

Ms JANE MacDONALD, SAVE RALPHS BAY INC., WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

Ms MacDONALD - I think it is a wonderful development that this joint select committee has been formed and is taking submissions. Who knows what may develop. I think there are lots of positive possibilities.

I am representing Save Ralphs Bay Inc. We have been going for four-and-a-half years since 17 March 2004. During that time we have necessarily - and it was not our initial intention - found ourselves observing the actions of the State Government on a number of occasions. The group that I represent is in no way a political group and its membership certainly did include, or has included, supporters of all three parties. But over the four-and-a-half years that we have been watching this issue there has been quite a degree of disquiet over a number of things that we have been close enough to see. People have felt that what has gone on has not been transparent or ethical and certainly not admirable.

There has not been a detailed and thorough evaluation of the issues. Government members have had very little knowledge of matters and so on. All in all we have been, I think it is fair to say, singularly unimpressed. I would not say that, in relation to the issues that I have mentioned in this submission, there has been any aspect of the State Government's conduct that has been admirable or impressive. So whilst we have highlighted a number of issues I think it is disappointing that in a State this small, where people have the opportunity to know and meet members of parliament and so on, we have not been more impressed more often. So I think in terms of good governance and public confidence in the political system we have been living through a rather woeful period.

CHAIR - When you say things have not been going as expected and have not been as transparent as they should be, how do you believe the process could have been made more transparent?

Ms MacDONALD - Just taking a look at some of the issues that I raised in the submission regarding discussions between governments and corporations, I guess those will happen and the public will not necessarily know what is going on. There has been a general feeling that, whilst taxpayers will pay for experts to research issues and whilst we will pay for the development of policies, we do not feel that it is a government that reads those policies or understands them or knows about them or cares very much. Certainly, further on in our submission concerning marine protected areas, the knowledge of Liberal and Labor party members and key staffers of what that inquiry was about was absolutely woeful. There is a sense that people have not informed themselves.

The first thing where there is anything substantive would be in our item 2 on page 6 where every resident in the South Arm peninsula received a letter signed 'Paul Lennon, Acting Premier' which stated three times that community consultation was being conducted on the Ralphs Bay proposal, as a result of which the wishes of the public would be taken into consideration in deciding whether this proceeded into the planning system. Now, I do not think any of us ever saw any indication whatsoever that the

wishes of the public were taken into consideration when deciding whether that went into the planning system. We had statement, but what was the meaning of it?

CHAIR - If this body was in place, from what you have just been saying you would think it does not come to a criminal action but it amounts to an action which you believe falls short of proper process, so what should then happen?

Ms MacDONALD - Of course we had the same thing in the media yesterday with announcements about public consultation and the wishes of the public being listened to about the waterfront. Members of our group found that amusingly familiar. I think the point is that governments should either make a commitment to assessing public opinion and acting in certain ways in response to it, or they should not. If they do there should be some process by which it is demonstrably the case that, where public input is sought and where it is tied to a decision, there is some transparency around the issue of how that input is collected, some independence around how it is collected, and evidence that it has been taken into consideration rather than just said and forgotten. It is poor practice if it is said and forgotten. It would be as if I said to a class of my students, 'I will take your wishes into account when deciding whether or not we have this excursion', and then we never did but I never referred back to them. It treats people with contempt.

CHAIR - Let us say, for this example, there is a complaint made to this ethics and integrity commission. They say, 'Yes, the Government have not acted in accordance with what they stated they would do.' It is not criminal activity, therefore what will we do? Do we then hand it back to a committee of the Parliament, a select committee or a standing committee, for a name and shame or do we have the power to say to the Government, 'This is what you stated, this was an undertaking so you have to honour that undertaking.' Who does that, how do we do it, how far can we go?

Ms MacDONALD - Governments should be encouraged to seek community input rather than say that something like this demonstrates that you would not want to go there again, which I think we did hear from some people within the Labor Government. This demonstrated that you would not want to ask because they had not thought about how you would deal with the response. They actually had not thought it through.

