

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT  
FLINDERS ISLAND COUNCIL CHAMBERS, WHITEMARK, FLINDERS ISLAND ON  
THURSDAY 24 FEBRUARY 2000.**

**PETER ROBINSON AND JOY ROBINSON**, WERE CALLED, MADE THE STATUTORY  
DECLARATION AND WERE EXAMINED.

**CHAIRPERSON**(Mrs Sue Smith) - Thank you, Mr and Mrs Robinson, for your submission and for the time you've taken this morning to appear before the committee. The process we have used is that we ask that those who have presented submissions speak to their submission, add anything to it that they so wish, and then the committee will ask questions if they need to at the end of your presentation. So if you would like to commence, thank you.

**Mr ROBINSON** - One of our problems was the lack of discussion and consideration that has been shown to the wider community of the Furneaux group with this proposed land handover. When decisions are made such as this, it does affect a small community and also produces further divisions, if there is any divisions in it. As the owner of the private land on Little Dog, we originally purchased - or my grandfather purchased it - in the 1860s, so we've been around for a long time. We also lease the crown land that is proposed to be given back.

The reasons that's been claimed for wanting the crown land on Little Dog Island, I can't understand because there's no evidence of anyone living on the crown land. All the activity and everything else that's happened on Little Dog Island - this is the one that I am concerned with - is on the private land. So there's no activity to warrant the land to be handed over to the people. This is substantiated, as I've said, in the Outer Island Archaeological Survey - a prehistoric archaeological site recording project of the Furneaux group by Robin Smith and Ian Stewart and it was done for the National Estate program, so I presume that their findings were the same. So we should be able to take notice of that.

**Mrs SILVIA SMITH** - Just before you go on any further, I had noted that comment there. Do you know when that was done?

**Mr ROBINSON** - When the survey was done?

**Mrs SILVIA SMITH** - Yes.

**Mr ROBINSON** - No, I don't.

**Mrs SILVIA SMITH** - Is it recent or way back, 20 or 30 years maybe?

**Mr ROBINSON** - Within the last ten years, I would say, but I don't know. There's been a claim that Aboriginals commercially birded on Little Dog Island in recent times. As I've said, I agree with that but they worked there on the private land for the owners of the private land and I can't see that is something to substantiate a claim on it.

Some worked for us in our shed and there another two sheds operating that were owned by private people - Tom Diprose, George Robinson - and the people were paid. But, as I said, the Diprose one was later purchased by Davney Brown, who is an Aboriginal from Cape Barren. He used it for a number of years and then sold it the actual present owners. There's another chap, Vinnie Mansell, he worked George Robinson's shed - this is around the time I've been around - and they worked it for George. So I can't see that is a reason for a claim.

Our family has worked Little Dog Island, not recently, but through the years. When I was a kid we used to go mutton-birding there and we've been involved in it as much as anyone or more than a lot. We still like to make sure that the grandchildren eat mutton-birds and everything else. It's one of their first tests when they eat solid food.

*Laughter.*

**Mr ROBINSON** - Going back to Captain Charles Bishop's time in 1798, he left fourteen men on Cape Baron Island and they were to go sealing and that, I think, is about the first time that anyone - I don't think Aboriginals ever lived on these island here. So I can't see the reason for it. I have that out of a book, *Aboriginal Tasmanians* by Lyndel Ryan. That is a text book in some of the schools, as I understand.

**CHAIRPERSON** - Mr Robinson, the Premier first made his public announcement on 12 October as a leaseholder of crown land - and I'm talking about the leaseholding at the moment, not the private ownership, I acknowledge you have - can you give us some indication as to when you first received knowledge of that as a leaseholder and any discussions took place with yourself?

**Mr ROBINSON** - I think it was announced on the Tuesday of one week and I think we heard about it on the Friday or on the news or something.

**CHAIRPERSON** - Did you receive some written communication before or after?

**Mr ROBINSON** - We did eventually - I think it was after.

**Mrs ROBINSON** - We had a phone call from Richard Bingham, he wanted to come and visit us at home.

**Mr ROBINSON** - That was after it had been announced, though.

**Mr BAILEY** - When does your lease expire?

**Mr ROBINSON** - It's a yearly one.

**Mr BAILEY** - And have you effected any improvement on the land?

**Mr ROBINSON** - No, not really.

**CHAIRPERSON** - Have you had any contact from out ALCT as the proposed organisation that would hold title to the land if this amendment goes through?

**Mr ROBINSON** - From who?

**CHAIRPERSON** - The Aboriginal Land Council of Tasmania, as a leasee to have any discussions as to what -

**Mr ROBINSON** - No.

**Mrs ROBINSON** - No, we've spoken to Clive, he came with Richard Bingham.

**CHAIRPERSON** - If the land was transferred and the Aboriginal community negotiated with you so that you maintained the current leasehold, would you have any particular concerns whether the land is held by the Aboriginal community or the crown land? Do you see any distinction in that?

**Mr ROBINSON** - The concerns we'd have is that it's not just run by the Nation Parks - or PIWE they call it now, isn't it - and the ordinary people wouldn't be able to go there. I know it's said here and it's said there that no, nothing will change. What's the point of giving some-one something if nothing's going to change?

**Mrs ROBINSON** - We also had Big Dog Island, we've run sheep on Big Dog Island but Peter rang and tried to contact them to keep the sheep there but they never spoke to us and we never heard anything from them at all when that was given over and I presume it would be the same.

**CHAIRPERSON** - So you had a lease 1995 and when that was transferred you lost the lease.

**Mr ROBINSON** - That was a yearly lease as well on Great Dog Island.

**CHAIRPERSON** - And you pursued with the Aboriginal community continuing that lease and wasn't successful?

**Mr ROBINSON** - I didn't pursue it really hard -

**Mrs SILVIA SMITH** - The lease that you have now on part of Little Dog Island, is that a yearly lease? And you just renegotiate that each year?

**Mr ROBINSON** - Yes.

**Mrs SILVIA SMITH** - And you have fears that is not going to happen or the ability for that to happen won't happen like the same thing that happened on Great Dog.

**Mr ROBINSON** - It's not so much that, but where are the local people going to get their mutton-birds?

**CHAIRPERSON** - Do you run your mutton-birding enterprise as a commercial operation?

**Mr ROBINSON** - No.

**CHAIRPERSON** - So it's merely a local traditional pursuit for the entire community?

**Mr ROBINSON** - Well, the private land is for us, although we can't sit there all the time. But the concern is where does an average person on Flinders go and get some mutton-birds? We have Green Island which is near the wharf at Lady Barren, there's some private ground on that. Kangaroo is closed, Green Island up here is closed. There's the crown land on Little Dog and Green Island down here, that's it.

**Mrs SILVIA SMITH** - And because they're the closer ones then, I suppose, really what you're saying is that you have traditional pursuits as well in your heritage and you're really afraid that you're not going to be able to continue that on into the following generations that are yet to come.

**Mr ROBINSON** - It's not only me either, there's a lot of people -

**Mrs ROBINSON** - It's the island.

**Mr ROBINSON** - The whole people of the island. I've got a great-grandfather on both sides who were here in 1876. One grandfather purchased Little Dog in 1860-something, so we've been here a long time and to go and do this sort of thing without talking to us is just not very good.

**CHAIRPERSON** - You made a comment in your presentation, Mr Robinson, of an example of a neighbouring island being sold recently and expressed some concerns about the possibility of devaluation of existing freehold titles. Have you got any evidence of that from the past transfer and why do you hold those particular concerns?

**Mr ROBINSON** - Our land is a portion of Little Dog - 43 acres of it. The one I quoted was a complete island which had no neighbours or anything. It's the difference in the way it could be maintained. We know how it's going to be maintained while the National Parks own it.

**CHAIRPERSON** - So you've been happy with the management by the National Parks?

**Mr ROBINSON** - Not completely but, still, can anyone be happy with anything?

**CHAIRPERSON** - What sort of management processes have you utilised on your property? You talk here about accountability mechanisms and management plans et cetera. Can you give us some indication of what management processes you have used? Do you have weed management that you have to concern yourself with?

**Mr ROBINSON** - No, we stocked it for a while but when the years got dry we found we had to get rid of them off it; we couldn't maintain them there. Fire is another problem that's got to be looked at and really got to be watched. It hasn't been burnt for a long, long time now and if anyone got there and a fire started it's would just take the lot.

**Mrs ROBINSON** - We're trying to keep it as much like it was back in the 1800s - untouched and unspoilt.

**Mr ROBINSON** - One of the things we're saying is when the sealers came here and the Aboriginal women were brought over here there were both sides then - you had Aboriginals and you had white people. I think that should be the same now - it should be shared.

**Mrs SILVIA SMITH** - A joint heritage.

**Mrs ROBINSON** - It's a joint heritage, yes.

**Mr ROBINSON** - Definitely.

**Mrs ROBINSON** - With the devaluing of the ground, they were talking about letting the Aboriginals right round the island at one stage, the foreshore and that. When do we know if somebody else doesn't bring it up and it might happen again and so that devalues the land.

**CHAIRPERSON** - So you've got a concern about future changes again.

**Mrs ROBINSON** - Yes, it'll change again and anybody who wants something - how do we know that the Government is not going to acquire the ground off us and give it to the Aboriginal people? Again, that's devaluing the ground.

**Mr ROBINSON** - I think the situation for land claims should be on the Tasmanian mainland where the Aboriginals were originally. They were not here. They might have been here thousands of years ago but you can't go back too far, you can only go back a certain time.

**CHAIRPERSON** - Thank you. Any other comments? The committee has indicated they have no further questions but I always give an opportunity for the final say, so to speak, to ensure that you've put your main points across.

**Mr ROBINSON** - There is another book that has been just published called *Archaeology of the Dreamtime* by Dr Josephine Flood. I haven't seen it but I think possibly that would be another reference. I've ordered it but I haven't got it yet. I think Angus and Robertson have got it. It was released and there was an interview with the author on 7NT a couple of days ago, otherwise I wouldn't have heard of it.

**Mrs SILVIA SMITH** - Madam Chair, I just note the comment of Mrs Robinson that you will probably think of something long after we've gone. Is it appropriate that if there are other issues that they think of to bring up they can bring it to our attention?

**CHAIRPERSON** - We're always happy to receive any further information in writing, if you so wish, understanding of course that there is a time line for the process of completion. But if you believe there is other evidence that you would wish to put forward we're happy to accept that in writing, if you so wish.

**Mrs ROBINSON** - Thanks very much.

**Mrs SILVIA SMITH** - I just wanted to give you that opportunity because sometimes it's very hard sitting and talking to a group of people and you don't think of everything.

**Mr ROBINSON** - I genuinely believe this, I'm not crawling - we would like to thank the Legislative Council for giving us the chance to meet with you. Every now and again the suggestion's come up to abolish the Legislative Council. I think this council is very necessary as a watchdog and an advocate for the everyday Tasmanian and especially if you can keep party politics out of it - keep it independent. I honestly think we really do need it.

**CHAIRPERSON** - Thank you, Mr Robinson. We sometimes feel under fire ourselves as a legislative council, I can assure you.

**Mr ROBINSON** - I can understand that.

**CHAIRPERSON** - Again, the make-up of the Legislative Council is always in the hands of the community and how they vote in the election box, so that is something out of our hands. We thank you for your attendance today; it has been appreciated you coming before us to give us the information you felt we needed. We thank you for that.

**THE WITNESSES WITHDREW.**

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FLINDERS ISLAND COUNCIL CHAMBERS, WHITEMARK, FLINDERS ISLAND ON  
THURSDAY 24 FEBRUARY 2000.**

**HELEN JANET COOPER**, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIRPERSON** (Mrs Sue Smith) - Welcome, Mrs Cooper we note your indication that you wished to make a presentation to the committee when it was here on the island. We will give you to opportunity to make any comments you wish and then the committee may ask questions if they believe they have any to ask.

**Mrs COOPER** - Thank you very much. I'm not representing any other person or any body of people, I'm merely expressing my personal concern that any pocket of land just be called handed back or given in this area of the Furneaux group. That's something I need to have explained to me, the reason why and the term 'back'.

However, I think it a great pity that this can cause a division in our community, as is quite evident. I've lived in this area all my life - which is the greater part of the century - and I'm the fourth generation of European settlement here. There is, of course, tradition and heritage to be taken into consideration. That being so, I would be quite happy that people who claim to be Aboriginal do have a heritage standing and this, of course, would cover Cape Barren Island, other of course than privately-owned land there.

But having lived in a community that has lived all as one community and my mother having lived on the smaller islands all her life, spoke many times of the community, the camaraderie, really, where colour or race had no place. To me, I'm concerned that this sort of thing would cause a further split and through organisations, such as CWA, is one where everybody was as one. I'm not involved in it now, I'm too old. But I think these things should be taken into consideration.

That's really all I have to say other than I think they want to look further into the future when you realise that there has been assimilation always. This assimilation is not going to stop, therefore, we could reach a stage where there could be very few people who could claim not to have assimilated for the community here, which is not a bad thing anyway. Thank you, and I'm happy to answer a question.

**Mrs SILVIA SMITH** - Am I to understand that you think that perhaps land should belong to all people and only specific areas that have heritage value or areas of significance, for example on the mainland of Tasmania where the rock carvings and things are, only those areas should be considered as had been handed back to the Aboriginal community?

**Mrs COOPER** - I have no problem with the mainland of Tasmania at all.

**Mrs SILVIA SMITH** - Do you have a problem with Wybalenna being handed back because of the heritage?

**Mrs COOPER** - Yes, I do.

**Mrs SILVIA SMITH** - And all the other pieces too, even though there's been a known presence of Aboriginals many years ago. You're sort of telling us that you're perhaps opposed to that whole concept, is that what you feel?

**Mrs COOPER** - Yes, broadly speaking, it is because I'm yet to have the phrase - 'handing back' - defined. But really my concern is that the white people or European involvement in settlement, where I don't have to repeat history all night, where brought here, they were not here in their natural state. Then because it was -

**Mrs SILVIA SMITH** - History tells us that they were many years ago.

**Mrs COOPER** - they were unhappy they were taken away. Well, that's quite all right, it could happen anywhere. But it doesn't really justify that they owned the Furneaux group, does it?

