and I think -

**Ms CHAPPLE** - I don't know if he was employed at all.

**Mr GUTWEIN** - One of the things we have heard from some witnesses before this committee has been that they were treated at appeal almost like hostile witnesses. We've heard they felt they were interrupted by the commissioner, that they were questioned and they felt that rather than sitting in judgment on them, the commissioner was actually playing a role in the inquiry.

**Mr LLEWELLYN** - I cannot speak for that because the commissioner was quite independent, as provided for in the act. The commissioner is a person with years and years of experience in planning appeals through the Resource Management and Planning Appeals Tribunal. I am not sure how he was identified now, I cannot recall, as being the appropriate person for this shacks sites project. It may well have been that the executive commissioner of the RPDC recommended him as the appropriate person to be the commissioner and he was appointed under the act accordingly, but he is part of the statutory independent process from a planning point of view and that was the role that he played in the shack sites project.

**Mr WILKINSON** - One of the issues which seemed to be of some concern which was mentioned by Paul was the fact that one of the appellants requested that a certain witness come before the tribunal. 'The Commissioner may summons any person to appear or give or produce evidence by causing that person to be served with a summons'.

So the commissioner had that power. The commissioner was making a finding on the recommendation of that person and yet the appellant was not able to examine the person in order to see how that finding was made and test it with evidence that that person had from expert witnesses as well. So that was a concern that I can understand. Some could argue that there was a denial of natural justice in not being able to question the person that made the recommendation which would have greatly assisted the commissioner in coming to a conclusion.

How many appeals do you know were upheld, or was it a fact that every appeal was in fact knocked out?

**Mr LLEWELLYN** - I cannot answer the question here off the top of my head.

**Mr WILKINSON** - Would Sue be able to help with that at all?

**Ms CHAPPLE** - I am afraid that I cannot either but I can get that information.

**Mr WILKINSON** - Please.

**Mr HARRISS** - I just want to have my question to the minister clarified. I still do not understand what the process was. You told me that you had a group of shacks and you did them sequentially but what was the actual scientific assessment, if there was one, to determine the existence of middens or not? Did that process had a multifacet to it? Some of the evidence we have received indicates that they were temporary assessments but that they may have never moved to any formality other than to walk onto a site, look at a pile of shells and say they are middens.

We have also heard evidence to the extent that one shack owner had been told by the same assessment officer that when he came back for a casual look at another time that they were not middens, they were white man's middens, and that for a consideration he would be prepared to say so. That is a matter of the public record so I still do not understand what process was used, whether it was a scientific process or whether it was a cursory process and what actually happened to determine where the middens existed. Then we can go back to what the chairman started out with: how can it be justified that at Rocky Cape, shacks actually sit on top of a ridge of middens and yet in other shack sites they are supposedly middens somewhere in the backyard, the shack is not even on the midden but the shack has got to go.

So I really want to understand the detailed process that determined existence of middens or otherwise. I think that Sue shook her head that she does not know.

**Ms CHAPPLE** - I was going to say that we need our Aboriginal heritage experts to talk about that and I am not one of those.

**Mr LLEWELLYN** - I think the initial assessments were based on what we knew at the time of the assessment - where the TASI-listed sites were and they are very accurately tabulated and there are a lot of them right around Tasmania. That was the forewarning aspect. If there was a TASI site associated with a shack arrangement then that was looked at in that way.

At one stage the shack sites were independently assessed by the Aboriginal community themselves. However, it became self-evident along the way that often that could not be achieved in a very timely way, and I am talking about years, so the Office of Aboriginal Affairs and officers within the department were charged with looking at that question. That is a continuing and ongoing issue really that exists.

**Mr HARRISS** - You still have not answered whether there was a scientific process. You have said officers of the department, Aboriginal people themselves. Were there Aboriginal artefact specialists? I will go to the Mallinsons evidence here if I can drag it up, but they made it very clear that there had been proper scientific analysis which said no middens. Along comes Greg Brown in a three-minute visit and says shack is coming down.

**Ms CHAPPLE** - As well as that though in the Mallinson case there were certainly archaeologists who are qualified people to look at Aboriginal heritage who gave evidence and talked about the existence of TASI 3147, which is a midden associated with that site. You can read the rest of her report, but it upholds the fact that there was Aboriginal heritage on that site as part of that appeal process.

**Mr HARRISS** - Let us stay with that for a moment because I still haven't got the answer as to what extent of scientific analysis there was. In regard to the Mallinsons, there was an inspection and a proper process. Andy Sculthorpe, AHS and DPIWE; Caleb Pedder, AHS; Pravan Ram, from the Shack Sites Project; Petra Shell, an archaeologist from Andrew Long and Associates, I presumed employed by the Government; Jamie Wood from Sinclair Knight Merz; and John Cerutti, from Sinclair Knight Merz. That analysis by those supposedly well-qualified people, including an archaeologist, said there were no middens on the Mallinson site, as the committee has been advised.

**Ms CHAPPLE** - I am absolutely not aware of that.

**Mr HARRISS** - And yet I say again Greg Brown visited the site for three minutes, wouldn't speak with the Mallinsons as to why he said the shack had to come down, couldn't be cross-examined in the appeal, wasn't allowed to be at the appeal by Mr Nolan, and you wonder then why this committee is perplexed about due process? Can we understand clearly the scientific process, if there was one, to determine middens?

**Ms CHAPPLE** - The only thing I have with me at the moment - I don't have the whole file on that particular case - but at the appeal it was noted that the secretary of the department had relied on documents to make his decision on that based on a report by Petra Shell and Andrew Long, an archaeological impact assessment. I would assume that that is a technical report from people qualified to discuss Aboriginal heritage.

**Mr HARRISS** - Which said no middens.

**Ms CHAPPLE** - I don't have that information here at all.

**Mr HARRISS** - Can you get that for the committee to clarify that?

**Ms CHAPPLE** - We can certainly go back and look at all the documents, but there's nothing here to indicate that.

**Mr HARRISS** - So across the State, whenever middens were identified, were they identified by a scientific process or was it a cursory wander onto a site?

**Ms CHAPPLE** - My understanding is that the documentation that went to the secretary was quite extensive for each shack. It included reports on issues such as Aboriginal heritage from people with expertise in those areas.

**Mr HARRISS** - Such as Petra Shell, an archaeologist.

**Ms CHAPPLE** - Yes.

**Mr HARRISS** - But which could be overturned by a three-minute visit?

**Mr LLEWELLYN** - We can't comment, with respect, on that particular aspect.

**Mr BEST** - I think part of that problem was that there were a number of points of appeal by Mr Mallinson that he wasn't allowed by Mr Nolan to appeal. I think was probably why some of that evidence -

**Mr LLEWELLYN** - In regard to that issue, I obviously can't answer those sorts of questions. You would have to ask Mr Nolan why he didn't allow someone to question a witness.

**Mr HARRISS** - Do you think that would be a reasonable process for the committee to follow?

**Mr LLEWELLYN** - The committee has the power to ask people to come and talk to it if you think that's appropriate, given the circumstances. I think he is the person you really should be asking the questions of, not me. From a government point of view, we are trying to insist to the best of our ability, and I think this happened, that we followed the provisions of the act.

**Mr BOOTH** - I would like to drill down on that, if we could, in terms of whether or not you followed the provisions of the act and whether there was any consistency in regard to the requirements of the conversion criteria because of the dog's breakfast that we have around the State now with the inconsistencies with the Aboriginal midden issues, heritage issues and the conversion of some shacks that are very low-lying, subject to inundation and sitting well below any reasonable standard of control with regard to 1.5 metre AHD, or 1.8 or 2.1 depending on what jurisdiction you are in. It seems to be so inconsistent and arbitrary. In many cases it is extraordinary that you would have determined shacks. Was there any intervention by you as a minister and any other minister in the process?

**Mr LLEWELLYN** - I believe we tried to apply the process. I have already addressed the committee on the overall approach that was taken from a government point of view and we tried to facilitate the conversion to freehold of as many shacks as we possibly could. I am quite aware, Mr Booth, that you have a list of shacks that you do not believe should have been given freehold and that, if you had your way, you would not have allowed them to become freehold.

**Mr BOOTH** - Do not mislead the committee. That is correct; not to become freehold. Through the Chair, I would like to show the committee these photos that have been handed to me today. Could you explain to us how it is that you could make a determination that gave title to some of those shacks that people have paid big money for? In many cases, well over \$100 000 for either the lease or the freehold title. Were those shacks all determined to be in accordance with the conversion criteria of the act?

**Mr LLEWELLYN** - I believe so.

**Mr BOOTH** - What about the standard of these buildings? There are pictures here of shacks that have erosion occurring underneath their foundations and are literally falling into the sea. No private developer would be allowed to do this because of the relevant standards, but your Government's conversion criteria has enabled them to be on-sold, either by leasehold or freehold title to Tasmanians who are now saddled with an intergenerational debt and a block of land they will probably never be able to sell. Is that equitable?

**Mr LLEWELLYN** - Just to get the record straight; they were not my Government's criteria - although I think there was one minor change made - but they were the criteria of the Government of the day in 1997.

**Mr BOOTH** - Your Government implemented the act.

**Mr LLEWELLYN** - These shack owners were allowed to have freehold title on their particular properties, but in some cases that could not happen and those people were offered longer-term leases and, in a small number of cases, people have been asked to remove their shacks. If I had applied the criteria that you have consistently stated in the

Parliament that you wanted me to apply, then another 50, 60 or whatever shacks would have to have been removed. That, I know, is your desired outcome.