You would perhaps want a code of conduct or some protocols for community consultation in which governments were encouraged to consult with communities, under some fairly clear frameworks before, during and after concerning what would be done and what would be communicated. In terms of examining what was done and naming and shaming, yes I think that would be a very adequate response. A body could look at this and say that members of the community are saying this is not what happened, so let us take a look, name and shame and let us release that to the media and to the community. I think that would help people to be more committed to what they have said they would do.

Mr MARTIN - What was that comment about a member of the Labor Government saying what?

Ms MacDONALD - It was not a member of the Government. A bureaucrat said that this consultation was a mess and that in his opinion they should have thought it through a bit more carefully before they made any such commitment. It was a commitment they had

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not really thought through and they probably would not be making a commitment like that in a hurry in the future. He was saying that the letter Lennon sent out - stating that this is a community consultation and the wishes of the community will be taken into consideration - was inadequately thought through and that the Government had not put in place any method of conducting its own consultation. Having announced that, when the corporation conducted a rather woeful and non-transparent consultation, the Government was left having made a commitment which it probably had no intention of fulfilling. They were just nice words to write in a letter to introduce a proposal, but what was actually said and what was actually done were at odds and it appeared not to have been thought through. How would people respond to this? What expectations would be created? Because of course creating expectations in the community is always an important issue in terms of governance. You either say we are not doing this or you say we are. But if we are doing it, we need to do it properly.

Mr McKIM - Jane, your submission goes to a number of areas that I am also concerned about, particularly what you call the shelving of Walker Corporation's proposal prior to the last State election and then its revival shortly after the State election.

Ms MacDONALD - Its magical reappearance.

Mr McKIM - You have stated in your submission that it was reported that the proposal was shelved on commercial grounds. You have gone on to say that it actually seems likely that these commercial grounds were inextricably linked with the difficulty of moving ahead with the proposal if the Labor Party was not returned to majority government. Now, I do not want to put words in your mouth but would you say that that series of events constitutes at least a potential corruption of the electoral process in Tasmania?

Ms MacDONALD - I think that is exactly the kind of question that needs examining very closely. In terms of where the definition of corruption falls and what is going on it certainly does not look good, but I think that it is a very important issue. Sue Neales reported in the *Mercury* in September 2006 that Walker admitted that the pull-out was only ever temporary and it was only ever about politics. Sue Neales talked about a Legislative Council Ralph's Bay briefing session on 5 September wherein she said - this is me saying that Sue Neales said that Kevin Hunt said, and some of you were there - Kevin Hunt made a frank admission that they never really abandoned the Ralphs Bay proposal last year. So we have a very interesting situation here. I personally believe that - and this is at the top of page 9 - Judy Jackson was acting with integrity and honesty when she said in reply to constituent's letter that the Government had no intention of revisiting any development proposal for Ralphs Bay. I believe Judy Jackson was telling the truth and I have no evidence other than that it appeared in our dealings with her that she seemed to call a spade a spade. I would be very interested to know, if Kevin Hunt felt this was frankly a political issue and that he shelved the proposal with the full intention of bringing it back, whom had he talked to who gave him that impression? Who had confirmed that impression and how many of them were there? I did ask the question on page 10: was this legal, good governance, ethical, transparent or honest? Certainly it is a big issue.

When Cabinet first discussed the project of State significance status we put a lot of effort into lobbying Cabinet ministers, we pretty much knew how it was going to fall and we knew that Lennon was not going to be pushing through and was not getting POSS status

when he first wanted it. He had not been able to push this through. So prior to the election, for reasons of conviction or reasons of political commonsense, there were a number of Cabinet members who were not going to vote for POSS status at that stage. So to put this thing to bed and then bring it back after the election would appear to be cynical at best.

CHAIR - Can I ask you about POSS status? If you look at the legislation as it now stands it would seem that a vast number of developments or whatever you might call them could be classed as getting POSS status in accordance with the definition. There should be something done with the definition as to what is a project of State significance because, if you look at the act, a vast number of matters can come under that definition of POSS. My view is that should be looked at.