**CHAIRPERSON** - Mrs Cooper, you made a comment that you are fourth generation, Flinders Island and -

**Mrs COOPER** - Not Flinders Island, in the Furneaux group.

**CHAIRPERSON** - in the Furneaux group and you would understand that in 1995 and then again with Wybalenna there was some land transferred to the Aboriginal community. Would you like to make a comment as to whether you feel there has been any interference with the usual traditional pursuits of all islanders by those transfers of 1995 and again then with Wybalenna. Has it in any way affected what traditional islanders have done through different generations and undoubtedly wish to continue to do?

**Mrs COOPER** - Well, it's just the atmosphere that we don't all own those special places. I don't think that any particular body should own them, that Wybalenna in question really should be a community in a municipal ownership and responsibility of maintenance, in my opinion. But, I mean, that's just mine.

**CHAIRPERSON** - Thank you, Mrs Cooper. Are there any other comments that you wish to make to the committee?

**Mrs COOPER** - No, I think I have expressed my concern and that's all I came for.

**CHAIRPERSON** - We thank you very much for the time you took both to put in a written process and to appear here this morning; it is appreciated.

**THE WITNESS WITHDREW.**

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**MAXINE ROUGHLY-SHAW, MICHAEL GRAHAM, ALMA STACKHOUSE AND JOHN WELLS** WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

**CHAIRPERSON** (Mrs Sue Smith) - Good morning. I shall open the third day of hearings into the Legislative Council Select Committee on Aboriginal Lands. The first to appear at nine o'clock in the public hearings is the Flinders Island Aboriginal Association, Maxine Roughly-Shaw, Michael Graham, Alma Stackhouse, and John Wells. If you would like to take your places here at the table. Sue will ask you to take the declaration and then we shall explain the process.

We do have an apology, just so you are aware of the committee members - apologies from the Honourable Tony Fletcher who isn't able to be with us here this week. The process we've been using is that we ask you to make a presentation and at the end of that presentation the committee will ask any questions they may wish to further their education of this process. What I will ask you to do, because we do have four people representing, is each time you speak, for the sake of Hansard identification in Hobart, if you would state your name before you speak and that will make it much easier for them when they are putting into Hansard the comments that are made here this morning. Welcome again, and I will pass over to you to make your presentation.

**Mr WELLS** - John Wells, member of the committee of the Flinders Island Aboriginal Association. Before I state what representation we'd like to make on the various issues, I'd first like to congratulate the previous Groom Government which initially handed back areas of land to the Aboriginal communities throughout Tasmania back in 1995. I think the process has followed on in the same goodwill with the Labor Government with the honourable Jim Bacon putting up areas of land for the Aboriginal community. Again, I applaud both Governments for the work they've done in this area. It is not only those Governments, but a lot of Aboriginal elders, a lot of Aboriginal people have participated to get these land areas returned and of significant value in culture, heritage and historic values to the community as a whole.

Wybalenna, was one of the most recent areas negotiated to be handed back by the Flinders Island Aboriginal community which participated very heavily in negotiations with the Flinders Island Council, ALCT, and all those people, none less than the elders of this community such as Alma Stackhouse, Ruby Roughly, who has passed away unfortunately, but participated very strongly and was here to see those areas returned. We genuinely feel, even though the climate of today with the land areas being returned - you can probably only do so much as a government - it doesn't go far enough.

We would like to see all areas of the mutton-bird cultural heritage returned to the auspices and control of the Aboriginal communities throughout the State; the economic development for cultural values, for heritage values, should be in Aboriginal hands. I say 'economic' in this area because a lot of the land areas that have come back you cannot do a lot with. We feel that the economics, even though our markets are in decline, there is still a possible future way of economic survival in this State for our communities as a whole.

I would like to say, just adding to that in relation to control of those areas, it should encompass all areas such as tourism, or however we might engage in such activities as determined by local Aboriginal groups in their areas. It should also encompass the service that the National Parks and Wildlife do at the moment, such as the granting of licences; monitoring of any rookeries or any burrowed areas -



which number 136 around the State - including most islands around the State, foreshore areas predominantly around the State, in all parts of the State. It would give a realistic and a much needed economic base for the Aboriginal community of this State.

Another area of concern we have is the degradation of land given back by the Government. In respect of this, I would like to mention one specific area that comes to my mind because it has just been so devastated, Mount Chappell Island. Mount Chappell Island in the 1920s was a vibrant, healthy, strong mutton-bird rookery which is non-existent today due to bad management practices by Parks and Wildlife, by entertaining and indeed engaging in the area of leasing those islands for the use of grazing. That no longer exists.

To us here on Flinders Island, we would like to see, if possible and if the wider community indeed wants it, returned to its original state because we believe those grasses can be replanted. We think the same vegetation can be put back in place, bearing in mind that with this degradation with grazing comes introduced species of plants and weeds that we feel shouldn't be there. It helps destroy the habitat, but it is probably mainly the grazing that has had the most effect. We feel it is a government responsibility in handing these areas back, bearing in mind that Australia has signed a migrating bird species with other countries around the world to protect these species and to look after them. That is not, in my mind, looking after the species that have been so strongly connected with the Aboriginal community.

From there we would probably like to move on and mention other areas of land that are being returned, such as Clarke Island. I would like to mention the young offenders program and in respect to that I would like to point out that the honourable Judy Jackson, the minister responsible for the area of Ashley north and the southern area of the young offenders program, has committed and is indeed spending \$6 million in the area of rehabilitating or redoing Ashley north. That is a significant sum of money; it is a pittance when the Aboriginal community is given \$40 000 to run a young offenders program on Clarke. It is to be commended that the people operating that program have operated with so little input from the State Government which acknowledges it is running a program that is of help to the wider community, not only to the Aboriginal community. I believe a payment should be probably made in the status quo of what it works out to keep an offender probably in one of these other institutions. If we have a number of offenders on that island, that costing should apply across the board to run the program properly. I really don't feel that it is a Federal responsibility, I think this is a State responsibility.

In other areas where we have concern in land areas are management issues that relate between local areas and ALCT. We have not had any final decision on Big Dog. In relation to the management of Big Dog, we have been approached by ALCT to determine who should manage and run the bodies. ALCT has always been of the firm view that all mutton-bird shed bosses should be involved in running that shed, and approached FIAA to run that island in conjunction with the shed bosses if it was possible. FIAA did set up a meeting on Big Dog, I cannot remember the actual date, but it was roughly around April last year and got the agreement from the majority of shed bosses, which was required by ALCT, to have control of management in that area. I believe the make-up of the final body was seven or eight shed bosses representative with one or two from FIAA and ALCT representation. No response has been received since April when ALCT were contacted last year in relation to that.

Other areas I would just like to briefly mention are Babel - I am not sure of the status on that, I think that is back in ALCT now - and Mount Chappell, and I am not too sure on that either. Other than those issues I have raised, I still strongly believe, in just summing up, that the land areas do not go far enough. I commend all those involved in trying to get the areas of land which are most important to the Aboriginal community, and hence my remarks why we don't think it goes far enough in relation to the economic development of the Aboriginal community. We strongly feel that because of our association and our history with mutton-birding and the degree of irresponsible behaviour - however you like to call it - and grazing on some of these areas. We are only talking about a specific area, we know grazing has happened in other areas around the State.

The industry is in decline but it is still possible in future that the Aboriginal community may be able to make a go of it economically with possible sales in the mid-east because I think we would look at that

type of number on the islands being produced, and around Tasmania. We feel it can be done, yes, but it would cost a lot. There are a lot of problems, we acknowledge all that, but at the same time this community needs an economic base. We are probably the lowest on the social indicator scale, such as employment; on this island here we have a CDEP program running which currently employs 25 people and it may even be more than that at the moment. The thing about that is, some of us probably feel we don't like working for the dole but the pressures that are coming down from Federal Government for people to work for the dole now, we would rather work in our own community, which we are doing. All that will be of long-term benefit to our community.

We have a farm that we work on, we are able to get the gear that we need to maintain Wybalenna under that program without government help. To us it is a long-term development of the community as a whole which seems to be fairly vibrant and going in the right direction, even though there is not realistically jobs for people here on the island. In that I would like just to thank you and just close off.

**CHAIRPERSON** - Thank you, John.

**Mrs STACKHOUSE** - I am Alma Stackhouse of Flinders Island. I'm a member of the Flinders Island Aboriginal Association, a founding member going back to 1973. Following on from John, when we talk about land being given back. We have been party to all the discussions with the total Aboriginal community across that time. The thought has always been and the discussions have always been from 1973 of the day we would hope that land would be returned to the Aboriginal people in Tasmania. It was always understood and discussed that the Aboriginal communities in local areas would have control and management of any area of land that was given back for all the Aboriginal people in Tasmania.

Our concern and disappointment has been over the last couple of years. I, like John, commend the Groom Government for biting the bullet in giving back land to Aboriginal people in this State - which doesn't include any Mabo decision of native title. I was contacted as a member of the national body of reconciliation to speak to the then Government on giving land back under reconciliation. A delegation met, which was made up of myself, Maxine Roughley-Shaw, Glen Shaw and John Clark. Our presentation to the then Government was that the Government must consult with every Aboriginal organisation, community and people across the country because there were a number of Aboriginal people who were not members of an association at that time. That was done and the only concern we had during that consultation was that the then Government did not consult with the leaseholders of the properties of land that was given back, as you heard, I believe, on Wednesday.

Our disappointment again was with this Government. I commend the Bacon Government for deciding to hand back more land. When Wybalenna was to be handed back my community gave the responsibility to myself and Ruby Roughley - who was very ill in Launceston at the time - to consult as elders with the staff of the Premier, being Rodney Gibbons and Rosemary Stanford. They met with Ruby and I at my daughter's home in Launceston prior to Christmas, I think - and Rodney can confirm - for about an hour. They realised Ruby was getting very tired. We discussed land and handing back Wybalenna, and they assured Ruby and I when they left that when the document was written up in its draft form of the hand back of Wybalenna, Ruby and I would get a copy of that. That was our belief when they left us but that didn't happen.

The Sunday that the Premier was here to make the statement of the hand back of Wybalenna, I was in Melbourne at a reconciliation meeting. Ruby rang me at about seven o'clock in the morning in tears, begging me to get home to be with her for that historical occasion. Unfortunately I am not a rich black, I couldn't afford to charter an aircraft and get back, I had no way of getting back. According to Ruby and Maxine and Michael and members of my association, my community had a meeting on the Saturday, I believe with some members of ALCT, and my community was aware of what was going to be happening on the Sunday, that Wybalenna was to be handed back. The same with the proposal of land that now is proposed to be handed back.

I was at a meeting of the State reconciliation group, to which the Premier has representation, being Richard Bingham and was Rodney Gibbons and is now Greg Brown. We were meeting at Smithton. We were not aware of the consultation and the discussions with the working group or working party, although we had two members on that State committee. When we arrived back in Launceston after that

meeting we heard the statement from the Premier of the land being handed back under reconciliation - which is in the original land act. I was travelling quite a bit at that time, but I spoke to Maxine and my association of what was happening here.

I met with the chairman of national reconciliation, Evelyn Scott in Hobart, meeting heads of government on 28 October. I believe that the working party or members of the working party, being Richard Bingham, had come and met with my community to discuss land being handed back the week prior to that. I believe the Premier made the statement around about 11 or 12 October, but this community wasn't consulted until quite some time late. I want that on record and I want this community in which we live to understand we, I believe - we being the Aboriginal community here - are being blamed for non-consultation with the wider community under the pretence of reconciliation. We are innocent in that.

We are very disappointed that the consultation process has not been given the same respect to us here on Flinders Island. I was surprised on Wednesday to hear a comment from a presentation where reconciliation, I think six years ago, was accepted in this community. The Aboriginal community and members of the association worked very hard for the last six years with the local government here to bring about a change in attitudes. I grew up on this island as a nigger and a half-caste; I do have white ancestry but the community would never allow me to refer to it. My parents before me did the same, coming from the Aboriginal reserve of Cape Barren Island, which was the first, the last and only gazetted reserve for our people in this State. My grandparents as well. We lived until I was in my twenties, until I married Alfred Stackhouse I was still accepted as a nigger and a half-caste. Thank goodness today I believe the half-caste bit and the nigger has stopped and I accept that.

We did a lot of work in this community to try to resolve some of the issues that exist, so it was disappointing in a way for me to hear a member of local government state that reconciliation, because of the land and the process and the consultation process, I believe, nobody personally has spoken to us or our community about it. We hear it on the grapevine, which we all do, that reconciliation has gone back ten years. It has. This council, this local government, won two awards a couple of years ago at a big convention in May for their contribution towards reconciliation. They won their community award right across Australia, and that certificate proudly was displayed at the airport for everybody to see. It is not there now. The flag was flying every day of the year.

Ten years ago, this place, this island where I live was one of the most racist places in Australia. I innocently said, 'Those things have changed', but to hear a comment - and I believe I'm right and I haven't discussed it - that people here thought that the first parcels of land - the twelve plus Wybalenna - that were handed back under reconciliation was fine, but now the proposed extra land that's handed back may not be accepted. I say to people who may have believed in reconciliation, if we believe in reconciliation for one point then it's not true reconciliation, and you're not a Christian and your beliefs aren't the same as mine and I can accept that. Reconciliation is a part of us getting together, accepting each other's differences and dispossession, because Aboriginal people have been dispossessed in this country for well over 200 years. The settlement at Wybalenna was believed to be a safe place for our people, but it didn't turn out that way.

There are sites on this island that have been recorded and carbon dated at over 7 000 years old. Whilst we've only been here for a short time in occupation of this island, that's only a very short time in 7 000 years. My grandfather, Tom Sydney, married my traditional mother, Granny Black Judy, I believe on Gun Carriage, which is now Vansittart Island, back in 1854. I also believe that another grandfather of mine and my traditional mother, Sarah - named by the white man as Sarah - coming from John Smith, the Robinson-Holt family, did occupy Tin Kettle, which hasn't been claimed yet. There in 1861 they were farming 250 sheep and five cattle.

So when we look at the islands and the people who sit here today and our people who are back sitting in the audience, we go back a long way. I believe - and I don't have it before me - that if you research the history of this country, Aboriginal women with white sealers occupied these islands in the Bass Strait long before any white settlement ever was thought of on this island. I sat here - which was a miracle the other day - for forty minutes and didn't open my mouth, so I must now give my other colleagues a chance to speak. Thank you for listening.