**Mr BOOTH** - No, it is not. Do not mislead the committee.

**Mr LLEWELLYN** - Yes, it is.

**Mr BOOTH** - No, it is not. This committee, Minister, is not about my position, but to make it clear for the record, my position is that you have destroyed the shack culture right around Tasmania by creating this dog's breakfast and by not determining these matters in accordance with the act. The question I have asked you is very specific. Are you saying that the shacks that I have given you pictures of were determined consistently under the act and followed the requirements of the act? Is that what you are saying?

**Mr LLEWELLYN** - I am.

**Mr BOOTH** - So what do you have to say to the people who own those shacks that are about to fall into the water? There would probably be at least four or five at Ansons Bay that we could name now that are potentially unsafe to sleep in. What do you have to say to those people who have might have paid in excess of \$100 000 to the Crown?

**Mr LLEWELLYN** - I think you are exaggerating, Mr Booth, but that is consistent with the normal way that you approach things.

**Mr BOOTH** - What do you have to say to them?

**Mr LLEWELLYN** - You use very glowing adjectives and outlandish statements about these issues.

**Mr BOOTH** - You have nothing to say to the people whom you have ripped off?

**CHAIR** - Order. Let the minister give his answer.

**Mr BOOTH** - If he would answer, I would let him.

**Mr LLEWELLYN** - Those people have purchased the shacks. They desired to do that. We applied the criteria. The secretary determined that they could have freehold title for the shacks. They know the situation. Indeed, I think there is a covenant on a number of the titles associated with those shacks that indicates that the Government does not accept liability in regard to some aspects.

**Mr BOOTH** - So it is caveat emptor as far as you are concerned?

**Mr WILKINSON** - There are three areas regarding which I have some questions. The first one: I go back to questions that Peter and Paul were speaking about, we have the Lark decision in relation to the appeals, where the then Chief Justice stated that he could not understand how that recommendation was made but that he was able to look only at matters concerning the law. So there this other independent body, the court, saying, 'On the evidence before me I cannot understand why that decision was made, but I am sorry I

can't delve into that because I can deal only with matters of law'. So that is one of the matters that we have to decide upon at a later stage.

The second issue is Ansons Bay. We saw evidence to show that there was a great deal of degradation around a number of shack sites. People spent their own money to ensure that their houses did not fall into the water. They were told - I believe it was by council - that they had to take the works away even though they had engineers' reports to show that it would solve the problem and that other areas of land were supported in exactly the same way that they were supporting land. So at their own expense they had to ensure that their shack did not fall into the water. As soon as they did that they were told they had to take the works away. If you came out on a dark night you could easily fall down if you took two steps, and that is no exaggeration at all. To me it seems wrong that firstly councils are getting rates for those properties; secondly, governments are getting moneys for the licence, and yet these people cannot do anything by themselves - paying their own money - to ensure that their place does not fall into the water. It is not just at Ansons Bay but other areas as well. Can we do anything to solve that problem?

**Mr LLEWELLYN** - I think the first instance you were talking about was the Strochnetters. I have tried to initiate some action in regard to -

**Mr WILKINSON** - Yes, there are three there, I think.

**Mr LLEWELLYN** - At Ansons Bay there are two or three shacks there. What you say was correct, but I think the area concerned was under the management of the Department of Parks and Wildlife, and it has certain formulae about how it deals with the issue. I certainly made representations that they ought to be able to put in retaining walls to prevent the erosion of some of the sandbanks. Indeed I think they had satisfactorily put in such a wall at one stage and were then asked to remove it by the Department of Parks and Wildlife, so that is still a matter between the occupants and the Department of Parks and Wildlife, and I was not able to successfully put my argument to the department.

**Mr WILKINSON** - These matters we are talking about are only the too-hard matters, because we have evidence today as to how many have been sorted out successfully. Am I right in saying that because of the difficulty of these matters some people would like them to go away, and as a result are turning a blind eye to what would be valid remedial action to ensure that these places remain?

**Mr LLEWELLYN** - I am not sure. Could you ask me again?

**Mr WILKINSON** - This is my view alone. As a result of it being too hard, people are saying, 'I don't want anything to do with it, go away, I can't fix it.' Therefore they are just happy to wait and -

**Mr LLEWELLYN** - You are talking about people within the Government?

**Mr WILKINSON** - Anywhere. Either in government or in council.

**Mr LLEWELLYN** - Well, I can give you another example, perhaps, of the length to which we have gone to try to address this issue. I referred a bit earlier to Kingfish Beach. That's one of the larger groups of people now that remain unresolved and I attended a **JOINT STANDING COMMITTEE ON ENVIRONMENT, RESOURCES AND DEVELOPMENT - SHACK SITES - HOBART 28/7/09** (LLEWELLYN/BACON/CHAPPLE)

meeting last week down at Huonville. Sue and Scott were there at the meeting as well. We endeavoured to progress that issue because people are in a situation where I think there are some 24 shack sites that are able to be converted to leasehold, but only if waste water and sewerage issues can be resolved. Up until now we have had, I think, four or five attempts to involve the council in providing effluent disposal and, indeed, some of these shack owners themselves are being asked to contribute to providing these facilities. But for one reason or another the matter has been extended over a long period of time.

Most recently, I think for the last 12 months, it has been on the basis that we as a council really don't want to be involved in this particular issue unless we can resolve the 120 sites that we have in the Southport region all at once. Then, more recently, we don't really want to be involved in this because shortly Southern Water will be taking over the arrangements for water and sewerage and it's going to be their problem. So, these are the sorts of issues. In regard to that, we have put an officer from the department specifically on that particular matter. There is a possible solution and it might involve Southern Water and we'll certainly talk with Southern Water about it but we want to exhaust all the options before we are in a situation of having to send letters to say they've got to remove their shacks.

**Mr WILKINSON** - I hear what you're saying and I'm positive people are endeavouring to sort it out, but at Anson's Bay - and I'm no expert or engineer - it would seem to me that unless something's done in a hurry it's going to be too late. The houses are going to fall down and people are going to lose the lot. Therefore, there needs to be some immediate action taken. I don't think we can just sit back and say we're waiting on somebody else. That's my personal view; it may not be the committee's view.

**Mr LLEWELLYN** - Well, I have actually made my views known to the department. We do have a combined department now - the Department of Primary Industries, Parks, Water and the Environment. There might be a different response. We will put it again to them.

**Mr GUTWEIN** - We've heard evidence through this committee, and we've got people here in the room today who have been caught up in the time frame associated with this process and, as a result, have paid varying amounts for their shack when offered freeholds. It would seem that in some instances there are values that increased from \$17 000 when first notified of the value of their shack to where people have paid in excess \$270 000.

There was a letter that we were provided with that you signed back in 1998. In fact, it's an undated letter but it's been notated on the back '1999'. It was a letter that you sent in regard to the estate of Mrs Finnigan, which was the property bought by -

**Mr HARRISS** - Mr Beck of Surveyors Bay.

**Mr GUTWEIN** - That's right, Mr Beck, who presented it to us. I'm sure you are familiar with this but I'll just read it for the benefit of the committee. This is in regard to the amendments of the Shack Sites Act 1997.

'The amendments extend the period for assessments of determination of the shack sites for another three years.'

Presumably this was written in late 1998 or early 1999.

'It brings land required for infrastructure and services under the act and allows for administrative costs to be recovered in certain circumstances and makes minor changes to correct inconsistencies in the principal act.'

You have then gone on to say:

'I wish to assure you that these amendments do not mean you will be faced with increased costs, as has been asserted in the media.'

What did you actually mean by that? It would appear that a large body of the evidence that we have received before this committee has been from people who feel aggrieved that, as a result of the process taking longer than what was originally envisaged and through delays that largely were outside of their control, they have been faced with what would have initially been a purchase of \$10 000 to \$20 000 - in fact in many cases we have heard of values under \$25 000 - and that have now reached in excess of \$150 000. I think in fact the Thompsons still here with us paid \$155 000.

**Mr LLEWELLYN** - In answer that, what I did not mean in that response was exactly what you are talking about - the rises due to normal increase in value of properties and so on over a period of time. I could not and do not have the right to discuss that particular issue or intervene in regard to that issue because the Valuer-General makes assessments about the actual prices of these. Under the Crown Lands (Shack Sites) Act, as you know, and under this particular provision, I have no involvement in determining what those costs are, other than access arrangements, sewerage costs, electricity or whatever which the Valuer-General needs to take into account when he makes that final assessment.

What I probably was referring to were the changes that actually happened in the act at that stage. I cannot recall the exact details of those now but they were, I think, related to access provision and other things associated with those sorts of things.

**Mr GUTWEIN** - It says infrastructure and services, roads, et cetera.

**Mr LLEWELLYN** - Yes.

**Mr GUTWEIN** - As minister, have you considered reviewing some of the valuations or the way that some of the valuations apply? Today we have heard from one of the witnesses, and I wrote down the dates. This is in regard to two shacks in a similar location. In 2002 the valuation was \$17 500 for one and \$15 000 for the other. Two years later the shack that was worth \$17 500, so slightly more than the other shack, had been valued at \$66 000 and yet the other shack in the same location that was worth less in 2002 was now valued at \$92 000, which seems to be an extraordinary jump and quite inconsistent. Another two years later the next valuation that occurred and one of the shacks had increased from \$66 000 to \$155 000, and the shack that was worth \$92 000, significantly more than the other shack, had only increased to \$110 000 in basically the same location.

**Mr LLEWELLYN** - Again all I can offer you is -

**Mr GUTWEIN** - It appears to be quite extraordinary and no consistency.

**Mr LLEWELLYN** - There is certainly no inconsistency as a result of any action or any way of trying to determine outcomes from my point of view or from the Government's point of view. The process is very clear; the Valuer-General has to make those determinations. There is an appeal process, just as there is with regard to valuations on private property at the moment. One can go back to the Valuer-General and question those sorts of issues but if you want to get into the mind of the Valuer-General then you need to ask the Valuer-General to come before the committee.