Ms MacDONALD - Many people have said this is a housing subdivision. The fact that it is a housing subdivision in the sea at a time of sea level rise due to global warming makes it particularly ludicrous. It was not even a particularly large housing subdivision but it is large to be putting in a conservation area in the marine environment.

CHAIR - But still if you look at the definition of POSS it comes under POSS.

Ms MacDONALD - If you look at the definition of POSS I would not argue - it qualifies. But as you say there must be any number of large or complex developments, or developments with a huge engineering input or developments that go across a number of council boundaries or developments with big impacts that would qualify. It is an interesting question. It is the fifth-ever POSS. The fourth one was the pulp mill, which ran away; the third one was Basslink, which got up; the second one was Oceanport, which was knocked back; and the first one, I think, was called Taiwan Pulp and Paper Mills, and they didn't proceed. This becomes the fifth project of State significance, allegedly on a scale of the pulp mill or in some way comparable with it. You would have to ask yourself why Lang Walker's housing subdivision in the sea gets that status when other projects that are large, complex and have impacts do not. That is a bit of a mystery.

CHAIR - The argument would be that the others haven't been put before Parliament to say whether it was a POSS or not.

Ms MacDONALD - True.

Mr MARTIN - I can't quite see why a developer would want to go through the POSS process rather than normal local government planning process if they didn't have to. To me the POSS process is probably the toughest, most rigorous process and very time consuming.

Ms MacDONALD - Terry, that is the fascinating thing and it is quite intriguing. I am not here to ask the questions but in the four-and-a-half years that this has been going on, every now and again we have asked politicians, 'Have you come across anybody in four-and-a-half years who thinks this is a good idea?'. Nobody has said yes to that question yet. A lot of people think this idea is laughable. You come across the occasional person and it is support that falls over almost instantaneously. You come across someone in the local community who quite likes the idea and the minute you suggest there could be

traffic delays they say, 'Out of the question'. They couldn't have traffic delays during an eight-year construction period on a small road through a narrow stretch of land. If there are any traffic delays, they don't support it. I have not met people with serious support for it, other than the general, 'You have to have development', without any detail of which development or where. We know that huge numbers of people oppose it. We have gathered heaps of information that substantiate that claim.

I mentioned in the submission that we gained through FOI the submissions that were sent unsolicited, not by us or through us, to Judy Jackson's office. Whereas Senator Paul Calvert's major survey showed 73 per cent opposition, the initial tally of the completely unsolicited submissions to Judy's office showed 99 per cent opposition. We are all in the rather fascinating position of wondering why we are going through this at all. From a developer's point of view I would have to agree totally, Terry; you would have to have something wrong with you to want to go through this. It is not a fast track to anything. This is pure surmise and we have no way of knowing any of these things but it seems possible that at some early stage in some early conversation between Jim Bacon and Lang Walker, or whatever, some kind of commitment was given, which means that we have to go through this process in order for them to be told 'no' the right way, regardless of how many thousands of hours of the community's time and how many tens of thousands of dollars fundraising it wastes to fight that process because Walker is a highly litigious corporation which sued the State Government of New South Wales for \$60 million when it didn't get the rezoning it wanted for the Ballast Point development on land it never owned. It could be that someone somewhere has been a bit silly and we all have to be dragged through this at the cost of thousands of hours of effort and tens of thousands of dollars by the time we've got through a POSS assessment with expert evidence. We have to treat it as deadly serious but it could be that we're all going through this so that it gets knocked off in the proper way, but I have no way of knowing that - obviously.

Mr ROCKLIFF - My question wasn't related to the Ralphs Bay development per se but was more in line with your recommendation for some sort of body to be set up, including having its own budget and reporting directly to Parliament. One of the membership needs to be a non-Tasmanian, with regular refreshment of its membership, and must have whistleblower protection and confidentiality. Are there any ICACs or ethics commissions or investigative bodies around Australia that you think may suit Tasmania?