**Mr GRAHAM** - My name is Michael Graham; I am here representing the Flinders Island Aboriginal Association and its members. The members of the Flinders Island Aboriginal Association oppose the proposed amendment on the aboriginality. The State Government should not even consider this being a part of the bill nor should they raise this issue in any future document. Aboriginality should remain at the current status quo that being community grassroots Aboriginals already have the right to determine who is Aboriginal through local organisations and elders in the local areas. Aboriginality is a private issue, not one for scrutiny of the State Government or its statutory bodies.

If the amendment was to go through our self-determination and autonomy will be taken away from us. This will be seen as disrespectful to our elders. You will take away our right to nominate and vote for who we want as our local representative. If the Legislative Council goes ahead, as planned, then it is like giving Jim Bacon and the members of the current Government the right to say that only the members of the Labor Party can stand and vote in the next election but also qualifies the voters' membership of the Labor Party.

The Government recognises non-indigenous people's right to manage their own affairs in their local area - that is, local government - but yet you will not extend the same right to us indigenous people.

This Government signed off on the Aboriginal Deaths in Custody report in 1999. Recommendation 188 self-determination states: 'The Government, with appropriate Aboriginal organisations and communities, to determine guidelines as to the procedure and processes which should be followed to ensure that the self-determination principle is applied in the design and implementation of any policy or program or the substantial modification of any policy or programs which will particularly affect Aboriginal people'. The proposed legislation directly contradicts this. The draft declaration of indigenous rights clearly states that we have the right of social, cultural and economic independence. The proposed amendment does not support this.

I would also like to go on and say that this organisation started back 26-odd years ago. It is probably one of the oldest organisations in the State. Back then the members of this community fought for the same rights and it seems that this State Government in its endeavour to simplify the aboriginality issue has put us back to that date - and I think I am speaking for every Aboriginal person on this island in regards to that. If you take that away from the grassroots people then you have destroyed what they have been working for for the last 26 years.

**Ms ROUGHLEY-SHAW** - Maxine Roughley-Shaw; I am on the executive committee of the Flinders Island Aboriginal Association. I will just pick up on some of the things that Mick has mentioned there on aboriginality. As Mick said, we totally oppose the amendment on aboriginality and we would ask the Government why would they put this policy or amend this in the bill when they do not even know what the actual - from what I believe there will be a working party set up to go around and discuss this Aboriginal issue with Aboriginal organisations. They will stipulate the criteria. This happens after that policy is put in place. So that criteria is there whether we like it or not. The principles are there whether we like it or not because the State Government has already put that in place.

**Mr WILKINSON** - Taking on from John's point as well that there shouldn't really be a test defined by government in relation to aboriginality, how should someone define or how should someone know whether a person is an Aborigine or not? For instance, Aboriginal Legal Aid is a matter - you have to be an Aboriginal person to obtain Aboriginal Legal Aid. Years ago, I can recall, I was acting for a person who was an Indian and he received Aboriginal Legal Aid and obviously shouldn't have received Aboriginal Legal Aid. So how can we solve those type of problems?

**Mrs STACKHOUSE** - Back in the 1970s and before then we didn't need a piece of paper that said we were Aboriginal. We did not have to prove - well, my family, the Mansell family, through the Beetons and so forth come from the last chief, ... in this State, in this country. We didn't have to have a piece of paper that said who we are. I took a long time to accept that culture changes. It does change in the society in which we live. Today I don't wear a possum skin or a kangaroo skin - it's a bit cold - the policeman would lock me up for indecent exposure if I went back that far, let's face it. We didn't have to produce a piece of paper, like you're stating.

**Mr WILKINSON** - I'm not saying a piece of paper I'm just after some -

**Mrs STACKHOUSE** - All right, I'll come to that. A cousin of mine has quite often said and used the phrase of a 'paper black'. I suppose when you think about it we could be known as 'paper blacks' because there are certain bodies within this country that states that we must have a piece of paper that says we are Aboriginal. We must have our family tree, must go back to a traditional person.

The people in the Furneaux group have been very fortunate. From day one it was documented from the time Robinson came here and found our women cohabiting or married to the white sealers. So here most families can go back by word of mouth, by oral history, to our traditional father without even putting it on paper. If I applied for a loan within the Commonwealth or my grandchildren's education and so forth I should be asked for that piece of paper. I may be, I may not but a lot of people are. As I say, we in the islands are very fortunate because it has been documented from the early 1800s where maybe in other parts of the State that may not be so.

I, as a child, grew up until I was in my teens, I never knew there was any other half-cast or black fellas here, only us who lived in the islands. I am an island person. So maybe that might answer some of your questions but, as society says today, you must prove your aboriginality. Justice Merkel says - and I believe one of his recommendations would be, if you've read the document, it comes down to self-identification and communal acceptance - which is part of the original Commonwealth definition, going back when policy was made to the benefit of Aboriginal people in the whole of Australia. That is still a definition that can be used.

Michael mentioned the elders in communities. All the Aboriginal communities across Tasmania and Australia have elders. We survive on our oral history, it's very fortunate. We survive on documentation - which I quoted to you this morning on my family - and my family also go back to the Beetons of Badger Island. I've been fortunate, I've occupied and visited Badger Island for 40 years, where I don't think a lot of my people have that record of visitation.

I believe what is written in the hand of the white man to get my certificate of aboriginality. When that is disputed then I will dispute and ask: when you can show me my history in my own language - which is the Aboriginal language of this country - and in their writing we will sit an talk, because I exist today on that documentation that was recorded by the non-indigenous person. But unfortunately, if I wanted legal aid and other benefits I would possibly have to produce a certificate of aboriginality. That can quite easily be followed up by a telephone call or a fax to the communities across Tasmania.

There are a number of registered Aboriginal organisations who do have Aboriginal community support and have that certificate and provide certificates. But there's also elders in the community who are able to identify families. I say, on record, unfortunately I do not know all my own nieces and nephews in this State or great nieces and nephews. Same likewise to my family; I'm sure there are a number of Aboriginal people who would not totally know my seven children, they may know four of them and certainly may know two of my grandchildren but certainly not the other twelve - I have fourteen altogether.

Like Michael said, the Government do not have a right to give that responsibility to any one group of people in the State, going back to the seventies and going back to the eighties when we had a council of Aboriginal organisations and the call bodies were - the TAC, FIAA and Cape Barren Island. We talked about, if ever we got land back, the responsibilities of elders on a committee, that hasn't happened. Does that answer your question, somewhat?

**Mr WILKINSON** - Somewhat. I can see it's easier for people who live in the Furneaux group because of the history of the Furneaux group. As you probably would be aware, there's some difficulty down in the South East of Tasmania at present in relation to people saying, 'I'm of Aboriginal descent' and others are saying, 'No, you're not of Aboriginal descent because of the three criteria'. How do you think they can overcome the problem? I realise it's a matter of if somebody says you're not Aboriginal and you know you're Aboriginal, you are Aboriginal but, as far as -

**Mrs STACKHOUSE** - We do know that we have certain legal rights under the discrimination act and the act that recently passed in Tasmania. I believe that it is the right of the Aboriginal communities - because there are many not one - and the organisations within that. Going back to 1945, myself and my brothers and sisters were to be taken from our family and be made wards of the State under the welfare

act in Tasmania. Fortunately, the day the doctor came from Launceston to take us from our family, the constable, Lou Bailey, came and saw my mother that morning and said that he would be there to pick the children up at four o'clock in the afternoon. My parents had nobody to go to for support. I believe a Mrs Brody, in those days, had written to the Government pleading with them to leave the children where they were. My father was illiterate, he couldn't read and write or even sign his own name but he was a very honest and hard working man, he helped build the roads that you and I now have the privilege of driving on. During the day he was very worried because he said, 'By four o'clock this afternoon, Mary, we won't have our children, they'll be lost to us and they'll be gone' - which happened to a number of children from the island.

When the policeman came at sometime after four that afternoon, my mother said she had the kiddies ready. She had our clothes packed up in a washed sugar bag to send us off and the policeman told her she had need not worry because my father had said to my mother, the only way the children will be allowed live with the family was if the doctor died. That afternoon, when Mr Bailey came and mother had us ready to go, he told mum that they could keep the children because the doctor had died of a heart attack on the boat out off Trousers Point on his way from Cape Barren, so we were very fortunate.

It must also be understood surely by government, after the stolen generation report, that there were children forcibly removed from their families here and they would have children and possibly grandchildren. It would not be an easy task for, I certainly could not identify people in Huon group, only the people I know, or their descendants, their children and so forth. It is a thing that does have its problems.

But the responsibility must come back, like Michael has said, we still must have that self-determination and this is one of the things we now have and we still have, that we have a right to identify and accept who is and who isn't an Aboriginal person. We have our organisations and elders are very much a part of that. So we do have the mechanism within Aboriginal society to identify who is and who isn't an Aboriginal person and, believe me, I don't think any organisation or I don't think mine would - and I only have the right to speak for mine which is Flinders - we certainly would not give anybody their aboriginality unless we were sure, beyond a doubt, that those persons were of Aboriginal descent.

**Ms ROUGHLEY-SHAW** - Can I just state something. You said earlier, what about if some-one went for legal aid.

**Mr WILKINSON** - No, it was just an example I brought up because I was saying that in the past, it seems to me, that people have stated that yes, they are an Aborigine or of Aboriginal descent and, in fact, it was found that that person wasn't of Aboriginal descent. So what I was looking at is just some type of a definition or a way to say whether a person is of Aboriginal descent or not, if there is a type of test that can be performed. It seems that what Alma is saying is the test really is the test of the community, if the community know the people, they know because of the history within the area whether they are of Aboriginal descent or not, then it should be left to the community. That's if I understand your answer your answer.

**Mrs STACKHOUSE** - It is an Aboriginal right.

**Ms ROUGHLEY-SHAW** - I just hope that if this does go through Parliament - the aboriginality amendment - it should only be used for purpose of voting in the ALCT elections. But I can see this going further and imposed on Aboriginal groups and communities and organisations where this will be the criteria that we have to go under, which was enforced on us by the State Government and the Office of Aboriginal Affairs. The most important thing to Aboriginal people is our aboriginality and our history and land. Under this act you have handed all that power to one group of people.

This working was set up. It says on attachment 1, page 4: 'The Aboriginal community representatives to the Aboriginal land and cultural issues working group were nominated by the Aboriginal working group which is constituted by the following organisations' and they have listed the organisations and they have listed the Flinders Island Aboriginal Association - we are not a part of that group. I want that stated and we have not given any individual, organisation, department or working group any

permission to speak on the Flinders Island Aboriginal Association and its members' behalf. So if it has previously been stated that we agree or disagree by other groups they are not speaking on our behalf.

Also, as Auntie Alma said, the consultation process. I found out by watching the television that night and it came across the news. And, as Auntie Alma said, the working group did come over some time after that announcement. We did speak to the working group but the feeling I got from them was, 'Well, it's happened and we're not really interested in what you're saying to us any way. It's a bit late to come out now'.

They have also said to us - which I'll say before it's brought up by any other group - yes, we were invited to sit on that group but we have had previous dealings with groups set up like this where you are outvoted by the weight of numbers and by sitting on a group like this you give them credence. They then turnaround and say, 'This is what the working party agrees to' and we are a part of that but we may not have agreed to what they put forward.

I am jumping around here. I'll go back to where Johnny was talking about land management. As he stated, Big Dog doesn't have a management committee, Babel doesn't have a management and Chappell, as far as I know, hasn't a management committee.

There was a case three years where there were people on Big Dog burning off. Those people believed that the fire had been put out and we received a 'phone call from someone who was on the wharf to get to Big Dog quickly because the fire was heading to the sheds. So it was this local community that had to go over there at their own expense and put their lives at risk and put that fire out. If there was a management committee perhaps they would have notified the people, there would have been backup people on the island there if that fire did get away.

It is my belief that Cape Barren and Flinders Island - we did put in for management of those islands, the Flinders Island Aboriginal Association, as I said they are not managed. I don't believe that people from the mainland can properly manage those islands unless they are prepared to put in a manager who lives there 24 hours a day.

**CHAIRPERSON** - If I might just extend on that, therefore you would believe that Clarke Island for instance, because it has a manager living there, you are comfortable as an association with the Clarke Island management process and the fact that ALCT has passed that management to representatives external to the locals. Do you feel that is working?

**Mr WELLS** - Yes. We strongly support it. Initially when that program started I took participants initially under my own wing here in the Furneaux area - young offenders, if you like - and cared for them for a period of time. I know of two who I had in the area. I have it from not only members but committee members as well that we indeed support strongly the efforts in what they have set up on Clarke, but we do feel that there has to be more responsibility taken from a government point of view in relation to resources because it is a State issue. You can spend \$6 million on a centre up north but quibble over \$40 000 for Clarke when the Aboriginal community has taken some responsibility and some direction, if you like, and doing something or trying with its young people.

**Mrs STACKHOUSE** - I believe that when Clarke Island was purchased it was purchased principally for the young offenders program. I think John had said earlier, we believe that the State Government has a responsibility if it was worked out the cost of keeping a young offender in a detention centre on the mainland that money surely should go towards running the program on Clarke Island if you took out a percentage of what it cost the State Government to run that program, because I believe it is a successful program and we fully support that program - but it certainly does need funding.

**CHAIRPERSON** - Maxine, do you wish to continue? Do you have some more?

**Ms ROUGHLEY-SHAW** - Yes, just a bit on Wybalenna. Under the act you are given day-to-day management. The people over here do not feel that it is our land because we have to answer to ALCT. As you would know, the Legislative Council has said that we should have a robust and meaningful role to play in the management of Wybalenna. As you know, we have said that we want total control and management of that site on behalf of the whole Aboriginal community. We have signed an agreement

with ALCT. There are two points we have picked out of the act. We believe it gives us total control and management on that site. ALCT is saying, 'No, we believe it gives you day-to-day management'. So we said to ALCT, 'We'll believe what we believe and you can go away and believe what you believe but we are now taking over as we have total control and management'. But there is still not enough in there to give the local group confidence in -

**Mrs STACKHOUSE** - In the section of the act - and Michael has his act behind us - it states that ALCT, the council, is the body to define the word 'local', let's say. But in one section of the act it mentions 'local'. We as Aboriginal people in areas believe we are the local, we believe we define in the act - and I don't have it in front of me - that in the act where it is written the word 'local' we are the local people who would manage and control for all Aboriginal people in the State and Clyde has told us this many times. Further in the act it states that ALCT - the council - is the body who will nominate the appropriate local people to manage land that has been returned. That to us is not acceptable simply because, like as Maxine has stated, I don't see how. Okay, you can give day-to-day management to a local group of land that's been handed back.