**Mr GUTWEIN** - I am asking you as minister, because I have been very concerned as a result of being on this committee about the inconsistencies that have been brought forward. As minister, does that concern you and if it does what would you be prepared to do?

**Mr LLEWELLYN** - It concerns me if something happened that was untoward or not consistent with the process within here. I think everyone is aware that the values of property have actually escalated over the last five years in a way that has never happened in the past in Tasmania. It is during that period that the shack site evaluations have been going on. The point is that, even though the value has increased for the purchasers for shack owners, the value of their asset is still considerable and they have not lost in that process.

Some people that were involved in the conversion earlier on indeed have gained more, perhaps, than people who have been involved at a later stage in the process. We attempted to look at this, sequentially going around and assessing and dealing with the matter of some 1 400 shacks. It is a very difficult process; it took much, much longer than was thought. Even if we had put large amounts of further resources into the equation, which for whatever reason we could not, I think it still would have been a long period to resolve.

**Mr GUTWEIN** - On one point there. In the normal course of events you would expect that the value that someone had paid a couple of years ago in Tasmania would have been retained. But we have heard in the last 48 hours that one of the shacks that I have just spoken about, which was purchased for \$155 000 back in 2006, the most recent rates notice under the new valuation conducted in this municipality and the valuation of the land is now only \$91 000.

**Mr LLEWELLYN** - You know as well as I know that the valuation done by the Valuer-General does not indicate specifically the sort of value that a person might acquire on the market. It is usually much higher on the open market than it is with the valuations that are stated on the rates assessments.

**Mr GUTWEIN** - I agree with you in what has occurred in the State with the lag in valuations from the Valuer-General but with properties I own myself in Launceston and Dorset municipalities, the most recent valuations in effect reflect generally the market valuation. My understanding with what has occurred here is that that is now two years after the value of the \$155 000 assessed under this process

**Mr LLEWELLYN** - Again, I think that reflects the global financial crisis and the market in general that has occurred over the last year or so.

**Mr GUTWEIN** - We might ask you to have a look at that because I do not think that the global financial crisis has had a great deal of impact on prices of shacks -

**Mr LLEWELLYN** - On property prices in Tasmania?

**Mr GUTWEIN** - Not when this particular notification was sent to these people.

**Mr LLEWELLYN** - My observation, and I am certainly not the Treasurer, and the Treasurer would probably give you a more definitive answer to this but I think that we have had a reduction in the capital value of our properties over the last 12 months.

**Mr GUTWEIN** - Do you think that that reduction in capital values, by my estimation from \$155 000 down to \$91 000 -

**Mr LLEWELLYN** - No, I do not think so.

**Mr GUTWEIN** - Do you think that would be normal?

**Mr LLEWELLYN** - No I do not think, in this case I cannot explain it by the last statement that I made but

**Mr GUTWEIN** - I did not think that you would be able to.

**Mr WILKINSON** - I think the real issue here and the real reason that people are feeling aggrieved is that when it first came into being there were letters to suggest that it was going to be concluded by 2002, a four-year period. People who were lucky enough - and I say extremely lucky - to have their properties valued before 2002 really got a huge bonus, a gold nugget.

The people who did not get their properties valued then, through no fault of their own and believing what was told to them by the powers that be in that four-year period, had suddenly sold houses because they believed that they were going to purchase a property for whatever the price might be - one of them sold a block of land as well - and yet by the time the valuations got to their properties they had to pay five times more than what would have been the price back in 2002.

That is the inconsistency that I believe was involved and that could have been sorted out by government intervention, because as you have just said, you do not want inconsistency and that is inconsistent. Those who were not lucky enough to get their property valued prior to 2002 - in fact did not have their property valued until 2007, through no fault of their own - are feeling aggrieved in relation to those valuations which I believe we were able to sort out or help sort out.

**Mr LLEWELLYN** - Again, I do not agree with your five times figure but I accept that it was probably put to illustrate a particular point.

**Mr WILKINSON** - Then let us look at a case. Land value, \$12 500, then 2002, \$25 000. That is 100 per cent increase. Then land valued at \$86 000 in 2008 - that is -

**Mr LLEWELLYN** - I understand what you are saying.

**Mr WILKINSON** - So, even more than 100 per cent.

**Mr LLEWELLYN** - I started out by saying, yes, it has taken a long time and due to the length of time, there have been these inconsistencies that you are pointing out. It is not an easy matter to resolve and it is certainly not a matter to which the Government could suddenly apply some magical formula and come up with large amounts of money to go to people who received their shacks more recently and had to pay quite a significant amount of money and then go back to the first people who were involved, make reassessments on their blocks and somehow or other transfer that differential in price as a discount to more recent shack owners. A lot of people have exchanged their land now to freehold and have purchased their shacks along the way.

The Government, as has been explained, as a result of the Public Accounts Committee recommendations, is not able to go back and compensate people just because the issues have changed from what they were some five or six years ago to present day prices.

**Mr WILKINSON** - But it is not only that, is it, because it is what we have said to them in the first place? In other words, if you said to me, I will buy your house for \$45 000 and I said to you, yes, I agree with that, \$45 000. Nothing happens because a number of things have to be put in place between the time you agree to purchase my house and the time you actually purchase it. I have not done anything differently. You have not done anything differently. Then, in 10 years' time, you come back and say to me, here is the \$45 000 as you told me would be the cost x amount of years ago and you say, 'Oh no, it is not \$45 000 any more, it is \$166 000'. That is the real issue with a lot of these people. As a result of what they have been told, they have done what they could to ensure that they had the money to purchase that property. They have then come back with that belief and yet been told it is not that price anymore, it is three times more or whatever it might be. That is the issue, you see.

**Mr LLEWELLYN** - The issue has always been the case where people have known that they have to pay market value for their property and that is determined at a particular time and people, once they are given that determination, are given a time in which to accept or otherwise. There have been times when we have delayed that period and maintained the price because of special circumstances, they were not able to make a decision by the appropriate time and have extended it slightly. But that is the only exception.

**Mr GUTWEIN** - We heard, Minister, on that same issue at Surveyors Bay, in one instance there was a delay where the Aboriginal Heritage Office had offered members of the department the opportunity to assist them with the paperwork that was required to move the matter on. That was declined by members of the department and there was a further delay which led to a substantial increase in the value that was paid. We have heard that evidence before the committee. Surely there is a complete denial of natural justice in that situation?

**Ms CHAPPLE** - I do not know anything about that. I do not know what delay was envisaged

**Mr LLEWELLYN** - I cannot comment because I am not aware of the circumstances they are talking about.

**Ms CHAPPLE** - Surveyors Bay was one of the sites where the waste water was quite a complex issue. There were issues with roads. There were a lot of infrastructure issues. I am not aware of any of what you said being correct.

**Mr LLEWELLYN** - The only thing I can say about Surveyors Bay is that I know that there was, up until recently, an ongoing issue with the smell of the sewage treatment.

**Mr GUTWEIN** - Currently, we have heard today.

**Mrs RATTRAY-WAGNER** - It is not resolved.

**Ms CHAPPLE** - That is counter to the information that we have had of the tests recently.

**CHAIR** - We will finish what you are saying at the moment. We will tackle that in a minute.

**Mr BOOTH** - Interestingly enough, it dealt with that very issue of the stench from the sewage treatment works at Surveyors Bay. I will quote from a letter of 7 June 2006 from the Shack Sites Project. The project at the moment is finished, is that not a fact?

**Ms CHAPPLE** - The project is closed as a project. There is still ongoing work being done by Crown Land Services.

**Mr BOOTH** - So there are still some departmental officers involved?

**Ms CHAPPLE** - Yes.

**Mr LLEWELLYN** - Can I just say to you that in regard to that recently, and I think it was in May or it might have been April, I last went to Surveyors Bay to look at the situation. At that stage we had employed a company to more regularly maintain the sewerage unit that is there behind the shacks against the hill. My information has been that since it has been regularly maintained, there have not been the issues that there were before.

**Mr BOOTH** - Who gave you that information? It is clearly at odds with what we have heard here today.

**Ms CHAPPLE** - If that is the case we will follow up anything. But we have an officer who has been working on it and working with the council on a very regular basis and we have certainly had no complaints of smell. Believe me, we did when it was an issue several months ago.

**Mr BOOTH** - Have you been advised by that person that there is in fact no issue?

**Ms CHAPPLE** - I have been advised that there have been no complaints of any smell. The council has also said that there have not been any smells of late.

**Mr BOOTH** - Can you provide that advice to the committee then, please?

**Ms CHAPPLE** - It is verbal advice that has been given to me by the officers.

**Mr BOOTH** - Verbal advice?

**Ms CHAPPLE** - That is right.

**Mr BOOTH** - So there is no record of it?

**Ms CHAPPLE** - In my head there is a record.

**Mr HARRISS** - Who did they speak to? Who did these officers speak to?

**Ms CHAPPLE** - They are dealing with the council down there. I just do not remember the names of the individuals.

**Mr HARRISS** - They did not speak to any of the residents?

**Ms CHAPPLE** - They have been in close contact with the residents. I am not sure when they last talked to the residents.

**Mr BOOTH** - With respect, we have had evidence from a number of people before this committee that is totally contrary to that.