Ms MacDONALD - The honest answer is that it is not my area of expertise, I do not know. Our submission raised particular concerns we had in relation to good governance, transparency, ethical conduct and so on and although that was said initially that it seems like a good idea to have one I imagine there will be many submissions that you will have received. I do not know if the Law Society and groups like that would be able to have the expert input in relation to those issues. We did not research it and I do not see that we have any particular right or reason to be making strong recommendations for this model as against any other model, simply because it is not what we have direct experience and deep knowledge of.

Mr ROCKLIFF - Had there been some sort of ethics commission set up prior to the Ralphs Bay proposal, how do you think that would have changed things or the experiences that you have gone through?

Ms MacDONALD - That is very hard to know but if there were a body that was openly setting out and proclaiming and modelling certain standards of conduct, I think that creates a culture in which people at least feel that is what they are striving to do and at least feel there is more accountability. I think we have a situation in Tasmania where there has been, to quite an extent, a sense of if you can get away with it, you do it, or it is just what we do or why wouldn't you. I do not think there has been any clear sense of what constitutes professionalism.

I am a teacher and I have seen e-mails from a particular politician, whom I will not name, but which are spectacular in their rudeness, obnoxiousness and extreme lack of professionalism and they leave me wondering in what other profession would that person have a job if they responded to other people's correspondence in that way.

Mr McKIM - It wasn't me, was it Jane?

Ms MacDONALD - Certainly not.

Laughter.

Mr BEST - I am interested as I have been in local government. People put forward proposals to develop things and there are recent examples in Devonport, for example. The UMT factory chose to shift to Spreyton and the people at Woodrising Avenue near Spreyton did not want the UMT factory. Bunnings Warehouse put a proposal in Tasma Street and people did not want that. You have arguments about the process but I am intrigued. Are you suggesting that public opinion is the process, that if 1 000 people do not want something, the proponent does not have the right to apply and they cannot go through and have it? That is how I read this, to be honest.

Ms MacDONALD - No, the point that I am making is that Paul Lennon wrote a letter, I think dated 14 March 2004, to every resident in the South Arm Peninsula stating that a development proposal was being looked at, that this was open for public comment and public consultation and that the opinions, wishes and comments of the public would be taken into consideration in deciding whether or not this particular development proposal was allowed to proceed into the planning system. That is what he stated.

To my mind, you either do not say that, you just say that a developer has put a proposal and here it is in planning system.

Mr BEST - I do not think you say that.

Ms MacDONALD - Well -

Mr BEST - I imagine if the mayor of every council was to write to everybody and say -

Ms MacDONALD - Exactly. So the thing is, if you do do that, I think you must expect to be taken in good faith and people must expect that to be taken at face value. If you then have politicians' surveys showing 60-odd and 70-odd per cent rejection of the thing, if you have submissions coming in to the minister showing 99 per cent rejection, if you have a huge public backlash against it and if that is what you said, then you must not

proceed. If you did not say it then of course you say that this is a proposal going into the planning system.

In the case of this particular proposal I do object to the fact that we, in this State, do sort of have a State coastal policy. It was open for review in 2003, the submissions went in and it is 2008 now. The State coastal policy has fallen over in court but, nevertheless, every now and again the Government says, 'Yes, yes, the previous State coastal policy is law' but what it sets out is to all intents and purposes ignored. So if you read the sections of the coastal policy which I have mentioned it actually talks about what shall and shall not be permitted so, to my mind, if we as taxpayers fund scientists and experts and policy writers to write policies and if those policies are adopted and go through the Parliament then if governments do things which blatantly are in contravention of them, there is something serious going on. Either government cannot, will not or has not the time to read its own policies or it does not give a rat's about its own policies.