Let's look at Flinders and the area of Wybalenna. I don't see how realistically a group in Launceston or Hobart can manage and police that site. Since Wybalenna's been handed back I believe there has been some destruction up there which I was told about. I notified John Clarke who notified the police about some vandalism that had happened up there. I believe it was Manalargenna's plaque that was put there many years ago by the young farmers, a window and a screen door had been pulled off and a window had been broken - and that happened since it has been handed back. We used to have that years ago and haven't had that for quite some time but what I believe has to happen with the act - and we look at amendments to the act, which I believe we can always legally do.

I think that Jim and Ray are aware that when myself and Michael Graham and Kylie Graham took a delegation to speak to the Legislative Council last year on our thoughts of Wybalenna and what was about to happen, fortunately we'd heard about that the day before that that was happening and you two are benefactors because our organisation does not have the money to charter an aircraft. Fortunately for us we had a benefactor charter an aircraft so we could go down and present that delegation and I'm sure some of us in this room know exactly what happened. After we presented our thoughts to the Legislative Council, of which I think you were Chair, we were then asked to go into a room - which I think was room 3 - to negotiate and meet with Clyde, John White and at times Michael Aird and Tony Fletcher, asking us to negotiate on an amicable basis on Wybalenna and what was to go to Parliament, to the upper House.

Clyde and others knew that we had to return to the island; we had to leave by 4.30 p.m. to get back to Flinders that day because we did not have the funds to stay overnight unfortunately - and I'm not crying poor, it's a fact. We spent quite a long time in that room talking to John White and Michael Aird, at times, and Tony Fletcher. When we got a copy of the *Hansard* we believe we understood that a report went back. At a number of times, as Clyde knows, we had rang the association and spoken to Maxine and other members about what we should do. We did not have the power nor the right to go anywhere to negotiate on that. We were asked by our community to represent our community's thoughts on the consultation process and what was about to happen. We then read in a document, where I believe it was reported back, that we had negotiated. That is not true. We could not do that at that time.

I think some of the things Maxine is trying to say is that the experience we have had with both governments in land coming back we have been like it was years ago, at the tail end like the dog wagging his tail. We know and feel that the proper process has not been adhered to. Maybe the right information is not reaching the Premier; we're not privileged to know that, but the consultation process that we are receiving - and when I say 'we' I mean the Aboriginal community - we are getting that information after the good deeds have been done, without any consultation whatsoever in the process of Aboriginal people and their rights or in the process of reconciliation. We have not had that consultation in this whole issue, as we tried to tell you last year. As I say, we have been like the dog wagging his tail, coming in behind.



When we look at ALCT, the act and the amendments to the act, I think that maybe some of us are not understanding what I believe I understand. ALCT is a statutory body under the State Government. The State Government fund that body to perform certain duties under the act, under legislation which is law in this State. I'm not a lawyer, I'm a woman from the bush; I'd love to study law but I'm too old. But why should we trust the Government with the treatment we've had? We fully support - will support and do support - land coming back because land is the basis of our being - a lot of people don't understand that. The State Government proudly say and we proudly accept that the land is given back freehold. Is it? How do you determine the word 'freehold'? By giving back a piece of paper which says, 'These are the deeds of Wybalenna; these are the deeds to these twelve parcels of land', but that is the only thing I believe the Government has given us back. Where is our self-empowerment and self-determination within the act, the law of this State? The only thing we do as Aboriginal people is elect people to that body. The Government still has ties to the land that's been given back. Am I right - under the act?

**Mr BAILEY** - No, the land is granted in perpetuity.

**Mrs STACKHOUSE** - Yes, and therefore if it's ours freehold we can never sell it - not that we'd want to - but in the future if we want to sell it to develop another property, under the act we cannot do that.

**Mr BAILEY** - No, you can't.

**Mrs STACKHOUSE** - Thank you. So it is a statutory body under the State Government governed by the laws of this State under legislation. Am I right in understanding that?

**Mr BAILEY** - Yes - in relation to not being able to sell, that is correct. It's in perpetuity to the Aboriginal community.

**Mrs STACKHOUSE** - Yes, forever more.

**Mr BAILEY** - And the body that's been designated to hold land is ALCT.

**Mrs STACKHOUSE** - Nominated and elected by the Aboriginal people across the State, but it is still a statutory body under the laws of the State Government. It is not an Aboriginal body to make all their own decisions under self-determination, simply because it is still attached to the State Government.

**CHAIRPERSON** - If I might extend on that, if you didn't have this statutory body of ALCT which the titles are vested in, who do you believe those titles should be vested in?

**Ms ROUGHLEY-SHAW** - Local people in the local areas.

**CHAIRPERSON** - Right. So you say the local people in the local areas, so in the case of parcels of land in the Furneaux group we can identify local people in some local areas. What if you cannot identify a local community where to the wider Aboriginal community there are some significant sites in some areas? How would you manage the process there of handing that land back if there is no longer a local community and yet it has had significance in the past? Can you answer that for me?

**Mrs STACKHOUSE** - Firstly I must say that as an elder in this community I do not have the right to set laws that will bind my community into the future, meaning my grandchildren, great-grandchildren who may follow in 3001 or whatever. I don't have the right as an elder to do that, similar to New Zealand where they are locked into a certain law for ever more on certain sections of their laws there - but I'm not wishing to confuse us with New Zealand. As we stated earlier, within the Aboriginal community there is always a group of people who will be elders; Maxine will be my elder and I hope I've taught her very well - I think I have. But there will always be elders in our community while ever there is an Aboriginal community and Aboriginal people existing in this State. It will always be written somewhere and recorded for future generations to research back as to what has happened in the past. Where this was only done in the past by the non-Aboriginal person, believe me, it is now being done by Aboriginal organisations and people around the country.

We're very much aware of written history and oral history. Oral history is part of our living culture that we practise every day of our lives in some form. We do practise our culture and the Government must

also realise the diversity within the groups and the organisations in this State. We are all one people but because of where we live geographically there is a difference. This community here, our needs are different to the needs of the people on Cape Barren Island. If you visited there yesterday and spoke to them you would realise there are certain needs there that are different to ours, which happens in the areas of Launceston to Hobart to other rural areas. The diversity across the groups because of our needs within society and our acceptance within that society are different. So there is not only just one group and community; we are all the one race of people but because of where we live and our needs that diversity is within all our groups.

**CHAIRPERSON** - Yes, I understand what you're saying. What I'm saying is that there are some recognised Aboriginal community groups on the ground that could well manage, I'm quite sure, parcels of land handed back.

**Mrs STACKHOUSE** - Yes.

**CHAIRPERSON** - I'll give you a scenario. There are 53 people at this time on Cape Barren. If the title was handed back to the Cape Barren Indigenous Association and it's handed back in perpetuity and in 27 years' time 53 people have moved on from Cape Barren, what would happen to the management of that particular land? What would you do with that title? Where would it go if the titles are specific to individual groups in individual communities and then the community was lost in that particular area because people made choices to divest themselves into other areas?

**Mrs STACKHOUSE** - I would believe that Aboriginal people should give that some thought. My community when we met with local government - the mayor, Lynne Mason - we talked of this when we looked at the regional agreement that we signed, which took a long time to get that sort of agreement here. We talked about looking at the future when there may not be an Aboriginal organisation of people living here in relation to Wybalenna. We also talked about the fact that we do have an Aboriginal person on local government at the moment and we would hope that would continue. We looked at the idea that it would be recognised - and believe me, it would be written - that if ever the time came that there was not a community here on Flinders Island to be responsible for Wybalenna then that area of land must be referred to the Aboriginal people of Tasmania, simple because the land was given back to not one group and one organisation but to everybody.

Therefore, in relation to Wybalenna, I would say that possibly the last chief, Manalargenna, is the tribal father to many, many Aboriginal Tasmanians in Tasmania. Somebody said we ought to have a gathering one time of all his children. I don't think the island would hold us all if we all got together - and I'm not being facetious about that. But when we talked to local council about what may happen in the future we discussed that, so maybe in other areas where land has been given back it's a responsibility that does go back to the local groups and associations in the area and they may be looking at something like that. I don't know, Madam Chair, whether they've done that but we have discussed that and would hope that it would be recorded and that the State and local governments would have that recorded and make sure that that happened. Looking to the future - we've done that.

**Mr BAILEY** - Could I just ask if this is the kind of thing that you would be looking for and that is that if the land continues to be vested in ALCT that there'd be an obligation that that be leased, if you like, in perpetuity to a local community subject to compliance conditions relating to the manner in which that land is managed? So that if the community at a future date, as you say, dissipated and no-one was taking any interest in it from an Aboriginal point of view it would still then go back to the wider Tasmanian community because of the non-fulfilment of whatever the criteria is relating to that land. Would that be a structure that would appeal to you?

**Ms ROUGHLEY-SHAW** - For certain lands it would be.

**Mrs STACKHOUSE** - Yes. We would certainly hope that.. I mean, we've never sat down as a body with ALCT and discussed that particular issue. We did discuss it with the local council - and we're talking about the heads of agreement which we signed. We discussed that for the future, did we not, Lynne, and maybe as I say with other areas of land Aboriginal people haven't got that far in discussing that but certainly we here have done that and would hope that that would happen. Also, these are the sort of discussions certainly that should be held with the local communities and organisations to the

future and also be somewhere within legislation if need be or documented that this is what the Aboriginal people want in the future. It must be recorded. If we were part of these discussions at that stage these are what we would be discussing because we've already done that.

**Ms ROUGHLEY-SHAW** - On lands such as Clarke - no, Thoul's probably a good example; the ILC purchased it and it will go under the ALCT auspice. For lands where we've set up a commercial business then you would most definitely want a long-term guarantee that that land is there for that use.

**CHAIRPERSON** - So the ILC will transfer the title of Thoul to ALCT. In that transfer is there some agreement that the management will be maintained by FIAA on this island as a commercial venture?

**Mr GRAHAM** - In regard to that, because of the way the first act is written, as far as I'm aware the Land Council could not accept that land under the present act and I think it does say in the amendment to that act that there is a paragraph there that allows that.

**Mr BAILEY** - I think it's in the original legislation that any land that's subsequently acquired by ALC comes under the same terms and conditions as the current act. But I'd have to just check that.

**Mr GRAHAM** - The problem with the current act is that as an organisation and as we see that with a business enterprise, is the ability of ALCT to remove us off that land. We negotiated an agreement with ILC, a fifteen year agreement, that we will run that property as a grazing concern and everything that comes under that grazing agreement. After that fifteen year period then if ALCT, in their view, think that we are degrading the land then we can be removed off that. One clause that is put in there that we put in there, is that to cover us, that if we are removed off that land, for no matter whatever reason, that we be reimbursed for our investment in that land. The same as the soldiers' settlement farms and those sort of things that get they reimburse for their buildings, stockyards, fences and all the improvements they put on it.

Probably the thing about the act that's most contentious is definition of 'local group'. I don't think anyone in the Aboriginal community has a real problem with ALCT holding title. I think that the titles have to be kept in perpetuity. The safest way is with a statutory body in regards to that, but the problem is for the Aboriginal community being told what to do on that land. Now, when you talk to Aboriginal people around Tassie or Flinders or wherever, the problem they've got is that the land has come from a white proxy to a black one. Nothing's changed. They have not got ownership of that land. It's still being governed by someone higher than the Aboriginal community it was meant to come back to. That's the biggest problem with the bill. In discussions with Tony Fletcher we talked about that and he was quite adamant that the definition in the bill would cover that. But it's been proven that it hasn't because Aboriginal people do not have control of that land.

**Mr BAILEY** - Well, the Aboriginal Land Council has control of the land, who are Aboriginal people but it's a question of the local management that really is the issue, isn't it? So can you take me through Thoul again? It was bought by the -

**Mr GRAHAM** - The ILC.

**Mr BAILEY** - Which is the?

**Mr GRAHAM** - The Indigenous Land Council

**Mr BAILEY** - The Indigenous Land Council. So that's the Federal one?

**Mr GRAHAM** - Yes.

**Mr BAILEY** - And where did it go from there?

**Mr GRAHAM** - At the moment FIAA has an agreement with the ILC then you've got FARM, which is the business organisation which is going to run the property.. What ILC envisage is that the title will be transferred to ALCT.

**Mr BAILEY** - Having transferred to ALCT, it will be subject to the conditions of the act?

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

**Mr BAILEY** - Will you have your agreement in place with the Commonwealth body prior to the transfer of that title to ALCT so that your local community is protected for that fifteen year period by way of a lease, which is similar to what I was referring to before, that there be conditions?

**Mr GRAHAM** - We have that agreement in place now. We could not go out and find funding to support that property unless we had a length of time to be able to show to the creditors that we could fulfil the agreement. So that is in place for fifteen years, but after that fifteen years then we would have to negotiate. If ALCT do take the title we would have to negotiate with ALCT.

**Mrs STACKHOUSE** - Michael, I might mention and you can follow up, when it comes to Thoul - and there was a comment made on Wednesday, like Maxine has said, we are doing work at Wybalenna under the CDEP programme - which is people are working for the dole, I think it's \$10 more than the dole they receive for that work. Our community at shearing time at Thoul and those who own ... farms know what's involved in shearing et cetera. We did not have the funding to pay people a wage to go and shear or do the cooking et cetera. That was done voluntarily by members of our association - the shearing - and the work that's being done, because we don't have the funds to pay people a wage, it is all being done by a community voluntarily and under the CDEP because at this stage we don't have the funds to permanently employ someone and pay them a wage.

**Mr BAILEY** - So what you are saying is that fifteen years isn't long enough? That it should be a longer period than that? There may be an opportunity to have written into that lease a series of options which would go on for 50 years. This just proves that for the land to be managed in that time it would be very unreasonable if the body controlling that land at the determination, if that is a long lease, wouldn't hand it back if it's been run successfully. There would be a length of time -

**Mr GRAHAM** - We tried to negotiate it for a 50-year lease but the ILC legal branch believe that that was too long and they recommended the fifteen years. I don't have a problem with lands being handed back and negotiating with ALCT in regards to the similar sort of agreement with ALCT to what we've got with ILC. The problem what we had the time was that they were proposing to hand this land back. They did not want to enforce conditions on ALCT through the agreement that we had with ILC but because we pressured them, I suppose, in regards that this land would sit there till they actually got an agreement with ALCT to hand that title back, that we got the agreement that we did. They only wanted a twelve-monthly agreement until ALCT actually took over the title of that land. This organisation has had Thoul since March last year, I think it was, and in that length of time the community has done all the work up there and have done quite a bit of work, and that has all been voluntary for nearly twelve months. The commitment from this community in regards to the management of the land is there. Before that the CDP scheme has only been running for four months. So up until then everything was voluntary, with no payment whatsoever in that regard.