**Ms CHAPPLE** - If there is an issue, we will follow it up.

**Mr BOOTH** - But will you fix the problem? The letter on 7 June talks about offensive smells emanating from the waste-water treatment plant, the shack sites project currently investigating all reasonable measures to mitigate or eliminate the offensive smells emanating from the treatment plant et cetera. So obviously your department admits that there is a major problem with that. Whose responsibility is it to fix it? At the moment we have people who bought blocks from your Government, paid well in excess of \$100 000 who cannot use their properties. In fact they are driven off their properties because of the stench.

**Ms CHAPPLE** - I must say that what you are saying does surprise me greatly. I agree that there was a problem many months ago. The advice that we have had is that it has been much improved since then.

**Mr BOOTH** - Take it as fact that today we have had that evidence.

**Ms CHAPPLE** - We will follow that up. That is fine.

**Mr BOOTH** - But what I am asking is, what is your responsibility to fix it, not just follow it up? This was 2006. It is still there today. A similar plant has been put in at Eggs and Bacon Bay, I think, which is causing the same sorts of problems. What I am asking, Minister, is: are you going to fix it? If you cannot, are you going to relocate the plant?

**Ms CHAPPLE** - We thought we had fixed it. I will take on board what you said today and we will again follow it up with the company and the equipment.

**Mr BOOTH** - But if it still smells, will you commit to moving the plant so that it is not a problem to those residents, Minister?

**Mr LLEWELLYN** - We will fully investigate the matter further. It was my understanding, and I was greatly relieved to hear, that the maintainer, if you like, or the person who was looking after that particular issue, was on site the last time I was down there. He explained what he believed had been the causes of the smell and how he was addressing the issue. He believed that it was being adequately addressed through regular maintenance. That situation might have changed for some reason or other, I do not know, but I think if it is regularly maintained then according to the expert it will operate correctly. But if that is not the case then we have to look at it again.

**Mr BOOTH** - Who owns the plant at the moment?

**Ms CHAPPLE** - The Crown.

**Mr BOOTH** - Will you undertake, before you transfer it, that you will make sure that in fact you have consulted with the residents and there is no longer a stench problem there?

**Mr LLEWELLYN** - We'll certainly reinvestigate it if the owners of that property are still concerned about the smell.

**CHAIR** - It's a number of properties.

**Mr BOOTH** - The final thing on that point with regard to this letter is that it also appears to effectively substantiate what a lot of people have said, that they felt very bullied and intimidated through the process of determination. This letter says that they made some requests to the landowners and they say if either of these two important measures are being ignored then the project will limit its involvement in solving this issue until all shack owners can demonstrate that their actions are not contributing to this issue. Isn't that a fairly extraordinary threat to make to people who have bought a property off you; that if every person in this new subdivision doesn't do what this particular person thinks may be causing the problems, then they're going to simply -

**Ms CHAPPLE** - Is that just the toilet?

**Mr BOOTH** - Well, it's whatever but what they're saying is that they're actually going to limit involvement, so what does that mean - that they're not going to bother to solve the problem? Isn't that pretty unacceptable, Minister?

**Mr LLEWELLYN** - There has been an inordinate amount of difficulties in trying to achieve the outcome which I'll mention once again; to try to resolve for the majority of shack owners their wishes that the uncertainty of their ownership of shack sites will be addressed and that they be given freehold of those titles wherever possible and that where that isn't possible, for them at least to be able to continue to lease on a longer-term basis. That's been the objective. The Government has tried to address that particular imperative, they've tried to achieve that outcome for people and that's not been possible for a small number of people. We are at the end of the program and the people that are involved right at the moment represent the difficult issues that are remaining. We are still consistently going through the process of trying to address those matters and I gave you an example with regard to Kingfisher Beach as to how I have been addressing that matter last week.

**Mr HARRISS** - But with a properly functioning sewerage system, Minister, not to tell people, as Mr Booth has just indicated to you, 'If you don't do what we tell you, our action will be to limit our involvement in solving the problem'. Why would you write something like that?

**Mr LLEWELLYN** - I don't think I wrote that, did I?

**Mr HARRISS** - The department.

**Mr BOOTH** - Would you like a copy of the letter?

**Mr HARRISS** - It was your department in December 2006. Nobody was told when that system was installed that it was a requirement to flush 100 litres of water down before you leave the shack for the weekend. You are supposed to have a functioning system.

**Mr LLEWELLYN** - That is certainly not a policy of government and we would not be moving on that sort of basis. We are talking about trying to resolve the issue and if there still is an issue and it's apparent then we'll still have to resolve the matter.

**Mr GUTWEIN** - On that matter of process and something Ms Chapple mentioned in regards to who was providing advice on this particular issue back to you, we had the council's mayor in this morning and the deputy general manager, I think his title was. They both indicated to us that the sewage treatment plant was still a major issue. In fact we spent an amount of time this morning talking with them about relocation. If there is advice coming back to your officers or your officers are providing you with advice to say that this matter is fixed and supposedly their contact is the council then there is a breakdown of process and communication here in some way. It's quite extraordinary.

**Ms CHAPPLE** - Just to respond to that, I did meet with the general manager of the council and we both were very happy that there didn't appear to be a problem at that point so clearly there are some issues here.

**Mr GUTWEIN** - They weren't happy this morning.

**Ms CHAPPLE** - I understand that.

**Mr LLEWELLYN** - Again, last week, I think I mentioned this to the general manager there and we commented I think on the fact that it was resolved.

**Mr BOOTH** - Wouldn't that be a scheduled premises under your control, under your department's control, the sewage treatment works?

**Mr LLEWELLYN** - Are you talking about the EPA?

**Mr BOOTH** - Yes, shouldn't you get the EPA to have a look at it?

**Mr LLEWELLYN** - No, we should try to resolve the matter. That is what we should do and that is what we would be doing.

**Mr BOOTH** - What about getting the EPA to have a look at it?

**Mr LLEWELLYN** - Other people can get the EPA if they wish.

**Mr BOOTH** - So you will not, as the minister responsible?

**Mr LLEWELLYN** - We are trying to resolve the matter and we will continue to -

**Mr HARRISS** - But you own the malfunctioning plant.

**Mr LLEWELLYN** - I do not believe it is malfunctioning at the moment.

*(Interruption from the previous witnesses)*

**CHAIR** - Order.

**Mr BOOTH** - I think the audience response says it all.

**Mr HARRISS** - Why, then, when back in June 2006, by your own admission in that letter, you knew this particular design was not functioning well and that some action needed to be taken to fix it up, would you nonetheless have the same designer, I presume, design and install the same system at Eggs and Bacon Bay when the Surveyors Bay one was not working?

**Ms CHAPPLE** - My understanding is that the system that was put in in both places was on the recommendation of the council as to their requirements.

**Mr HARRISS** - That is not the council's evidence.

**Mr BOOTH** - Was that orally given or -

**Ms CHAPPLE** - I cannot answer that. I will have to go back and check for you.

**Mr HARRISS** - Can you do that, please?

**Ms CHAPPLE** - Sure.

**Mr BOOTH** - So you could produce the request from council as to the design of the system?

**Ms CHAPPLE** - I do not know. I will go back and look through the files for you.

**Mr LLEWELLYN** - It may well be a view that was associated with how to approach that particular area, or both of those particular areas, and recommendations associated with it and whether or not the council asked for that approach or were satisfied with that sort of approach. There was a large amount of discussion not only with the shack owners in the regions on every occasion, and the council themselves with those people that would be installing it, because after all the shack owners that have actually purchased their shacks have had to share in the actual costs of providing that facility.

**Mr HARRISS** - Just on that contribution by you, Minister, you said there was a large amount of consultation with the shack owners in those areas and with the council. That is completely contrary to the evidence we heard this morning. Shack owners testify that they were not consulted because they were not landowners at the time the design was being considered. They were not the landowners; you owned the land. The evidence is clearly that you did not consult with shack owners. The council's evidence is clear that they are terribly frustrated by this process because after years of trying to get you to fix this problem you still go and install the same system in Eggs and Bacon Bay.

**Mr LLEWELLYN** - With respect, without the involvement of the shack owners in the particular places that we are talking about to agree with the process and indeed the cost recovery that resulted from the installation of these facilities, we would not have gone ahead.

**Mr HARRISS** - They had no choice. They were being offered freehold on the basis that roads and sewerage could be provided, and they were not involved in the design. So I think it is pretty dangerous to start suggesting that you had consulted broadly with the shack owners.

**Mr LLEWELLYN** - Well, I did not but -

**Mr HARRISS** - You said you - the Government, your department.

**Mr LLEWELLYN** - The people involved consistently and indeed on many occasions for the actual physical design of some of these subdivisions and areas where the shacks were being dealt with, that design considerably changed because of the requests that came in from shack owners themselves and their ability to actually meet the additional costs and charges associated with the project to go ahead.

**Mr GUTWEIN** - On the issue of the sewerage treatment at Surveyors Bay and what shack owners were or were not engaged with in regard to the process, we heard from one witness today that the design of the sewerage treatment plant there was explained to them as being largely underground. There was no expectation that there would be the visual impact that there currently is. In fact we had also heard that other shack owners in the area were expecting there to be a tank and therefore for it to be pumped somewhere else. We have here from one of the witnesses this morning a plan that shows Surveyors Bay and explaining the fact that the sewer would be mainly underground with little visual impact. We now have the eyesore that sits behind one of the shacks here. Certainly in Surveyors Bay and with other shacks there appears to be, quite frankly, a complete lack of natural justice in regards to what has occurred. Whilst there may have been an expectation that people would be engaged, that they would have input, we have heard over and over again that that was not the case.

Do you feel any responsibility as minister for a process that has left so many people feeling so unhappy, so disenchanting? Ten years ago and early on in the piece a lot of the users of the shacks who had only leasehold title at the time were obviously very excited about the opportunity that was presented to them to actually own something that had been in their families for a long period of time. We have heard from a lot of people that they are completely disenchanting.