Mr BEST - I am just intrigued, though - and I do not know why he did that by the way - but if a mayor, for example, wrote out to people it does not abrogate the planning -

Ms MacDONALD - No, and I fully agree with Terry that actually this project is big, complex, and has very significant impacts. I do not know how wide the awareness is but the Derwent is not just the most polluted estuary in Tasmania, it is far and away the most polluted estuary in Australia and, if you look up the table in the State of the Derwent Report, you will find that it is up there amongst the most polluted estuaries on the planet, so messing with that estuary and fooling around with those sediments is not necessarily the smartest thing -

Mr BEST - Is it being looked at by the RPDC at the moment, the whole thing?

Ms MacDONALD - Where the process is at is that the developer is entitled to submit its integrated impact statement. I hope it packs up its bat and ball and goes home but if the developer submits its IIS it will be hundreds of pages long with technical appendices of hundreds of pages more and it will be up to us as a community group to spend tens of thousands of dollars bringing interstate and Tasmanian experts to bear to critique that IIS and to address it in hearings.

Mr BEST - What happens at the end of the day if a decision is made with all the scientific material and everything else? It could be that the project cannot proceed because you have your evidence that proves it cannot. What if it goes the other way and it is found that it can? Would you accept it then?

Ms MacDONALD - It is the commission's job to make a recommendation one way or the other and the State Government can accept that recommendation or if it can get it through two Houses of Parliament it can ignore that evidence.

Mr BEST - You would not accept that planning body's decision then if they said yes?

Ms MacDONALD - I think we have to be clear about the roles of different sectors of the community in these things. The developer's role is to try to get his development through by whatever means he can, the Government's role is to be involved in decision making and we are Save Ralphs Inc. and our role is to oppose it by whatever sequence of

mechanisms there are, which could include a judicial review or chaining ourselves to bulldozers, which is a bit unlikely. Our role in the process is not to say we are looking forward to the result that we would abide by. We exist to oppose the development and that is what we would do.

Mr HALL - I apologise for missing some of your earlier evidence. Just following on from that, I suppose there are other people who might support that so they have a democratic right to -

Ms MacDONALD - Absolutely.

Mr HALL - I do not know how many there are.

Ms MacDONALD - As I say, we do not come across them and they do not seem to be organised in a way that we are aware of but when we write newsletters and send them out in the community and when we have them letterboxed, every single time at every single stage we say, 'This is the process. This is where we are at. These are your opportunities. Make a submission. Let your voice be heard, whatever you think'. So in that sense we support the democratic process, we support the proper process of the assessment through the commission and so we would say to everybody in the community, 'This is the democracy we have, these are the mechanisms we have, participate, have your say'. We know what our say is but it does not mean to say we are telling anybody else they have no right to an opinion.

Mr BEST - Did you encourage submissions to this committee?

Ms MacDONALD - To this committee? We actually didn't.

Mr BEST - So you didn't put anything in your newsletter to say -

Ms MacDONALD - Make a submission on this issue?

Mr BEST - Or this is on -

Ms MacDONALD - No we didn't on this one because I think we have to be careful about our core issues. For our group to present on this I think you cannot bombard supporters. We have written submissions on about eight things over the last four years but we have not told our supporters they should be making them. We certainly encouraged them to make submissions on the draft guidelines, which was the first stage of the RPDC process.

Mr HALL - If I could just go back to the terms of reference and look at the bottom one that I highlighted. Your conclusion says 'We believe Tasmania is fundamentally a decent State, inhabited by decent and well-intentioned people and that Tasmania's politicians and public servants will be well served by a body with investigative powers.' You pointed that you had not gone down that track as to what would be the appropriate model.

Do you think that politicians and public servants - and you have said that you are one of them too -

Ms MacDONALD - I am a teacher.

Mr HALL - should be regulated by some form of code of conduct and ethics training? Do you think that would help within the State?

Ms MacDONALD - Absolutely. I feel that very strongly. I could have grabbed off my bookshelf as I left the code of conduct that I work under and it is all about treating others with respect and having respect for arguments and ideas and doing your best, being professional and maintaining your level of being informed.