**Mr BAILEY** - Would you be able to table a copy of that lease or is it a confidential document?

**Mr GRAHAM** - No, it's not - I mean, I would have to ask the directors but it's not confidential.

**Mr BAILEY** - Yes, that might be useful just to look at as to what the terms and conditions are. But that's with the Commonwealth body at least, isn't it, you said?

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

**Mr BAILEY** - And you don't know whether the land is yet to be transferred to ALCT?

**Mr GRAHAM** - As far as I'm aware, I don't think there is an agreement between ALCT and ILC.

**CHAIRPERSON** - I believe until the amendment bill goes through there is no capacity under law to transfer it. If you look at the proposed amendment, it allows ALCT then to do what they can't do at the moment and that may be the hold up between ILC and ALCT, the law doesn't allow the transfer until

there are some amendments. So if I might put this in some perspective, the ILC has purchased Thoul, that will be transferred to ALCT when the law allows, but you have a loose arrangement you're quite happy with, you are managing it, creating jobs, CDP programs et cetera. You find that arrangement suitable thus one would say if there was a similar arrangement where the title of land vested in the Aboriginal community by the Tasmanian Government was held by ALCT but you had a strong 'must' management process for the local community, you would be as comfortable with that process as you are with Thoul.

**Mr GRAHAM** - Yes.

**CHAIRPERSON** - Right. And there is major width between the words 'may' and 'must'.

**Mrs STACKHOUSE** - And the interpretation and understanding of the act as it's written. We are told yes, it's there, but it's contradicted further on in that ALCT are the body to make a decision as to who is the appropriate local group to manage any lands that are given back. That can and does and may exclude the local groups. Yes, they have day-to-day management but they should have control and management of those areas on certainly more than a day-to-day basis. It is a right that they have that responsibility and it's not only for the local group here on Flinders Island or Cape Barren, it's for the total population.

**CHAIRPERSON** - The Wybalenna area - you made comment that you are managing it. Do you have a formal arrangement at this time with ALCT for that management?

**Ms ROUGHLEY-SHAW** - We have an arrangement but different views on that arrangement.

**Mrs STACKHOUSE** - We still haven't finalised the management.

**CHAIRPERSON** - And the other one was Big Dog - you have arrangements put in place with shed managers and you are awaiting some management processes with ALCT?

**Ms ROUGHLEY-SHAW** - We have got correspondence on that.

**Mr WELLS** - Yeah, we're waiting on a response from that area. In fairness, ALCT has always indicated that probably the main participation should come from the shed bosses being an integral part of the management because they're on the island and they're the ones most likely to see and observe management problems or issues and bring them to the fore. But in respect to Flinders, I suppose being the nearest local group they were invited by ALCT to also have representation on that group. That was arranged and agreed to so it's at that stage where we're awaiting a response.

**CHAIRPERSON** - Under the Government's proposal Vansittart is one of the islands to be transferred back to the community. What would you see FIAA's involvement in that particular area as being?

**Mrs STACKHOUSE** - Maybe I could answer that. As I said this morning, myself and my traditional mothers do go back - that's Granny Black Judy and Sarah, which is of the Smith family and of the Mansell family. Granny Black Judy was married there in 1861 and was living there prior to that. My sealer grandfather was there six years prior to 1831. I've never visited Vansittart but I do believe there are Aboriginal graves there and I believe they are in the area of the sheep yard; I can't swear to that but the National Parks have all that documented. I believe that there was quite a settlement of Aboriginal women with the sealers back in the dates I've given you.

I could read for you one statement which dates back to 1849 by the Tasmanian Surveyor-General when he visited Gun Carriage Island which is now Vansittart Island. He meets Ned Mansell, who was my European grandfather, and his son Tom who was ten years of age, together with others living on the island. 'Remarks on the clean and orderly appearance of Mansell's cottage and on the amicable character and the great harmony that he found among those living on Gun Carriage' - meaning the sealers and the Aboriginal women, who included Thomas Beeton. 'In general he considers the people of the Straits to whom he issues occupational permits for a token rent to have been misrepresented. They are a deserving class of persons whose residence it would be the best policy in every way to encourage'. I would probably say in my ignorance that our people who lived there in those days when

they left the island for some time probably didn't understand the meaning of token rent. Any legal basis of claims they may have had during that time under the Tasmanian Surveyor-General - and it mentions a token rent - I don't know whether the token rent was in currency or in kind or whatever, but certainly they did have a right and their families following would have certainly had some right to claim occupation of Vansittart. I don't have the dates in front of me; I'm not a historian, an archaeologist or a genealogist but I believe the islands in the Bass Strait were occupied by sealers and Aboriginal women quite a time before European occupation of the islands of Bass Strait. I would believe I'm correct in that.

**Mr WELLS** - There were visits made back in '62 and '63 by an Archdeacon Reiby.

**CHAIRPERSON** - I think perhaps I haven't made it quite clear what I was asking. I have no dispute on the historical evidence of the interest of the Aboriginal community. What I am asking is: as an organisation has FIAA discussed are they interested in being involved in the management of any of the proposed areas to be transferred?

**Ms ROUGHLEY-SHAW** - We'd like to have some role to play, whether it be on the management board for Vansittart - I'm not saying we would like to manage it on behalf of the Aboriginal community just as FIAA, but if there was a management board set up with a representative from the TAC, Cape Barren, whatever, then we would like to have an input into the management role.

**Mrs STACKHOUSE** - Certainly we would expect that.

**Mr WELLS** - Through the Chair, are you specifically talking about one item of land?

**CHAIRPERSON** - No, the islands in general: Vansittart, Goose, Little Dog. You expressed great interest prior to the legislation transfers in Wybalenna. I am trying to identify whether you have the same great interest in some of these islands or just a preparedness to negotiate after the event?

**Mr WELLS** - I think, based on our submission to the inquiry, it would be a vital interest because of the economic development that we have already mentioned in relation to the Aboriginal community here - not only here but the benefits can be statewide and have a flow-on effect such as tourism and the birding areas that I've talked about and about the control of that.

**Mrs STACKHOUSE** - We've always understood that the local groups would have control and management of areas of land that were given back, and we particularly in the Furneaux group, simply because the islands and a bigger percentage of the land that has been handed back is in the islands and we certainly have a responsibility of the control, the management and so forth with those lands. We certainly have always believed that would happen, it hasn't happened, we always hope it would happen still in the future.

**Mrs SILVIA SMITH** - Can I just pick up just there. Maxine, you mentioned earlier that Big Dog - we've discussed that - Babel or Chappell haven't got management committees. I am just interested to see how the new lot can perhaps have local management committees when already there is no local management committee on those islands. How is it possible for the small group here on Flinders to manage all the new ones plus the ones that are still waiting management. What way do you see this happening?

**Ms ROUGHLEY-SHAW** - Not manage it as in totally, but have input. Because it's in this area then we would like to have a representative on the management board for each island, but not manage it -

**Mrs SILVIA SMITH** - Solely.

**Ms ROUGHLEY-SHAW** - Yes, it's just that you couldn't do it.

**Mrs SILVIA SMITH** - I was just thinking it's going to be almost humanly impossible for you to do all the islands.

**Ms ROUGHLEY-SHAW** - Wybalenna and Thoul are our main concerns.

**Mrs SILVIA SMITH** - And you'd like to have that purely local, just the local committee doing those two and then have a say in the management of the other islands.

**Ms ROUGHLEY-SHAW** - Yes.

**Mr BAILEY** - Does that include Cape Barren Island?

**Ms ROUGHLEY-SHAW** - On the management boards for these islands?

**Mr BAILEY** - Yes, the Flinders Island -

**Ms ROUGHLEY-SHAW** - It'd have to.

**Mr BAILEY** - Association wouldn't incorporate the Cape Barren Island land grant, would it?

**Ms ROUGHLEY-SHAW** - No.

**Mrs SILVIA SMITH** - It's separate.

**Ms ROUGHLEY-SHAW** - We see Cape Barren, for their local area would be Chappell, Clarke -

**Mr BAILEY** - I see. But you talk about having a representative for Little Dog and Goose islands, what sort of a structure do you envisage that would be in place at which you would be represented? What other groups would be represented in that management structure?

**Ms ROUGHLEY-SHAW** - On Vansittart and Little Dog more so as a -

**Mrs STACKHOUSE** - As a management structure.

**Ms ROUGHLEY-SHAW** - No, not total. On the actual management board but areas that go into the boundaries of Cape Barren or wherever else, an advisory capacity - would that -

**Mr BAILEY** - But the land would remain under the control and management of ALCT but in relation to decisions which are taken in relation to the use or whatever was going to happen to those islands, you would like a representative to be able to confer with the ALCT group? Is that the structure that you're looking at?

**Mrs STACKHOUSE** - I don't know, Ray, where we would answer you there, but I will give you an incident. After Risdon Cove was handed back Ruby Roughley and I went down to a function and we were asked by the TAC - who have management of that area and also of Oyster Cove - would we want to be part of the management. We said no, simply because we understand acceptance given back to all the Tasmanian Aboriginals but because we don't live in the area we didn't think it our right to go there and maybe outvote a decision. The local people in the local area know what they want and we support what they are doing because we were invited to be part of that. The same thing should exist in other local areas and what Maxine I think is saying - and she will correct me if I am wrong - if there was a board of management set up for different areas we would like to be part of that, even have a member on, but that the discussions we be part of. It is vital that we be part of those discussions, far more than we have been included in the last couple of years. It is a must for us in the communities we live to be part of that.

**Mr WELLS** - Madam Chair, I think to give you an idea of the handling of some of these issues within the Aboriginal community, if I could just point out an example of a case where down the north-west coast there was a dispute about access between non-Aboriginal people and the management group of that land area in relation to property access or various other views that might have been put and were discussed. To the credit of ALCT and the TALC - the other body involved - they did commit themselves to go around the State, which included the islands here, and get views from people even from out of that area. Because after all it is Aboriginal land and I suppose the wider the consultation in relation to issues that might be raised, probably the management group that might be handling that situation.

We basically agreed from a Flinders Island perspective that it was a TALC issue to resolve being the local management group. We also agreed with what the majority view of the Aboriginal community wished in relation to that. I don't know whether or not the situation has been resolved but it is just to point out that there is consultation in relation to some sort of areas under dispute, virtually statewide, as far as I can understand.

**CHAIRPERSON** - It is now 10.30 and we do have other people to make submissions, what I will do is give you an opportunity if you would like to make a final closing statement to the committee.

**Mr GRAHAM** - When the first lot of land was handed back discussions went on with Tony Fletcher when he came around in regard to that and FIAA put its name up as more a coordinator for the lands that have been handed back to be part of these committees because the structure was going to be that each island would have a committee involving stakeholders in that. So FIAA put up a proposal that it would be more or less a central office where people could come to the one place on Flinders and find out information and also to be able to get an answer on their queries and whether they could go over there and have a barbecue, rather than write a letter to ALCT or something in that respect. That is probably just outlining the question that you asked and that is what FIAA thought its role was.

Getting back to aboriginality. If the State Government is going to legislate to put what is in the amendment on aboriginality you have taken this Tasmanian Aboriginal community back 25 years.

**CHAIRPERSON** - Thank you.

**Mrs STACKHOUSE** - I, Alma Stackhouse, would like to thank you for your time and giving us the time to speak to you. am sure that the issues that we have raised here today will be taken into consideration. It is the first opportunity we have had since the land was given back. As I mentioned earlier, the past Groom Government took eighteen months to two years of consultation which was very wide. The only mistake they mad was that they didn't consult with the leaseholders, but they did with the Aboriginal community here.

As you have now heard, there has been very little consultation with this community on the present issue. We are, I believe, being verbally attacked in the community in which we live that we know these facts and have not shared them with other people. I can assure you that is not the case and I think that has come out clearly.

We thank you for giving us the opportunity and hope and trust that you will take into consideration the issues that we have raised with you this morning.

**Mr WELLS** - I also reinforce what Alma has raised. It may sound a little bit impertinent from me, but I was listening to the wireless this morning to the honourable Sue Smith in regard to the areas of land you went out and had a look at yesterday and the comments you yourself made in relation to better understanding some of the issues by going out and having a look. The question I raise is not a put-down in any reference at all because I can remember having dealings with Jim Wilkinson and Tony Fletcher, but some of you other fellows are a little bit later on. Silvia Smith has been heavily involved with the Aboriginal community over a number of years. I think it is very important - and I do not know to what degree the inquiry committee has gone to understanding issues - because you have to respond to this inquiry fairly, understanding issues that have affected the Aboriginal community over a long period of time because I think they do have some type of response with all due fairness in relation to your response to the Government with your inquiry. Thank you.

**CHAIRPERSON** - Thank you. We thank you for your attendance.

**THE WITNESSES WITHDREW.**



**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT FLINDERS ISLAND COUNCIL CHAMBERS, WHITEMARK, FLINDERS ISLAND ON THURSDAY 24 FEBRUARY 2000.**

**LYNN MASON**, MAYOR AND **HELEN COOPER**, DEPUTY MAYOR, FLINDERS ISLAND COUNCIL WERE RECALLED AND RE-EXAMINED.

**CHAIRPERSON** (Mrs Sue Smith) - We shall reconvene this morning's session. We welcome back representatives of the Flinders Council in Mayor and Deputy Mayor I remind you that you are still under oath from the evidence of yesterday. We'll follow the same procedure where we'll look to you to make your comments and then the committee will ask any questions if they have any queries.

**Ms MASON** - Thank you, Madam Chair. After we'd finished our submission yesterday it occurred to us that it would be good to clarify the problems that we were encountering at the moment from the point of view of this community and perhaps give some suggestions about ways that we might proceed. Possibilities that at least the State Government could consider. These are not in any particular order.