**Mr LLEWELLYN** - Again, I can only repeat, yes, there are probably 1 100-1 200 people who are absolutely ecstatic about the fact that they have been able to obtain their goal to have freehold on their shacks. There are 100-200 people who are concerned at various levels and there is another small group of people who are most concerned about the issue and are now representing their matters to you. But overall, if you look at it on that percentage basis, I think the project has been a very successful one.

I know that during the time I was there in 1998 through to 2002 there was a process that I have outlined which occurred in regard to consultation with people and their shack area and so on. I came back to the portfolio in 2006 and as recently as last week I can demonstrate that we are still trying to achieve those sorts of outcomes for people. You will be able to point out individual cases; I'm sure you will with 1 400 or so shacks. Through the extension of the process, yes, there have been a lot of changes in individuals and people that have been involved in it, so there would have been different approaches by a number of personalities. That happens because no-one is the same but by and large I think the shack site project has -

**CHAIR** - That has been a recurring theme. People have expressed their frustration to us that there has been, within the shack sites team, a continuing rollover of people and personnel and therefore consistency has not been applied.

**Ms CHAPPLE** - It is very hard.

**Mr HARRISS** - On the valuation issue and everything that has impacted on the escalating valuations, Minister, you have just indicated that the Government has done nothing to disadvantage people because of the process. Yet we have heard evidence, one particular case in the lakes region and one at Surveyors Bay, where because of access issues to the site being overlooked by the department when the final boundaries were drawn up and the site offered to the people for purchase, then the people themselves have to say, 'Hang on, we have no access'. So they, as a measure of goodwill, come back to the department.

That process bound those people up in a further valuation escalation. So for you to say simplistically that no actions by the Government disadvantaged people, I would submit to you, is pretty inaccurate. That is Surveyors Bay. I then take you to an example in the lakes region where an elderly gentleman had money to actually purchase but it was tied up in other investments. He said to the department, 'I cannot get my hands on that particular cash now but not too far down the track I will be able to do so'. The department said, 'When do you want to do that?'. He nominated the date. He could not quite close it on that date. The department never came back to him. Three or four months later, when he finally gets ready to treat he is told, 'We are going to undertake another valuation'. He said, 'But you told me months ago there would be no further valuations'. The clock stops when you offered him the property. Yet by the actions or the inaction of the department he is bound up in another valuation. So surely you will understand the plight of people and their discontent when they have in fact been disadvantaged, contrary to your recent comment that they have not been disadvantaged by the actions of the department. In addition to that, all of these extra valuations click in when people are told there would not be extra valuations.

Would it not be a proper position for you to take to freeze time at the time in 2003 when you wrote to shackies with the congratulatory letter saying, 'Congratulations. We have

finished the process. We are about ready to treat'? As you are well aware, Minister, the Thompsons from Surveyors Bay sold their family home, pre-boom, and could not buy the shack until post-boom or mid-boom. Would it not be reasonable to stop the clock as the Public Accounts Committee has suggested? You have said they have not been disadvantaged. I have just indicated to you they have.

**Mr LLEWELLYN** - I qualified that when I spoke last by saying, yes, not every one has been as satisfied with the process as the great majority of people that have been dealt with through the shack sites process. When you have 1 400 people being dealt with on a one-to-one basis or pretty near right through the process - because everyone had to be approached individually - that is the explanation as to why it has taken a long time. I have responded to the Public Accounts Committee and given the reasons in that letter. I hope that you have a copy of that letter here; if you have not I will provide you with one, because I think we would create as many anomalies if we went down that process that you are suggesting as we would solve.

**Mr HARRISS** - Not if you stopped the clock at 2003.

**Mr WILKINSON** - I cannot agree with you there.

**Mr LLEWELLYN** - I do not imagine members of the Public Accounts Committee would.

**Mr WILKINSON** - No, because we looked at it quite extensively and that is why we came back with that conclusion, because we did look at it for a long time. It was the unanimous decision of the Public Accounts Committee after weeks of investigation.

**Mr LLEWELLYN** - Anyway, I recommend that you read the response because I cannot add to that.

**Mr BOOTH** - Minister, on the valuations, can you absolutely guarantee to this committee that the Valuer-General was aware that there would be, on the second schedule, a bar to action provision on the second schedule of their title. A bar to action, it says here:

'Has been or will be placed on the title, to ensure that no action lies against the Crown or council or in respect of the consequences of any physical event or the condition of a shack or a shack site that is sold'.

Was the Valuer-General aware that the properties that you were selling were so unsound that they had to have a bar to action against the Crown because you knew, with climate change - you had advice with a lot of these shacks that climate change would render them unusable within a certain period of time and yet you still proceeded to determine them, to go against the conversion criteria, to ignore professional advice and now saddle people either with a leasehold or a freehold in excess in many cases of \$100 000 for something that is really not a commercial proposition? Isn't that unconscionable conduct? Was the Valuer-General aware that that covenant would go on the blocks?

**Mr LLEWELLYN** - I will reiterate what I said before. You are talking about the two at Ansons Bay again.

**Mr BOOTH** - Actually this particular covenant was on Mr McKibben's block at Surveyors Bay.

**Mr LLEWELLYN** - At Ansons Bay and at Surveyors Bay. There are a number of sites where we did apply the conversion criteria appropriately and people were made very aware of the condition under which they could purchase their freehold and occupy their shacks. There was no hiding of that particular provision at all. That was very up-front. I cannot -

**Mr CHAPPLE** - The Valuer-General would have full information for making his valuation.

**Mr BOOTH** - What information was provided to the Valuer-General, then? Specifically, I want to know whether he was aware that there was a bar on action going on the titles?

**Mr LLEWELLYN** - I believe that is the case. But I would have to check that with the Valuer-General. He was made aware of all those aspects associated before he made an assessment of the valuation. But, I just make the point again, the option or the alternate along the path that you are indicating is that those people would have, if not treated the way they have been treated with their consent and their knowledge, had to remove their shacks, and there are another 50 or so shacks that would have had to be removed, and that has been your consistent view as to what should have happened all along.

**Mr BOOTH** - No, it has not. My consistent view has been that you have destroyed the culture of the shack community. That is what you have done and there should have been a determination to enable them to stay in the way they were, as a community of shacks that did not have the normal criteria associated with suburban living.

**Mr LLEWELLYN** - I do not agree.

**Mr BOOTH** - You do not agree, but will you get back with the information about the Valuer-General? That is what I have asked.

**Mr BEST** - It seems to me that there is a large proportion of people who have had this resolved; whether they are absolutely happy or not is questionable. But there is group that is largely unresolved and it seems, based on the evidence that we have gathered over the last couple of hearings and site inspections that we have done over the last few weeks, that there are some complex anomalies. That does not mean to say that there is not any goodwill by everybody in the committee or people involved in the shack site task force to get this resolved. But, there are some complex anomalies and we have heard from good people who want to get these things resolved.

I wonder if there could be some mechanism that we could consider or talk about that might get the last group resolved. Could we explore that, as opposed to the format where the committee is going to have to make findings and recommendations and still probably go nowhere? I wonder if there is some middle ground where we could work together and come up with some way that we can -

**Mrs RATTRAY-WAGNER** - With the assistance of the minister?

**Mr BEST** - I know you are in a difficult spot; there are some problems that you inherited and so forth. I think what we want is a resolution. I know some members here have a bit of an angle they are pushing and that is fair enough. But I see it in the eyes of some of the people who have come in here that they are hurting; some are on medication and all sorts of things. I would just like to see if we can get, for these complex ones that we have heard, some sort of process we can agree upon, even if that means we go into in camera discussions. I am open to any suggestions if we can just get it fixed up.

**Mrs RATTRAY-WAGNER** - The ball is in your court, Minister.

**Mr LLEWELLYN** - It may be, in that sense. But the problem we have with the legislation is that the determinations were made some time ago and, having had those determinations made, there is no head of power within the act that enables me to change those determinations.

**Mrs RATTRAY-WAGNER** - Bring in some new legislation?

**Mr BEST** - Maybe we need to make some quick amendments.

**Mr LLEWELLYN** - It is up to the committee to make recommendations if they think it is appropriate to do that, along the lines that the committee wishes.

**Mr HARRISS** - You would acknowledge that there are problems? You would acknowledge that there is a solution required?

**Mr LLEWELLYN** - I do.

**Mr HARRISS** - The only solution, by your own admission, is legislative measure. Why wouldn't you initiate it, rather than wait for us to make a recommendation?

**Mr LLEWELLYN** - We have dealt with people largely on a one-to-one basis, although, there have been some groups in more recent times - the Kingfisher Beach issue, and I think I met with some people from Surveyors Bay a little while ago as well. But apart from that, we have had a number of individual representations and, by and large, we have been able to accommodate some of those by either not sending out notices in respect to requirements to remove because there are legitimate circumstances and to give people time to adjust to specific issues. But if your in-depth investigation of this matter has found anomalies that you believe need to be appropriately addressed by legislative change, then please make those recommendations and, when they are made, we will certainly take them on board.

**Mr GREEN** - I would like to make one point about the Liberals' legislation when they talked about 6 per cent with respect to leaseholds? It has now got to a situation where the value of the land has increased markedly. So we have gone from four or five hundred dollars to thousands of dollars. Is there any capacity within the -

**Mr LLEWELLYN** - Well, not within the act but maybe that is an issue that needs to be addressed. It is one that I've been concerned about for some time. I think the 6 per cent lease fee for the 10-year period is excessive. That doesn't come as any shock to Sue from the department because she knows that I've mentioned it on quite a number of

occasions. It is a matter that probably needs to be addressed, given the increases in the valuation of properties because 6 per cent now for a shack of \$100 000 is \$6 000 a year and that is a lot of money to occupy a shack for a few weeks in the year.