Mr HALL - Is that formally a structure that you have to operate under or is that individually for yourself?

Ms MacDONALD - I guess it would have been negotiated with our association. We all have a copy of it, and we are well and truly told. If we got into problems with a parent or a student or whatever, if you could be shown to be not acting in accordance with those ethical standards, absolutely you should expect to be pulled up.

I have a little bit of familiarity - but not as a member - with the Australian Institute of Company Directors and with the AICD graduate diploma and it is fascinating how much emphasis they put on governance issues - good governance, ethics and ethical conduct. Quite frankly they would be an excellent body to be asked to conduct training for politicians and in a sense it is scandalous that politicians managing and running the State would not be expected to have considered the ethical issues and come through the ethical training that many company directors have indeed done. I think there is plenty of opportunity and I think it would be immensely enriching, rewarding and professionally satisfying for politicians to go through that. I also think that politicians enter politics from a huge range of walks of life and that is absolutely fine, and so many of them in fact would not have had the opportunity for ongoing professional development and training. They are in a profession where much is expected but I wonder how much is clarified in training situations. I would have thought training in good governance, professional conduct, ethical standards and so on, and understanding of triple bottom line accounting and so forth would be fantastic for politicians. Plus, those things are usually conducted in a way that they have fun so you could all go on rope walks through tree tops and go white water rafting to build trust or goodness knows what. I think people would get a lot out of it and if we can do more as a State to make the politicians really feel good about doing a very professional and ethical job, who is the loser?

Mr McKIM - Jane, I acknowledge that the Ralphs Bay issue is ongoing and probably likely to remain so for some time but many of the issues you have addressed in your submission are in the past, so could I ask you whether you have a view on whether or not any body which this committee might recommend should have retrospectivity. In other words, should it have powers to investigate matters that occurred in the past?

Ms MacDONALD - This joint select committee has been formed in response to public concern about many goings on in Tasmania. I think for Tasmanians to feel good about what is happening, to simply say we are starting from here, we will start doing the right thing and not to have any retrospectivity would have to be a mistake because I think you do not really build confidence. If kids have a row with their parents and the parent refuses to talk about that issue but says 'I will be good next week', how much credibility is there in that? I just think that there needs to be a certain sense of sweeping out the

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cupboards, clearing out the skeletons, letting the sunlight in. I actually think that, to build the kind of public confidence that everybody surely wants, there would have to be retrospectivity. It is not enough to just say really it is all too hard to look back and it could be embarrassing for some people - not if they have nothing to be embarrassed about. If they have, tough.

Mr MARTIN - My question is about retrospectivity. Basically your submission raises a lot of issues over the long history of the Ralphs Bay development, a lot of questions that have not really been answered by the Government. So you believe there is no way any of these questions could have been investigated by any existing body in Tasmania?

Ms MacDONALD - Not that I am aware of.

Mr MARTIN - If an ICAC-type body were set up, you would be referring this issue to them?

Ms MacDONALD - I cannot see why not. I would have thought that this committee, which presumably has received a large number of submissions out of which, sifting through it, I would imagine that you will collectively reach the conclusion that there are a number of significant issues which appear not to have been adequately dealt with or resolved. I would hope that the select committee would in fact refer on the matters that have come to it. I think it would be a bit unfortunate if all those submissions were made and looked at by the committee, and then it was all restarted - particularly when you think of people who have been through a degree of trauma around health care or abuse or whatever their issues might be. The idea that their submissions would not be passed on in the system and that they would just be asked to do it all again, I think, could be a little bit heartless. I would have thought, if people in good faith have raised issues and brought them to this select committee, the select committee should be able to recommend a further body and refer matters on that clearly need to be addressed in some way.

CHAIR - Thank you very much for coming along. Thank you very much for your very particularised submission and for the way you have answered the questions.

Ms MacDONALD - Thank you very much for the opportunity. Good luck in your task.

THE WITNESS WITHDREW.