The problems at the moment include: the need to establish clear cut criteria for the granting of land; the need to clarify the definition of local, as it is used in the act; the need to reach understanding with the Aboriginal Land Council of Tasmania regarding time frames for the establishment of management committees; the ongoing need to request permission to go beyond fifteen metres above the high-water mark on island already granted; the granting of title to the low-water mark, as apposed to normal freehold title - and in that we refer to the Flinders Council's strategic plan in which one of the concerns raised consistently by our residents, is the desire to have free access to all the beaches; the position of the State Government in recognising only one Tasmania Aboriginal community, whereas there are many Aboriginal groups who identify as individual within that community; the acceptance of the need, by the State Government, to advance reconciliation by improving the understanding of all parties to the movement - that is, firstly, open up the process to public scrutiny; secondly, explain the motives and thirdly, avoid at all costs, the imposition of decision by central power. Finally, the need to sort out the funding for the ongoing maintenance and/or development of the lands already granted. This last is a particular concern to the council. The rates and costs of local government service delivery to Cape Barren Island, in particular, is a matter of some concern to us should the 1999 legislation go ahead.

I'll just hand over to the Deputy Mayor to explain what we have lost so far in rates and the difficulties we are encountering with the possibilities of the future.

**Mrs COOPER** - Thank you. From the outset, I preface the remarks that figures may not seem particularly large to those used to dealing with bigger municipalities but everything's on an economy of scale. At the moment we find ourselves, on the lands that have already been handed over to the control of the Aboriginal community, losing approximately just over \$2 000 a year, about \$2 200. If we take into account the rates that are written off since the acquisition of the property Thoul, which we know is not part of the proposed amendment but nevertheless it does have an impact, for the same reason, upon council coffers, we come up with a figure of about just over \$6 500 and that is approximately 2 per cent of our rate base.

The question then arises that that is an unreasonable imposition on the finances of this municipality from two points of view: one is that the whole community here has to bear that, somehow we have to pick that up; and also it's an imposition on this community if the Furneaux group and not one that's spread right across the State, given that the whole process is meant to be a statewide process. Also, from there we have a little bit of problem with the intent or the wording of the legislation in unity from

municipal rates. That's one item, but does there go with that an expectation, still, of the delivery of municipal service to the area that's been exempted. That is something that we would definitely like to see clarified.

From council's point of view, service delivery to Cape Barren Island is something which is costly to council. Over the last five years, approximately - and we've had to take it over that period because it's not on an annual basis, it's on an as-needs basis - since the computer records were kept, just under \$55 000. Once the work staff do decide that there is a need to go to Cape Barren, there's an uplift cost of approximately - I think I'm correct here - about \$40 000, purely to get the plant and the men, the resources to the island to begin the work. We would like some clarification of that service delivery upon this council should the proposed amendments go ahead with the wording as it is now.

**Ms MASON** - If I could continue from there. We jotted down some points about what might happen from this point with regard to the legislation as it stands but in particular to the proposed 1999 amendment. Firstly, it might be better if it were explained to the Tasmanian community the purpose behind the transfers of land to try to gain wider acceptance. Secondly, we think it's important to sort out the criteria for transfer of title to enable validation of those titles already transferred and to give the entire Tasmanian community some sense of certainty about what is likely to happen in the future. The intention should be to make the whole process far more transparent and inclusive. Our understanding of reconciliation is that it involves consensus. Thirdly, to clarify the word 'local' and the delegation of management within the Aboriginal community. Fourthly, to establish an independent resolution process for the difficulties encountered so far in the interpretation or the intent of the current legislation. For example, this is not a complete list but the word 'trespass', the word 'cultural', the word 'commercial', the delivery of local services and the 'management' of Aboriginal land. All of those problems have been encountered by us at various times in trying to deal with this legislation.

Then, perhaps after these things have happened, re-examine the current land parcel with a differently constituted working party, one which includes representation by the affected local Aboriginal groups and the affected local government areas. That's about as far as we went, thank you, Madam Chair.

**CHAIRPERSON** - Thank you.

**Mr WILKINSON** - I notice you stated that certain criteria should be set down. Are you able to help us with what type or what things should be included in that criteria because it's a matter that's been tossed up in questions on a number of occasions. What criteria are you looking for, so people looking from the outside can say, yes look that's fair because that fits the criteria or alternatively, that's unfair, that doesn't fit the criteria.

**Ms MASON** - I would turn for that immediately to the Aboriginal community to ask - I think first you have to establish the purpose of the handing back of the land and I think there is some lack of clarity about that. Are we giving it back in reparation for past wrongs? Are we giving it back because it is historically extremely significant to the Aboriginal community? Or are we giving it back to enable the pursuit of cultural activities into the future? Now, if you sort out, for a start, whether all three of those possible reasons for handing land back are valid, then you can determine the separate criteria for each of those possible reasons and there may be more reasons than that. That's not an exclusive list either probably. Then at least people would know what consideration is being given to the land in question.

I think one of the problems we've encountered with the 1999 parcel is that some of the basis for the claims has been, for example, that artefacts have been found here. We put in our submission on Tuesday that we accept that that's probably true, but also that it's almost bound to happen, given that we know there was Aboriginal occupation of this land and that there has been little dense settlement since. Of course, you're going to find signs of Aboriginal occupation. Is that enough to then say that this land is particularly significant to the Aboriginal community? Perhaps it is, but if so, that has not been explained to the rest of the community. I would suggest that, in order to arrive at those criteria, first you do need to establish the purpose of the handing back of the land and then you could examine under each of those individual motives the different ways that you could reach an understanding on which parcels of land should be settled on -determined. Because they would be different for each category.

What we're trying to avoid here is the situation as it's been outlined to us, only verbally, that there is no certainty for the Furneaux group beyond the fact that there are no claims to be made on freehold title. Now in the Furneaux group, actually there isn't very much freehold title. So that leaves this community, the whole community, thinking, 'We're next. What happens next?' And while it's difficult to ask for certainty in this case without appearing to impugn the motives of the Aboriginal community, nevertheless, I think it is only fair to everybody else who lives here, some of whom have lived here for many, many years, to also have some certainty about where their future lies here.

**Ms COOPER** - The point that the mayor has just raised is something that I think impinges greatly on the community is the uncertainty of future land tenure, given the high incidence of leasehold land within the municipality. No doubt all of you are aware that most of Flinders Island was opened up in the 1950's with a very large war service land settlement scheme and most of that land has not yet been freeholded. And whether or not it is subject to this particular type of claim that we have in front of us now hasn't actually been clarified, but that and the large amount of crown land within the Furneaux group, does give community fear about the ongoing nature of these claims and the impact that they will have on the Furneaux group.

**Mr BAILEY** - Yes, the write-off of \$6 500, I didn't quite understand how that occurred.

**Ms COOPER** - Perhaps if we table it that would be more appropriate, table the properties.

**CHAIRPERSON** - It's correct that the Indigenous Land Corporation doesn't have to pay rates? Or have they just requested and been granted? How is it that Thoul has been exempted at this time?

**Ms MASON** - I think I am correct in this, the rates were levied and the Indigenous Land Council replied to Council in terms that said, 'No, this is being used for cultural purposes and therefore we are exempt from rates' and therefore the rates for this year have been written off on the basis of that statement by the Indigenous Land Council.

**CHAIRPERSON** - Does the council have an expectation that when the Indigenous Land Council divests that to ALCT that that process would be continued?

**Ms MASON** - We don't know. That's the problem, that's our difficulty.

**Ms COOPER** - We would like clarity.

**Ms MASON** - We would certainly like clarity and we would like, if possible, some independent body to look at it, should we wish to appeal.

**CHAIRPERSON** - So we have the ILC who are claiming cultural pursuits. There has been some evidence to suggest it's a commercial operation and an employment training process. There seems to be a little bit of discrepancy in the two.

**Ms COOPER** - We did, in our submission of Tuesday, point out that we would like some sort of definition of the word 'commercial'. We felt there was a great degree of flexibility of interpretation at the moment that made council's position difficult on this one.

**Ms MASON** - We also have no further right of appeal beyond the simple statement 'no it is cultural'. There doesn't need to be any lengthy explanation of that cultural activity. It is simply enough that we are told, 'it is cultural' - which makes it difficult for us. I note also that there is some diversity of opinion within the Aboriginal community on this, in that Maxine Roughley this morning referred to it as a commercial venture. Unfortunately, however, they're not in a position to pay the rates because the land is vested in the Indigenous Land Council. It's seen by the people who are operating it as a commercial venture but the ones who are responsible for the rates are saying it isn't.

**Ms COOPER** - If I could also draw your attention to the properties handed over and the amount of rates already forfeited, Clarke Island is included in that list; Clarke Island has not been given to the Aboriginal community by means of a land parcel as yet - that is, forfeited since the purchase by the

Aboriginal community, so there is another example of land outside this package claiming immunity from municipal rates.

**Mrs SILVIA SMITH** - I just wanted to pick up on a couple of points that you made. You're asking that there needs to be a finite definition of what 'local community' means. You're talking, I presume, about the local community of the Aboriginal people? Isn't that defined now?

**Ms MASON** - No, not in the legislation as it stands.

**Mrs SILVIA SMITH** - Oh, in the legislation you want that.

**Ms MASON** - Well, it's so open to interpretation by the controlling body at the time - which is the Land Council, I think. And certainly we are aware that there has been dispute between what we regard as our local Aboriginal community and the Land Council about just what 'local' means and whether or not the Flinders Island Aboriginal Association, for example, is in fact the local group for, say, Chappell Island. There does appear to be some difference of opinion sometimes about these matters and possibly they're valid reasons that have been given by the Land Council. I don't know. The difficulty is that there is a temptation, I think, for the Land Council simply to step back and not delegate management to any group because of the conflict within the community and I suggest that that means that the land itself is the sufferer in this - quite apart from the human conflict that comes into it - the land itself, if its not being managed, is going backwards.

**Mrs SILVIA SMITH** - The other issue I would like to just get you to broaden a little bit is : you said you were concerned about the wording, definition, usage, whatever, of the terminology, 'high-water mark' and 'low-water mark' and what it means. Could you just broaden your concerns there?

**Ms MASON** - It's not so much the definition of them that is the problem. The concern in the community is that title under the Aboriginal Lands Act is different from normal freehold title. Normal freehold title goes to fifteen metres above the high-water mark in most places; title under the Aboriginal Lands Act goes to the low-water mark. I don't know what the reason for this is and perhaps if we did know what the reason for it was and it was clearly spelled out in the legislation that would assist. But the problems it creates are that there is an expectation amongst all communities, I would suggest, in Australia and certainly in the Furneaux group that the land on the immediate foreshore is public land. It doesn't belong to anybody except everybody and so long as a different sort of title is given for Aboriginal land there is a sense of injustice in the community if that should be the case.

**Mrs SILVIA SMITH** - On the particular areas of land that are up for discussion now, I think I'm fairly right in saying this, in the Furneaux Group, that the majority of them go to the title at high-water mark, am I not?

**CHAIRPERSON** - I was just going to quote: the proposed Aboriginal Lands Amendment Bill amends section 27, Land Vested in the Council 27(8): 'There is reserved to the public at all times in relation to the land referred to in items 3, 4, 8, 9, 10, 12, 18, 19, 20 and 21' - and I'll list them in a moment - 'of Schedule 3, a right of pedestrian access over the area of land fifteen metres wide immediately above the high-water mark'. And those particular items listed: Mount Chappell Island; Steep Head Island; Badger; Babel; Great Dog Island; Cape Barren, part; Clarke; Vansittart; Goose Island and Little Dog. Does that allay some of the concerns you are expressing if this amendment goes through and those particular issues, I mean, 'right of pedestrian access over an area of land fifteen metres wide immediately above the high-water mark'.

**Ms MASON** - It does allay our concerns and we were aware that that was in fact the case. I think it still requires explanation at least of why the title goes to low-water mark. I think that has not been explained to the total Tasmanian community. We know we have access and we are pleased to have that access, but why does the title have to go to the low-water mark?

**CHAIRPERSON** - If I could just allay to some comments you made when you were looking at giving us information on the rating. Cape Barren, you said, 'Five years, \$55 000'. Is that the amount council spent or the amount - can you give us the amount of rates that actually come in from Cape Barren?

**Ms COOPER** - That is the amount that council's actually spent. The amount of rates that come in, that's listed here as -

**CHAIRPERSON** - Are they the only rates?

**Ms COOPER** - Yes, these are the only rates, which comes to approximately to \$1 500 a year that we collect in rates from Cape Barren.

**CHAIRPERSON** - From crown or vacant crown land. You would have had some private home owners as well. Would that be right?

**Ms COOPER** - Yes, where's Fuglsang?

**Ms MASON** - Fuglsang's included. That's about it. We'll check that and if it's not right, we'll get back to you, but the amount of rates we do collect there is minimal for the amount that we spend on it.

**CHAIRPERSON** - And you made the comment, 'An uplift cost of \$40 000' - in other words, when you go it's going to cost you \$40 000' so you attempt to manage a process where you do substantial work there at one time rather than stagnate it because of the initial cost of transporting in and out.

**Ms COOPER** - And in the interim period, council employs on a part-time basis, a labourer on Cape Barren Island to attend to the minimal maintenance between the big trip over.

**CHAIRPERSON** - Does the council in the Grants Commission receive any recognition of the work they do in some of these areas?

**Ms MASON** - Yes, we do.

**CHAIRPERSON** - Is there any contribution through ATSIC or other corporations specific to Aboriginals that make a contribution to council funding for any of the work done in the Furneaux area?

**Ms MASON** - In our grants for the current financial year, for the first time, we did receive recognition of our problems with Cape Barren. We had been pushing that particular barrow for a very long time indeed, but it was only this last grant that did recognise our problems there. And no, we received no assistance from any outside Aboriginal organisation for the delivery of local government service.

**CHAIRPERSON** - Thank you again for your contribution. We appreciate what you've listed. If you could just clarify the total amount of rating income at this time from Cape Barren, that would be appreciated.

**THE WITNESSES WITHDREW.**

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT  
FLINDERS ISLAND COUNCIL CHAMBERS, WHITEMARK, FLINDERS ISLAND ON  
THURSDAY, 24 FEBRUARY 2000.**

**GRAEME HOLLOWAY AND SHIRLEY HOLLOWAY WERE CALLED, MADE THE STATUTORY  
DECLARATION AND WERE EXAMINED.**

**CHAIRPERSON** (Mrs Sue Smith) - Thank you very much for your submission and for your presence here today. We have used the process over the last three days of getting those who have put forward a submission or requested to meet the committee allowing them to make comment and speak to their submission after which the committee will ask any questions they feel are relevant at the end of the process. So if you would like to start, make your comments and we'll take it from there.