**Mr BOOTH** - Will you stay the demolitions?

**Mr LLEWELLYN** - I'm not talking about demolitions. We're talking about the lease.

**Mr BOOTH** - There are demolitions scheduled in September.

**CHAIR** - Mrs Rattray-Wagner has been waiting patiently.

**Mrs RATTRAY-WAGNER** - Thank you, Chair. I have been waiting patiently but my colleagues on the committee have asked some very pertinent questions. I want to talk about the people who have received removal notices; some deadlines are very soon and it is causing them angst. The member spoke about people being on medication, and we could see that many people who came to the committee were extremely distressed about this process. So we certainly did not take that issue lightly. In particular, I want to talk about the only thing that I think has stopped in time and that is the payment for people to remove their shack. I want to get a clear understanding, Minister, of how some people could be offered \$5 000 to remove their shack which would only be paid once the site had been vacated and rehabilitated but then we heard that other people have been offered up to \$5 000 and they could walk away from the shack. Then, there are also the people who had been offered an alternative site, but with the extreme delay, those sites have not come to fruition and now they are left with a demolition notice and maybe \$5 000 - it depends on whether they were in the lucky basket or the unlucky basket. How are they ever going to relocate and have another shack site? There are probably about 10 questions there but I'm sure you'll answer them.

**Mr LLEWELLYN** - I will start with the last question. Under the act we have tried to work towards freehold or leasehold titles and, as the last resort, removal. Wherever possible we have tried to provide alternatives in the same area for those people whose shacks have been identified for removal. On the east coast we have identified an area of land in Binalong Bay to develop; it was not going to be cheap, but it was in keeping with the sentiment of the legislation. We had begun the process of developing that subdivision only to find that there was an issue that prevented us from proceeding with the development. We are still looking around for whatever other crown land there may be in that area but it is very limited.

**Mrs RATTRAY-WAGNER** - I am aware that you have made some offers to people at Weymouth, Lulworth, and Beechford.

**Ms CHAPPLE** - That's correct.

**Mr LLEWELLYN** - That is a fair way away from where they were and I would certainly prefer to find, if I could, somewhere closer to where they had their shacks. The sea eagle's nest prevented that subdivision going ahead. It might not be the case forever, but that is what prevented the development application being put in.

**Mrs RATTRAY-WAGNER** - Do you agree that the paltry offer of \$5 000 would never get them relocated anywhere, even without the increase?

**Mr LLEWELLYN** - It was not meant to. It was meant to give them the ability to remove their shacks from the sites. If they were not prepared to remove their shacks themselves and just walked away, that money would enable the Government to deal with the matter of removal and rehabilitation.

**Mrs RATTRAY-WAGNER** - Can you explain why some shack owners get their \$5 000 only if they remove and rehabilitate the site whereas others have been told that they can have the \$5 000 without doing the removal and the rehabilitation?

**Mr LLEWELLYN** - I do not know, but Sue maybe able to answer that.

**Ms CHAPPLE** - I believe that it is in connection with Aboriginal heritage where the removal requirement was because of Aboriginal heritage issues. Those shacks need to be removed by people with expertise in Aboriginal heritage rather than the owners themselves.

**Mrs RATTRAY-WAGNER** - Can I suggest that there is a site at Ansons Bay where the initial removal notice was around access and then, when the access issue became too difficult, it turned out to be due to Aboriginal middens. They have not received that same offer.

**Ms CHAPPLE** - I am happy to look at it if you have their names.

**Mr LLEWELLYN** - Just continuing on with that answer, there are other sites - and this is not in your electorate -

**Mrs RATTRAY-WAGNER** - I do not mind whose electorate it is in, I am looking at the issue across the State.

**Mr LLEWELLYN** - In Ms Ruth Forrest's electorate on the west coast, there is a situation where we are looking at providing some sort of alternative site at Arthur River and there was also another complicating issue further up the coast. I think there were two shacks involved -

**Mr GREEN** - Sundown Point and Nelsons Bay.

**Mr LLEWELLYN** - Yes, that is right - an alternative to Nelsons Bay. When we looked at doing that we found that in the intervening period there had been a decision to reclassify the land at Nelsons Bay under the Nature Conservation Act. So now, because it is under the Nature Conservation Act, I cannot fulfil that obligation. There are only two alternatives there, either revoke the Nature Conservation Act classification associated with that small area or make the same offer available for a place at Arthur River.

**CHAIR** - If I could just mention at this stage that I am aware that we have been going for an hour and three quarters -

**Mr LLEWELLYN** - Have we really?

**CHAIR** - Yes, I know you have been having fun. So I ask members to be succinct. In order of questions then, Mr Harriss, Mr Gutwein and then Mr Best.

**Mr LLEWELLYN** - I am not sure that I have answered all of Mrs Rattray-Wagner's questions.

**CHAIR** - I noticed that you had 10 questions there.

**Mrs RATTRAY-WAGNER** - Yes, 10 questions rolled into three, Chair.

There are obviously individual issues, but my next point is that they are all going to take longer than 1 September 2009 to resolve. So I put the question back to you, Minister, is there an opportunity to work through some of these issues? Obviously you would need to extend the time frame for people who have removal notices.

**Mr LLEWELLYN** - Under the act I think they have two years after I send the notice out.

**Ms CHAPPLE** - It is a bit shorter than that.

**Mr BOOTH** - It is.

**Mr GUTWEIN** - We have heard from a number of people whose shacks were removed in September and October. Is that at the end of their two-year period, is that timed out or has their two-year period begun?

**Ms CHAPPLE** - The reference I think in the act is to something that we may do under the act.

**Mrs RATTRAY-WAGNER** - It says here, 'You will still be required to vacate your shack by 1 September 2009 on which date your removal notice under the Crown Lands (Shack Sites) Act 1997 will be formally issued'. So they have another two years after that, is that right?

**Ms CHAPPLE** - No, that is not correct.

**Mrs RATTRAY-WAGNER** - So they have to remove by 1 September 2009. So there we are, Minister.

**Ms CHAPPLE** - Yes, that was the policy there rather than what is specifically in the act. The act does not deal with all aspects of it.

**Mr BEST** - That is not actual law then, that is just a request?

**Ms CHAPPLE** - It is policy based on the law.

**Mrs RATTRAY-WAGNER** - Right. It is a request and they do not have to comply.

**Mr BOOTH** - What does that letter mean then?

**Mr LLEWELLYN** - I think that I need to take advice on the act itself because my recollection is that once I send the notice out then there is a time period in which people have to comply with that notice.

**Mr BOOTH** - The question I asked, if you recall, is will you stay those demolitions or the notice to remove the structure because from what we have here it appears that they have to be removed by September.

**Mr LLEWELLYN** - The only problem with that is that if I am bound by the act once I send the notice out, and I think that was the trigger, if I am bound by the act for a particular period of time then I do not have any discretion when that time expires.

**Mr BOOTH** - Will you undertake then to advise people that have received a notice that in fact if that interpretation is incorrect, that they have to remove it by then, you will advise them that they do not have to?

**Mr LLEWELLYN** - Once I send it out in a letter then that is the trigger.

**Ms CHAPPLE** - That is correct, once you send the notice out that is the trigger.

**Mr LLEWELLYN** - I cannot take it back again.

**Mr BOOTH** - No, but if it means that the interpretation is not correct that they have to remove them on the dates that Ms Rattray-Wagner has just read out, you will make sure you advise all of those people?

**Ms CHAPPLE** - We will be dealing with all those individually.

**Mr LLEWELLYN** - I am certainly happy to extend them if it is legally possible for me to do that.

**Mr BOOTH** - Thank you, that will do.

**CHAIR** - Tania, do you have anything else?

**Mrs RATTRAY-WAGNER** - No, I think that is a definite yes from the minister that he would extend.

**Mr GUTWEIN** - If it not legally possible for you to extend it now that you have agree that you would if you could, would you accept a simple amendment to the act as soon as Parliament resumes to enable that extension to be granted?

**Mr LLEWELLYN** - Again, I think that is one of the issues that you might like to represent as part of the committee in your recommendation. I do not know when you are intending to bring down your report but I would be prepared to accept such an amendment.

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

**Mr HARRISS** - Just to be absolutely clear on that point, can I refer you to a letter under your signature - I think it is 6 June 2007; it is not quite legible - that you wrote to Mr and Mrs

Van Steenberg on the west coast. You said, 'Your shack must be removed from West Point but, as I promised, I will not sign a removal notice until a viable alternate shack site can be offered for sale'. You then talk about a relocation allowance. You indicated a moment ago in response to questions from Tania that it is not really a relocation allowance, it is a rehabilitation allowance but you call it a relocation allowance here. That is on 6 June 2007, as I can make out. On 17 July 2008, a year later, notwithstanding you said to the Van Steenbergens that you promised you would not sign any removal notice until, you said, 'This letter is to notify you that you are required to vacate your shack by 1 October 2009'.

**Ms CHAPPLE** - That is not the official notice under the act. That is a notification from the minister but it is a notice under the act as such.

**Mr GUTWEIN** - Was that just to warm them up a little bit?

**Ms CHAPPLE** - It was just to advise them what was going to happen.

**Mr HARRISS** - It warmed them up all right.

**Mr LLEWELLYN** - That is the one shack at Sundown Point that I was concerned about. I had previously given an indication that that shack may well be able to be moved to Nelsons Bay, only to find that when we were looking at trying to facilitate that, and that was around the time of that letter, the Nelson Bay site had been made a conservation area under the Nature Conservation Act which then did not give me the ability to do that. As I say, the only option I have in regard to fulfilling that obligation is to either revoke the Nature Conservation Act provision for that area so that it becomes again crown land that I could offer or try to provide another alternate site.

**Mr HARRISS** - Can I then come quickly back to the valuations matter? You have indicated that you are not prepared to accept what the PAC has said. Minister, has the process here been cost neutral?

**Mr LLEWELLYN** - I cannot give an answer to that.

**Mr HARRISS** - Or have you got a windfall gain in recent years because of the property price boom, whereas the property price boom might be facilitating some cross-subsidy to your losses at an earlier time?

**Ms CHAPPLE** - Can I partly answer that, Minister?

**Mr LLEWELLYN** - You can if you like.

**Ms CHAPPLE** - The last figures that we had were that the process was not cost neutral. Eighteen months' ago it was slightly in the credit but the process is not over yet. We are still spending money and getting money in. So we have not tallied up the final results.

**Mr HARRISS** - Supplementary to that, the committee has from you from at about 2007 a breakdown of all of the shacks, the numbers that have been transferred to freehold, the quantum and the average price. Can you update that for us, please - not now, but can you give the committee an updated table of that?

**Ms CHAPPLE** - Sure. I am very happy to do that.

**Mr BEST** - I am heartened that we are starting to move a bit on this, and I know that you are committed, Minister, so it is a shame that it is getting portrayed that way. But it is a difficult issue, as I know. I refer to the unresolved group. When I say 'unresolved', I am talking about the ones that we have heard from in evidence. Would there be any chance that we could access - that is, the committee could access - some funding? I know it is up to the committee to make a decision on this, but could we access some funding to appoint, say, a retired judicial officer to help us in our deliberations and recommendations on the evidence that we have received? Is that possible?

**Mr LLEWELLYN** - I cannot answer that, Brenton, as you know.

**Mr BEST** - I am told we do not have a budget.

**Mr LLEWELLYN** - There you go. That is really the ambit of the committee itself. You will need to inquire of your President or the Speaker or look at your own budgetary arrangements. The parliamentary process and the committee process has a certain budget for the year. If you want to use it in a particular way then it is up to the committee to request that money for that sort of reason. But I am not involved in that process, as you know.

**Mr BEST** - Okay. But I heard that there could have been a credit. I know this has been an expensive exercise.

**Mr LLEWELLYN** - A credit on the Crown Land Accumulation Fund.

**Mr BEST** - I thought there might have been and I just wondered if we could because we have quite a bit of detail on some of the cases. It certainly would be an overlap.

**Mr LLEWELLYN** - The problem there, though, would be that I can only act, without going to jail, within the law - the act - itself. I certainly do not want to do anything other than act within the law.

**Mr BEST** - No. That is why we need some good advice, don't we?

**Mr LLEWELLYN** - There are no other provisions to provide other people, other than the independent person that was provided - that is, the commissioner - to make these assessments and in most cases the commissioner has made the assessments. Again, if you want to make recommendations about those sorts of issues, I cannot give you any guarantee on that particular matter but it is up to the committee to make appropriate recommendations.

**CHAIR** - Thank you, Minister. I think we really do need to draw this to a close. Mr Gutwein just wants to encapsulate one matter with this.

**Mr GUTWEIN** - I welcomed your comment a few minutes ago in regards to those shacks that are listed for removal in September and October. Just so that we are clear in regards to exactly what was proposed a few moments ago, my understanding was that what you

have said is that if you have the legislative power, you would provide an extension in regards to the time for removal of those shacks so that other matters could be inquired into, especially those relating to natural justice issues in regards to other matters that this committee have heard. If you do not have the legislative power, you would be prepared to accept an amendment proposing that an extension be provided in regard to the removal of those shacks?

**Mr LLEWELLYN** - That is what I said and I suppose I have to put a caveat on it myself because either someone would separately need to move a bill into the Parliament or I am quite prepared to take on the recommendations and to develop some amendments to the legislation that would enable these things to happen. But if I go down that path, I am not alone. I operate within a Cabinet system and that would need to be approved by the Government, not only the minister.

**Mr GUTWEIN** - Okay. But, as minister, you are quite comfortable in regard to giving that undertaking that you will support that?

**Mr LLEWELLYN** - Yes.

**Mr WILKINSON** - No doubt, in relation to the Public Accounts Committee recommendation, you did some costings on it. If you did those costings, what was the amount that you came to that you believe the Government would have to put into this fund to compensate disenchanted property owners?

**Mr LLEWELLYN** - I do not believe there were any formal costings. It was just the equity issue that was mainly the reason I made the comments I did to the Public Accounts Committee. But there certainly could be a costing done in regard to it. You could make some informed estimate, at the very least, if you wish.

**Mr WILKINSON** - As you would be aware, the Public Accounts Committee recommendation was that the Government decide upon a figure that is put into a fund and then people who needed it were able to make application to that fund and receive whatever was given to them by an independent arbiter. That would cause the difficulties to go away between those people who won the jackpot and had their property valued at 2002 and those who still did not have their property valued until 2007 or later.

**Mr LLEWELLYN** - Would the people who had their properties valued in 2002 have to pay an extra \$80 000 or something or other?

**Mr WILKINSON** - Of course not because the reason -

**Mr LLEWELLYN** - That is the other side of the equation?

**Mr WILKINSON** - No, you obviously have not read the recommendation if that is your answer -

**Mr LLEWELLYN** - I have.

**Mr WILKINSON** - because we stated there should be a cut-off figure at January 2003 and all valuations, as at that date, should be the fair appropriation for those individuals.

**Mr LLEWELLYN** - I understand that. There are certainly two sides to the argument and I will certainly provide the response that I gave to the Public Accounts Committee.

**Mr HARRISS** - I want to go to the Aboriginal middens issue again. I will take you to the matter of the Mallinsons first of all and then come back to the broader issues. With the Mallinsons we are informed, supposedly, that there is a midden where the road is. The Mallinson shack has to go. A shack 30 or 40 metres away can stay. How can that be the case when, again, the Mallinsons wanted the opportunity to question Scott Marston at the hearings and were denied the opportunity of asking why the shack across the road could stay? If there are middens there, they are being affected every day by vehicular traffic across the road down to the beach. We are informed that the road will continue to be used.

That is one issue. Then I want to come specifically to a matter of overturning an assessment of Aboriginal middens.

**Mr GREEN** - That is a TASI site.

**Mr HARRISS** - That is a good point that Mr Green makes. Minister, earlier you indicated that the TASI sites were the ones of significance. The whole area here, we understand -

**Mr LLEWELLYN** - They were the precursor for drawing people's attention to the Aboriginal situation. I think I answered your question before by saying I do not know. I cannot answer the specifics that you are putting to me. If you were to ask Mr Nolan to come before the committee, he is the person who should be able to answer that, or the person that did the assessment. It is for the committee to decide whether or not you get those people before the committee.

**Mr HARRISS** - This next question will be a preface to the final one about possibly overturning the existence of middens. With regard to the Mallinsons, for some reason, after the scientific assessment by the Aboriginal Heritage people and the archaeologists, who said 'No midden', for some reason there was a second assessment as to the existence of middens conducted by Greg Brown for three minutes on site. Why a second assessment after the archaeologist had said, 'No middens'? When Scott Marston was specifically asked he would not explain the differing assessments.

**Mr LLEWELLYN** - I cannot explain that either.

**Mr HARRISS** - Can Sue explain that?

**Ms CHAPPLE** - No, I cannot explain that. The only thing I could say is that Greg Brown was, I believe, working for the Office of Aboriginal Affairs at that point and the Office of Aboriginal Affairs would have input into this process, as would the archaeologists, so potentially they are doing different things. But the information that I have here certainly does not indicate that the archaeologist said there were no middens; it indicates the archaeologist said there were middens - in fact TASI 3147.

**Mr HARRISS** - We have heard from the Mallinsons that there were no middens and then subsequently there were. You are aware of the case with Mr Spiteri at Ansons Bay. He

has written to you on a number of occasions. You are also aware that the Aboriginal artefacts officer who made the original assessment that there were middens, subsequently visited the site, by his own suggestion to Mr Spiteri, and said, 'They're not middens. They're white man's middens and for some consideration I am prepared to indicate that they are not'. Mr Spiteri has written to you along those lines. He has also written to you along the lines that in the event that the middens issue can be set aside, would his shack be able to remain in its location?

**Mr LLEWELLYN** - I cannot really comment on that. I cannot recall the actual -

**Mr HARRISS** - I think Sue is pretty keen to help you.

**Mr LLEWELLYN** - I do not know. I can go back and look at that particular issue. Certainly any indication that people are going to take money for making a consideration would be highly inappropriate.

**Mr GUTWEIN** - That is what we thought as well.

**Ms CHAPPLE** - The only comment I can make on Mr Spiteri is he does not actually lease or license a shack.

**Mr HARRISS** - So based on that, then, how many shacks during the process have changed hands before the final settlement?

**Ms CHAPPLE** - There is probably quite a number but Mr Spiteri is not in that position. He does not lease or license the shack.

**Mr HARRISS** - But if he was intending to purchase one at another location at Ansons Bay and was told that the department would not deal with him because they would only deal with the current licence holder, he missed out on the purchase of a shack. So my question is - well you have answered it, I think, Sue, because you said there were many that changed hands during the process of assessment and yet he was denied the opportunity.