**Mrs HOLLOWAY** - Thank you. We would just like to thank you for giving us the opportunity to present evidence to you on the transfer of land to Aboriginal ownership.

Firstly, we would like to say that we strongly oppose this action on the following grounds: that there was no proper consultation with members of this community prior to the announcement, therefore we feel there was total disregard for our shared heritage. We have already contributed to the reconciliation process by transferring the Mutton Bird Islands in 1995 and Wybalenna in 1998. We consider this to be a fair and generous contribution.

Given that the Furneaux Group has no evidence of being inhabited at the time of European settlement by the sealers, we feel that we have been singled out to bear the brunt of the Government's payback for the injustices of past history of Tasmania. We have a strong sense of concern for this community's future. We feel that there has to be some criteria set, maybe like native title, to control wish lists by Aboriginal groups and others so that it becomes a process that is fair and equitable for all. There has to be justifiable reasons for making claims. We are directly involved with Vansittart Island as owners and leasees of the land. We question the briefing notes, as we feel they did not specifically refer to the crown land but to the freehold land, which is not part of this package - and I say that because history tells us that the sealers were settled on the land which is now private land.

Also, they say there are a number of sites that are culturally sensitive, but are not prepared to disclose where they are. And that leaves us wondering if they are on the land being claimed or on our freehold title, or was it just a statement. So we think that that should have been clarified. Did the working party have these sites disclosed to them?

We have quite a few parts to what we want to say to you today. Firstly, I would like to just give you a brief picture of the long and continued European connection with Vansittart Island. Vansittart Island was the home base for many of the sealers who came to the group, some of whom had Aboriginal women, others had Indian women and European women. I am particularly dealing with just two of the sealers who were settled on Vansittart Island, and they were John Riddle and Charles Bishop. They arrived in the islands roundabout 1816 to 1819. When George Robinson arrived in 1832, Riddle was living with an Aboriginal woman. She was taken by Robinson when he left for Wybalenna seven months later. Riddle then lived with an Indian woman. He had no children with either of these women. In 1848 Riddle was given an occupation licence for Vansittart. He had by then employed a housekeeper, Mary Jane Bates - whose daughter, Elizabeth, married Charles Bishop.

When Riddle died, he left his land to Elizabeth who later married an Alexander Ross who came to the islands as salvage supervisor for the *Cambridgeshire* which was wrecked near Preservation Island. He

met Elizabeth when he visited Vansittart in 1876. At the time of her marriage to Ross, Elizabeth owned 500 acres of freehold and had an occupation licence on the remainder of the island. The Ross' ran a store and a post office and serviced the other occupied islands nearby. They also ran 2 000 sheep, had 2 bullock teams and built the stone fences, which are still evident there today.

Vansittart remained in the Ross family until we purchased it in 1969 under the same terms and conditions. In 1997 we secured a ten-year lease over 220 hectares of Crown land. The Ross family remained living on Vansittart until 1942 when they moved to Flinders Island. The historical information that I have given you today came from *Brown Riggs Missions to the Island* by Steven Murray Smith. I'll leave it to Graeme to tell you about our concerns about our lease.

**Mr HOLLOWAY** - Madame Chairman, my first knowledge that Bacon was intending to transfer the Crown land on Vansittart Island to the Aboriginals was reading it in the press. I'm not quite sure of the date though, the actual paper was the *Examiner*. I reacted immediately by phoning Perry Foster of the Department of Lands. Information gained from Perry got me in touch with the Premier's Department and Richard Bingham. In the meantime, Mr Clyde Mansell phoned to organise a discussion on Vansittart Island. From here we arranged for Bingham and Mansell to pay a visit to the island.

This happened on the 13 October 1999. This visit was a foregone conclusion, that Bacon was transferring the crown land to the Aboriginals. All Bingham and Mansell wanted to discuss was my access to their land. This transferred land was not having a foreshore reserve. This gave us two different situations: private land with a foreshore reserve and Aboriginal land with a low tide - with no reserve at all. Division again in our community. I had a lengthy conversation with, Tony Fletcher - this is going back to the foreshore - on the phone one day when I was at sea and he informed me that land grants in the area still had the same foreshore. I argued with Tony for quite some time and in the finish it got quite heated. He was saying the land that was previously given to Aboriginals had a foreshore. And I said it did not have this foreshore, so therefore I can see that Tony didn't follow the transfer of Big Dog Island, Chappell Island and Badger Island, Wybalenna through the legislation to the end.

Getting back to Vansittart, the crown land has been an occupation licence for 150 years. That was to Riddle and the Bates' previously. When the Government changed the rules on leasing of islands in the Furneaux group, we were given a ten-year lease on the Crown.. During this period, we were requested by the Lands to fence approximately 500 acres on the east side of the island. This was to keep our animals and machinery from entering the bushlands. This fence was erected at a cost of \$15 000 to us and some very hard work, I can assure you. We are being reimbursed half the cost of the fence by the Crown over a period of seven years. We have asked several times to purchase some of the crown land, having also asked for a subdivision to be able to procure a 20-year lease. The answer has always been the same, no, as there is a claim on Vansittart. Now that's going back ten, twelve years that that claim has been sitting there. They wouldn't tell us who was claiming , the Lands Department. Clarke Island procured a 20-year lease because of a subdivision created by the crown reserve on the northern half of the island. We didn't think this was a very fair decision.

**CHAIRPERSON** - Thank you. Do you wish to continue?

**Mrs HOLLOWAY** - I indicated we had some concerns about the future of our lease agreement and that's the background pertaining to it.

**CHAIRPERSON** - Perhaps if we concentrate on that particular process. Your lease expires in the year 2007?

**Mrs HOLLOWAY** - Yes.

**CHAIRPERSON** - Is there a yearly cost, an opportunity for the crown land in that lease to review the costs before 2007?

**Mrs HOLLOWAY** - Yes, there is. We have letters here stating - our lease actually says for the first five years we would have reduced rental because of the cost of the fence - them as owners paying their share. When the fence was completed we had to send in the actual costs and they duly inspected the work. We received another letter from them saying they would then extend that for another two and a

half years. So our lease actually, the rent that we were paying is reduced until the year 2004 and a half, I suppose.

**CHAIRPERSON** - I was interested, and I just want to clarify this, Mr Holloway, you said that the first you heard of it was a media announcement of the Premier or the newspaper - I think it was 12 October was when the Premier made the announcement.

**Mr HOLLOWAY** - No, it wasn't. Mr Michael Mansell, I think. It was a wish of his that appeared in the press.

**CHAIRPERSON** - So can you give me some idea of when you first became aware or when somebody first contacted you to discuss possible changes at Vansittart.

**Mr HOLLOWAY** - The first contact was Clyde Mansell when he contacted me in the interim between me contacting Perry Foster and getting on to Bingham.

**Mrs HOLLOWAY** - If I may, I think the reading in the paper said, 'Mansell's wish list', or something, for lands. And I think that was it, early some time in May. It was 30 June when Graeme actually phoned the Lands Department and contacted Richard Bingham. We have a letter from Mr Bingham here and then Graeme wrote to him asking THEM to come over and that was about 6 July and they didn't eventually come until the Wednesday prior to the announcement being made. That was 13 October.

**CHAIRPERSON** - So you did have some prior knowledge. It wasn't 'Surprise! Here it is in the media' as an announcement that it's going to happen.. That's what I'm trying to clarify.

**Mrs HOLLOWAY** - No.

**CHAIRPERSON** - We've had some evidence from some people that that was their first knowledge.

**Mrs HOLLOWAY** - I think the general public, it was their first knowledge. Because we instigated -

**Mr HOLLOWAY** - It was our first knowledge of it when we saw it in the press, actually. The first time.

**CHAIRPERSON** - I just want to quote something. I have a document here dated the 9 August and there is a comment made as regards Vansittart Island and a report: 'The working group notes ALCT is conducting negotiations with the freeholder owner regarding access arrangements. Should negotiations be unsuccessful access will be via the area which is currently a coastal reserve' - so that's 9 August. Is that correct that you were negotiating? Was somebody having negotiations with you prior to that time regarding access arrangements et cetera.

**Mr HOLLOWAY** - No. Not that I know of, no. The first we discussed it was on 13 October when Bingham and Clyde Mansell arrived. On the island itself, was the actual discussion. Actually it was in the sea..

**CHAIRPERSON** - I'm just trying to clarify some documented information that evidently has been given to the Premier, whether it is or it isn't correct.

**Mr WILKINSON** - In relation to Vansittart Island, you say you spoke with Mr Mansell and Mr Bingham and that conversation only related to access, as I understand it.

**Mr HOLLOWAY** - That was all. Truly access, that was all. Matter of fact, one of the party wasn't even interested in going ashore onto the island. Just wanted to look at the access - I mean, discuss with me access over the low-water mark to get to the crown land that they were interested in leasing back to me.

**Mr WILKINSON** - And the access would be obviously across the bridge?

**Mr HOLLOWAY** - Or the rocks or wherever it may be, yeah.



**Mr WILKINSON** - Sorry?

**Mr HOLLOWAY** - Across rocks or beach, whatever the case may be.

**Mr WILKINSON** - But if you had your cattle it would be the best access obviously would be across the beach.

**Mr HOLLOWAY** - No, it's not so.

**Mr WILKINSON** - We were there yesterday -

**Mr HOLLOWAY** - You were in the wrong spot. I was watching very closely.

*Laughter.*

**Mr WILKINSON** - Where should we have been?

**Mr HOLLOWAY** - Right round the other side. The access they were discussing at the time was just there on those rocks where you guys were.

**Mr WILKINSON** - Where we got off?

**Mr HOLLOWAY** - Yeah. That's on crown land. Now that was going to have no foreshore at all then. But as I said there, all they discussed was the access over crown land. There was nothing else discussed at all.

**Mrs HOLLOWAY** - I might say, Madam Chair, that I did send a letter to the Premier setting out our position as far as Vansittart - how we came about the lease and how long we'd been there and stating some of the concerns that we had. I received a letter back from the Premier on 22 October and he sought to address those concerns. This is something that I had down in my brief to you to speak about, was the difference between high-water mark and low-water mark. His suggestion was that, so as not to cause us any problems, that our freehold title would remain as it is now with a coastal reserve and the crown land that would go to Aboriginal ownership would be to low-water mark - so we would be leasing land that went to low-water mark and the other would be a crown reservation. To us that's creating a difference between the two parties. I think that is a very dangerous precedent to set. That we are causing a division in the community. I mean, that's our situation, but it has happened with the other land as well. I think ownership of land should be the same for all people.

**CHAIRPERSON** - So your issue is that your title, the actual title - not the access, but the title - differs to the proposed title for the Aboriginal community.

**Mrs HOLLOWAY** - Yes, that's right.

**Mr WILKINSON** - You were saying also that you thought there should be some criteria imposed if there's going to be a transfer of land. I can understand what you're saying because it's a matter that's been raised a number of times. I was wondering if you could help with what you believe should be the proper criteria?

**Mrs HOLLOWAY** - Well, I think at the moment, in 1995 we had a claim that was duly processed and land was handed back to Aboriginal ownership or handed to Aboriginal ownership. Some people thought, well that was fair enough, that was it. Then in 1998 Wybalenna came on the agenda and now these parcels of land are coming on the agenda and the reasoning for them, I don't think is clear enough. Just with these parcels of land, it's well documented historically that the Furneaux group was occupied jointly and it is a shared heritage. I think there needs to be some guidelines set out to give people guidelines to work to see whether it is a feasible thing. In five or six years time we might end up with another claim. There's no guideline as to how they should be judged.

**Mr WILKINSON** - What I'm looking for is some answers maybe in relation to what criteria. Should it be the cultural significance, historical significance; if so, what type of cultural significance, what type of historical significance? You know, that type of criteria. That's what I'm looking at.

**Mrs HOLLOWAY** - Yes, yes. I understand that. At the moment it's said to be spiritual and cultural significance to Aboriginal people, but they are not stating anything specific in that. I mean, what is culturally significant to Aboriginal people as opposed to European people who have lived here? So I really don't know, but I think with native title there's defined rules. I don't know what they should be, but I think that's something that should be looked at and discussed with both parties.

**Mr HOLLOWAY** - There's got to be a cut-off point somewhere in the whole thing otherwise it just goes on and on and on. Next government comes in, another grant; next government, and it goes on and on.

**Mr WILKINSON** - Is that the fear that's had? The fear of the unknown?

**Mr HOLLOWAY** - Yes, this is right. Not fear, but it's a thought down the track that you know what's going to happen. We can see it's happened twice already now. Once it's been given away and they're now going to take another one. Another one coming up south of Hobart now in the southern end of Tasmania.

**Mr WILKINSON** - So as I understand it, you don't express any real concern with the transfer of land back in 1995.

**Mrs HOLLOWAY** - We did at the time.

**Mr HOLLOWAY** - We did. With Fletcher and Groom. We had a big concern over that.

**Mr WILKINSON** - But what, now you accept that that was fair and reasonable? Is that as I understand what you are saying?

**Mr HOLLOWAY** - Looking down the track, we're saying that this, well that was fair. Yes. Now.

**Mrs HOLLOWAY** - Except for the difference in the titles.

**Mr HOLLOWAY** - The high and low-water mark.

**Mrs HOLLOWAY** - I think that is the important issue.

**Mr WILKINSON** - And then Wybalenna. Do you accept that that was fair and reasonable?

**Mr HOLLOWAY** - Not really. That was a shared heritage between all people on Flinders, that bit. I mean, they have been owned for 120 years by Europeans too. The same thing.

**Mrs HOLLOWAY** - I think Wybalenna was a little bit different because Wybalenna took many years of discussion between the local groups here and the Aboriginal groups in Tasmania. It didn't just happen without a lot of consultation. And we were all mindful of the reconciliation process at that time. And we talked through to come to an agreement, especially with the local Aboriginal people on the island here. That made that a little bit different because there was open and clear consultation before the decision was being made and it went through, actually passed to different governments.

**Mr WILKINSON** - I hear what you're saying. Am I right in saying that in 1995, you are saying, 'Even though I didn't agree with it at the time, I accept that it was fair'. Wybalenna, we don't agree with but there was a lot of consultation that went on, therefore, even though you don't agree with it, you accept it.

**Mr HOLLOWAY** - Had to in the finish.

**Mr WILKINSON** - In relation to this, what you're saying is, firstly, you don't agree with it and secondly, at this stage, at any rate, if it went through you wouldn't accept it because you weren't properly consulted.