**Ms CHAPPLE** - You asked me one question and then made a comment on something else.

**Mr HARRISS** - So your answer then to my question?

**Mr LLEWELLYN** - What Sue has said in respect to the transfer of shacks has indeed happened and is continuing to happen, even on shacks that have not been assessed properly at Kingfish Beach. Shacks have changed hands even with the knowledge that they might get removal notices.

**Mr HARRISS** - That is worth knowing because Mr Spiteri was told that the department would not treat with him because he was not the licence holder and they would only deal with the licence holder.

**Mr LLEWELLYN** - Yes, but he would be the licence holder if he bought it from someone.

**Mr HARRISS** - No; a different shack that he wanted to purchase. That is when the department said, 'No, we're only dealing with the licence holder'.

**Ms CHAPPLE** - That would be correct because that the legal relationship is between the Crown and the licence holder. It would be up to Mr Spiteri to deal with the licence holder to get him to accept -

**Mr HARRISS** - Could not be done.

**Ms CHAPPLE** - We have no legal way that we can deal on a shack for someone who is not a licence holder.

**CHAIR** - I think the point has been made. Minister and Sue, thank you very much for coming here today. Is there any closing remark you would like to make?

**Mr LLEWELLYN** - No, not really. I can only just reiterate what I said at the beginning. We have tried to deal with a very difficult job and, by and large, the great majority of people have achieved the outcomes that were intended at that time but we are not at the pointy end, as Brenton said, with a small number of people who feel aggrieved. The great majority of people have been able to have freehold on their shacks and where that has not been the case some people have been able to lease properties.

There still is an issue with regard to lease costs which I freely acknowledge and maybe it is something that we again deal with, but the pointy end is those people who have had to remove their shacks because of non-compliance with the criterion that has been established and I guess that is why you are sitting here at the moment, to try to achieve the outcome that I desire too - to get as many as possible of those further able to purchase their properties freehold.

**CHAIR** - Yes. I am sure you will hear from them too. Thank you.

**THE WITNESSES WITHDREW.**

**Mrs MARY ALISON HODGSON** WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** - Welcome, Ms Hodgson. Thanks for coming along showing some forbearance whilst the Minister was there in the hot seat. Now you're in the hot seat - not really.

I think you have your submission there, number 38. Would you care to make a statement in regard to that?

**Mrs HODGSON** - As a matter of fact, I do not have it in front of me, Mr Hall - it was so long ago.

**CHAIR** - Okay.

**Mrs HODGSON** - The real reason I wanted to submit was that right through this whole matter I have never been given any real reason for the inordinate and inexcusable delays. I have looked for them myself and I have asked different council members and members of the department but I simply have never had a reason for these extraordinary delays. I purchased the property in 1991 and it was at Lot 10, Bronte Lagoon, which is a comparatively easy subdivision and I did not get settlement until many years later on 4 October, 2005. As I say, the subdivision at Bronte Lagoon was comparatively easy; there were some sewerage matters to start with but they were resolved pretty quickly. So, to this day and even this afternoon, I still have not heard the reason for delay like that for what was a comparatively simple subdivision. Along the way, I have lost neighbours who just could not afford, who lost heart, who couldn't get reasons and they weren't used to dealing with these sort of matters and I think they just gave up.

**CHAIR** - Yes.

**Mr WILKINSON** - Mary, can I ask you, as a result of the delay from when you first advised the Government that you wished to purchase until you finally settled, were you given a figure originally, as opposed to what it was in the end?

**Mrs HODGSON** - No. That is one the main criticisms of it - that things were not explained along the way. I first found out that this was all afoot by a little article in the *Mercury* on 25 January 1996 which said 'The HEC will dispose 525 shack sites in the Central Highlands over the next five years'. That was the first that I ever knew about it and Bronte was included in that so naturally I was interested. The next thing that came was the letter from the then premier, Premier Rundle, informing us that the shacks located on Hydro land in the Central Highlands had been transferred to the Department of Environment and Land Management who would deal with the shack owners - shortly, I might add.

**Mr WILKINSON** - Was that about 1997?

**Mrs HODGSON** - That was 1 September 1997. On 16 December 1997 he wrote another letter saying officers from DELM would begin the categorisation process. 'This means that you will know the long-term future of your site some time within the next 12 months.' That was in 1997. Five years later the assessments actually started at Bronte on 27 February 2002. Then, as I say, eight years later I signed the contract and then on 4

October eight years later I settled. And as would normally happen when you settle the road would be constructed, yet there was no sign of the road being constructed, so I settled and then I decided, well, I have paid for the road so I wrote to the shack sites department and they told me that Fluid Kinetics, who were the contractor, had gone into voluntary liquidation and it would be September or October before the work might commence.

I kept ringing the department with no success. Then I got on to the council and was told by the council that it was more likely to be February next year and he went on to say that being a government department that is more likely to be later in the year because you cannot get anything out of them in December and January. In fact he was right; it was May 2008 when the road was completed.

I feel sorry for most shack owners because they were dealing with the department without any cooperation. I have been used to dealing with departments so I knew how to push. That is really the reason that I am here because it has been the most mishandled I have seen. You commented, Mr Chairman, that people have complained about the number they have had to deal with; I added up 12 different public servants I dealt with, none of whom have been noted for their charm and communication skills. What should have been an exciting thing has, for many people, been unpleasant.

**Mr WILKINSON** - Can you help us with the value of your land when you were first advised that it was coming up for sale back in around 1996-97 compared with what you finally paid for it?

**Mrs HODGSON** - I am no good on figures, Jim, as you know. It did not go up.

**Mr GREEN** - That is why he has asked you; he is terrible like that - trying to put you in an awful spot.

**Mrs HODGSON** - Yes, cross-examination.

**Mr WILKINSON** - That is why people do law, so that they do not have to deal with figures.

**Mr GREEN** - Did you have valuations on the block while it was Hydro land? Were you paying rates?

**Mrs HODGSON** - No and no, it was only a monthly tenancy.

**Mr BOOTH** - So you got that in 1991 off Hydro on a monthly tenancy?

**Mrs HODGSON** - Yes. I did all the things I told the clients never to do.

**Mr BOOTH** - So in 1995 you heard that they were selling it. So then was the offer to treat given to you from Hydro to yourself?

**Mrs HODGSON** - No, a letter simply came from the department signed by Premier Rundle that all Hydro shack sites had been transferred to the Crown. We did not have any say in that at all.

**Mr BOOTH** - So it was the Crown who decided to sell to you. So between that date, which must have been post-1998, or 1997 -

**Mrs HODGSON** - It was in 1997 that he wrote the letter and in 2002 the assessment started.

**Mr BOOTH** - Then you did not finalise it until 2005?

**Mrs HODGSON** - That is right.

**Mr BOOTH** - On what date was the valuation done? Was that a 2002 valuation?

**Mrs HODGSON** - It was a 2004 valuation. The level of values as at 1 April 1996. The date of the valuation was 15 July 2003 and the land value was \$10 000 and the capital value was \$34 000.

**Mr BOOTH** - You would not have had to pay for the capital on top of that because you already owned it.

**Mrs HODGSON** - No, I paid for that already. I paid \$15 000.

**CHAIR** - Are there any further questions to Mary?

**Mr HARRISS** - Mrs Hodgson has a heap of information there. Are there any particularly significant documents you wish to provide to the committee that demonstrate the source of your discontent and frustration. If there is not, we will take your evidence as you have presented it.

**Mrs HODGSON** - There is a letter that I wrote to the department after I settled. I said:

'I am the purchaser of Lot 10, Bronte Lagoon, completion of which took place on 4 October. Part of the consideration paid for the land, the sum of \$10 347 was stated to be my contribution to the infrastructure associated with the land. I understand that my share of road construction costs was \$10 347. I was informed at the time of settlement of the purchase that the road works were the responsibility of the Central Highlands Council which had entered into a contract with Fluid Kinetics. Mr Mark Gilmore of Fluid Kinetics told me on 4 October that construction of the roads at Bronte was about four weeks away. When I spoke to you on 1 June this year you advised me that, because Fluid Kinetics had gone into liquidation and there were outstanding matters pertaining to creditors of Fluid Kinetics, it would be September or October of this year before construction would commence. It is now mid-October and there is no sign of resumption of works at Bronte Lagoon. Would you please advise me in writing when work on construction of the roads at Bronte Lagoon will commence?'

I did not receive any answer to that letter.

**CHAIR** - That was addressed to whom?

**Mrs HODGSON** - That was to the Shack Sites Project.

**Mr BOOTH** - So the work has been done now? Has the road been done?

**Mrs HODGSON** - The road has been done. It has actually created a water nuisance for me, but I have given up on that. That is what I mentioned in the original. The road has been built but we still do not have any fire tanks. That is the only outstanding thing now.

**Mr GREEN** - There is a lake there though.

**Mrs HODGSON** - There is a lake there, yes.

**Mr WILKINSON** - So the real problem is the delay which, as you say, has been excessive and also the fact that when you wrote you did not receive any reply at all from the department?

**Mrs HODGSON** - I would say the delay has been the cause of most of the grievances that you have heard here. Also, I think you are spot-on; these last ones which are the most difficult will become even worse because there is nobody in the department looking after the difficult files.

**Mr BOOTH** - They have not complied with their own contract in terms of the water tanks. Have you tried to resolve that?

**Mrs HODGSON** - I probably will.

**Mrs RATTRAY-WAGNER** - That is if you do not get too tired and wear out.

**Mrs HODGSON** - A lot of them have unfortunately. I know Clive Sherry got tired of dealing with the bureaucracy.

**CHAIR** - Are there any further questions for Mrs Hodgson? Thank you for coming along and thank you for waiting. We appreciate that.

**Mrs HODGSON** - Thank you.

**THE WITNESS WITHDREW.**