**Mr HOLLOWAY** - Did you say we would accept it?

**Mr WILKINSON** - No. What I'm saying is, if it does proceed, what you're saying is, firstly, you wouldn't accept it and secondly, you weren't consulted.

**Mr HOLLOWAY** - Well, that's for sure. That's the expression we're trying to get over.

**Mr WILKINSON** - And therefore, without that proper consultation process you feel, I suppose, unable to have your say.

**Mrs HOLLOWAY** - Well, the way I look at it, is probably a little bit different.

**Mr WILKINSON** - I'm probably trying to make it too simplistic.

**Mrs HOLLOWAY** - Yeah. The way I look at it we made a business decision. We held Vansittart Island on a yearly licence for a number of years, well up until 1997. And that was renewed every year by the department. During that time, nobody ever questioned - well, to our knowledge no-one questioned - whether we should be the ones to be given the lease back on Vansittart Island. When it became evident that there needed to be some management put into place to look after the foreshore vegetation, the department came to us and said, 'we want you to put a five-wire electric fence' that went for five kilometres round a very difficult rocky terrain, we had to make a business decision as to whether that was going to be economically viable for us to do that. And when they agreed that we could have the ten-year lease then that made that so.

A letter to the Premier, he also said that nothing will change in our lease, our lease agreement will remain the same. What we're concerned about, we did not make the agreement with the new owners, we made it with the Government and the Lands Department or PIWE, as they're now called. That's of concern to us. Fair enough to say our lease will be honoured and maybe it will, but when other people own things at some stage they may feel they need to change the rules and we would honestly believe that our lease should be honoured to the year 2007, then it will be up for renewal. There's an opportunity then for the department to give that lease to whomever they wish.

**Mr WILKINSON** - Or alternatively sale - in other words, if the department came to you now and said, 'Look, there is a problem with the leasehold of Vansittart Island that you have. Do you wish to purchase that area of land you have now?'

**Mr HOLLOWAY** - That's what I stated earlier. We've tried three times to purchase the crown. The other one was a subdivision, if part of the land is surveyed off for any other reason you can claim it as a subdivision and in the lands department, PIWE or whatever they call themselves now, regulations that says if there is a subdivision you are entitled to apply for a 20-year lease. A ten-year lease in the way we're working our island is not a lot. We've had about five dry years on the island so that only gives us five years to recoup our losses. Our stock rate has gone down over that year by 100 breeding cows on the island because of the dryness and now we've been forced to fence in 500 acres of it, it's dropped a little bit more, 500 acres off. As I say, going back, ten years ago we tried to purchase. Some bloke said, 'There's a claim on it. It's not for sale'. That's the same answer we got all the time.

**Mrs SILVIA SMITH** - They wouldn't tell you where the claim was coming from?

**Mr HOLLOWAY** - No, nothing whatsoever, until this appeared in the paper. We had a fair idea, but no-one ever told us. I think Clyde was the first one.

**Mrs HOLLOWAY** - 1995 actually it was. It was in those claims at that time it was put out.

But another issue, Madam Chair, as regards to access by the public to our land, this is a concern. It is a concern that we have that could occur. Because we have stock on the island and there are is an abundance of geese on the island we would be very concerned if we could not have the same arrangement that we currently have with access to the island by the public. This is an unwritten agreement that we have, that government departments, government offices, notify us if they want to go to the island to count the geese or inspect the island. They give us the courtesy of letting us know, as do the public if they wish to go over there. We feel, because we farm on an outer island, it's a good policy to have for security for our property and we have not refused anybody to go there. We may have said to

government departments in the past, 'Nom you can't come and roam around and count the geese this week because we're doing our cattle muster'. They understood that and worked in with us.

We are concerned that the Land Council of Tasmania, we could have problems there maybe, because given the lack of management arrangements that they have failed to put in place with our local Aboriginal group, as far as the mutton bird islands and Wybalenna and the problems experienced on Badger Island by the lessee there in the past. We aren't really confident about it but it is just a feeling that we have. I'd just like to stress the importance that cooperation between all parties needs to be, even though it isn't written in our actual lease agreement.

**Mr BAILEY** - Can I just ask you about the lease. It expires, I think you said, in seven years' time. In relation to the lease, are there rent reviews on an annual or triennial basis?

**Mr HOLLOWAY** - No.

**Mr BAILEY** - It's a fixed annual amount for ten years.

**Mr HOLLOWAY** - They did state that it would be reviewed after five years when we put the fence up because I quoted that after five to six years the wire would have to be renewed again because the salt water rusts the wires away very quickly in certain direction fences, east and west it goes pretty quick and north and south aren't so bad. They said they would review it in five years time.

**Mr BAILEY** - That's in two years time now.

**Mr HOLLOWAY** - Yes, from when we put the fence up.

**CHAIRPERSON** - But you also have been reimbursed half the cost of the fence over seven years, so there's still some years of that reimbursement to happen as well.

**Mr HOLLOWAY** - There's still four years to go. We don't know whether they are going to review it at the end of the first five years or not now, there's been nothing said since we put the fence up.

**Mr BAILEY** - I guess what I'm coming to is that if that land were to be transferred to the Aboriginal Land Council then in relation to question of rent that would be paid on the review after five years, would be a matter between you and Aboriginal Land Council.

**Mr HOLLOWAY** - This is right.

**Mr BAILEY** - And not between you and the crown lands office.

**Mr HOLLOWAY** - No.

**Mr BAILEY** - Have you made any other improvements, except for the fence and the electric fence?

**Mr HOLLOWAY** - Waterholes, dams.

**Mr BAILEY** - And what kind of cost has that been to you to put your waterholes and dams in?

**Mr HOLLOWAY** - Recently, I was there for six days with an excavator and you have to get it there and get it off again. The excavator was \$100 an hour and it was worked from daylight until dark at Easter time. I'm not sure of the exact hours but I could find it out.

**CHAIRPERSON** - You made comment earlier, I presume you have costed all of the improvements you're making on a presumption of the ten-year lease?

**Mr HOLLOWAY** - Yes.

**CHAIRPERSON** - Yes. So I put the scenario to you that if the terms of your lease were entrenched to 2007, you would be comfortable, you would feel everybody had fulfilled their obligation?

**Mr HOLLOWAY** - Yes, at the moment.

**CHAIRPERSON** - And in your farm plan you would have felt that, if you'd done your figures correctly, you have recouped what you looked for.

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

**CHAIRPERSON** - We've had others who have sort of had a presumption of further extension of lease, et cetera. I'm just trying to get a handle on it.

**Mrs HOLLOWAY** - No, that's the agreement we made with the ten-year lease.

**Mr HOLLOWAY** - That's why we're looking at a 20-year lease because it was more favourable to our farming conditions.

**CHAIRPERSON** - Has anyone from the department made any comments to you since this proposed transfer came to bear about the reimbursements over the seven years, whether that would be paid up-front on transfer by the department because it is their responsibility, not an Aboriginal community responsibility. There's been no indication of that?

**Mrs HOLLOWAY** - No, we haven't actually queried that.

**CHAIRPERSON** - Are you aware of Aboriginal grave sites on Vansittart?

**Mr HOLLOWAY** - Not at all.

**CHAIRPERSON** - You've no indication there may be some on private property?

**Mr HOLLOWAY** - As I've said in a letter to the Premier, there's no visual signs whatsoever that we know of.

**Mrs HOLLOWAY** - From reading history, we know that there are some that are supposed to be there but, as Graeme said, there's not visual evidence or we aren't aware of exactly where they are.

**Mr HOLLOWAY** - There's no building foundations or anything either because evidently they lived in the sealers huts and Robinson cleared the sealers out and the Aboriginals moved into their houses, which were all on private land.

**Mr BAILEY** - If legislation would provide that the land be transferred to the Aboriginal Land Council on a date which coincided with the expiration of your lease, that would obviously suit or comply with your submission.

**Mr HOLLOWAY** - Not really because we've just mentioned that we'd rather run with the people we know that we are leasing from than the Aboriginal side of it because of the situation on Badger Island.

**CHAIRPERSON** - Yes, I think that's what Mr Bailey was saying.

**Mr BAILEY** - I am merely putting it to you that if the land is to be transferred that it not be transferred until the expiration of your lease in ten years time. In other words, it could be put in the legislation now but it wouldn't be effective until a date that would coincide with the termination of your lease. That would be a proposition that you would accept.

**Mr HOLLOWAY** - No, we want to carry on with the lease who ever has it.

**Mr BAILEY** - What, beyond seven years?

**Mr HOLLOWAY** - Yes.

**CHAIRPERSON** - But you would have the opportunity after 2007, if you so wish, to negotiate with new owners, being fully aware that they were the owners, and it wasn't half way through some

obligation that had been made between both parties that ownership transferred.

**Mrs HOLLOWAY** - That's right.

**CHAIRPERSON** - So you would go in 2007 fully aware that it is new owners and we may come to an arrangement or we may not. In the same way as, at the end of the term of your lease, you may come to an arrangement with the Department of Primary Industry et cetera, or you may not in 2007. If you had a treasurer who was looking for a lot more money, for instance, he may make it outside the realms of possibility of you leasing it.

**Mr HOLLOWAY** - This is right, but what do they do with it then?

**CHAIRPERSON** - One can never predict history too far ahead, unfortunately.

**Mr BAILEY** - I'm not certain if you were happy with that proposition I was putting to you earlier.

**Mr HOLLOWAY** - At the moment with the Lands Department, at the termination of our lease we are supposed to have first option to get it back again. It's a continuing thing.

**Mr BAILEY** - Can you submit a copy your lease.

**Mrs HOLLOWAY** - Yes, I'll photocopy it and leave before I go; I have it with me today.

**Mr HOLLOWAY** - That's the only thing we have that the rules may change. Well, they may change for the government, too.

**Mrs HOLLOWAY** - I think what Graeme's saying is ideally we would like to retain another ten years probably on Vansittart Island, seeing as we do own 202 hectares that adjoins that crown land.

**Mrs SILVIA SMITH** - I suppose that other hypothetical question that could probably be put is that somewhere, maybe in the future, you may have the inability to farm and put cattle on there, would you then perhaps look at option of selling your freehold? They may happen too.

**Mrs HOLLOWAY** - That could be a proposition too but we do have a son coming up through the ranks, but that is a possibility

**CHAIRPERSON** - Thank you. I think the committee have indicated that they're comfortable with the information they have at this time. What we usually do is give you an opportunity to have the last say, so the speak, to make any final comments or reiterate any particular point you wish to.

**Mrs SILVIA SMITH** - You wanted to talk about the fishing rights, didn't you?

**Mr HOLLOWAY** - I do if it's appropriate at this time. There's another little one just before we go on. I'd like to speak briefly on the proposed handover of crown land on Little Dog Island and Goose Island. Should these two islands be transferred it gives control of all the mutton-bird islands in the group, except Little Green Island and the Franklin Sound, to the Aborigines. We are mutton-birders too, the community of Flinders Island. We've been mutton-birders going back for generations.

**Ms SMITH** - You're not commercial mutton-birders, are you?

**Ms HOLLOWAY** - No, and there's no commercial mutton-birding here this year whatsoever, which makes me think that the industry might be dying. It has been dying over the years, getting slower and slower. We'd like to see that there is at least another island that's available for mutton-birding because the islands to the west here have got mutton birds on them, but they're closed - because of the national parks. They've been closed for ten or twelve years.

The fishing rights.

**CHAIR** - You understand the legislation does not include any fishing processes, as was originally in the working party's brief. Is not included in any amendments at this stage.

**Mrs HOLLOWAY** - So fishing rights have been removed from it.

**CHAIR** - Yes.

**Mr HOLLOWAY** - Well, it's no good me commenting on it.

**Mrs SILVIA SMITH** - Hang on to that.

**Mrs HOLLOWAY** - Because we were led to understand when Mr Bingham and the working party came and visited the council that the working party would be working on that and have a report to the Premier by April this year.

**CHAIR** - The working party may be working on those particular proposals. Because it is not in the amendment or anything, it is not in the brief of this committee to look into those particular issues at this time. I would hope out of this scenario the working party have and understanding of the importance of that consultation process, looking to people like yourselves and others with an interest to get an opinion before they put forward the report you've got information on that will be there in April. But that is not the brief of this committee.

**Mr HOLLOWAY** - They've been withdrawn completely at the moment?

**CHAIR** - At this stage, in the amendments before us, there is no issue of fishing areas at all in this legislation.

**Mrs HOLLOWAY** - Madam Chair, I'd just like to make a closing statement, if I may.

**Mrs SILVIA SMITH** - Before you do, if I may. On what you said, Graeme, I just want to clarify in my mind again your concerns. You mentioned mutton-birding being closed to you if Little Dog Island and Goose Island go. What I want to know, are you saying 'we have a shared heritage in the mutton-birding industry here. We've been, as families, able to go out and we want that right, not only to be confined to one small spot?'

**Mr HOLLOWAY** - This is right. The island at Lady Barren that everyone goes to is not a very big island. It gets a lot of pressure on it every year, every mutton-bird season. Admittedly at the moment, Goose Island is a protected island because it is a sanctuary, Commonwealth, but that would be another access. It used to be a mutton-bird island going back thirty years ago.

**Mrs SILVIA SMITH** - Little Dog would be ?

**Mr HOLLOWAY** - Little Dog. The crown land on Little Dog Island that the Aboriginals are claiming is the only land that people are allowed on because the rest of it is privately owned. Which is another, in my line of thinking, the crown land on there is very small compared to the private land which is trying to just drive a wedge between those people there on the island and everyone else. Because it's only a measly little piece of land compared to the rest of the island. If you've got another owner coming in there it's going to alter that.

**Mrs SILVIA SMITH** - This measly piece of land that you're talking about has got the prime mutton-bird sites for the rest of you to go and access.

**Mr HOLLOWAY** - Well, you're not allowed to go on the other because it's private land.

**Mrs SILVIA SMITH** - Well, I just didn't know whether there were mutton-birds on the other part as well.

**Mr HOLLOWAY** - Oh, there is. I wouldn't say that the crown is the prime land. A lot of it is rocks and scrub.

**Mrs HOLLOWAY** - Madam Chair, one of the articles that I handed to you at the beginning is on mutton birding in the group.

**CHAIR** - Okay. Thank you.

**Mrs HOLLOWAY** - I'd just like to say that we strongly believe that Vansittart, along with Little Dog and Goose, are typical examples of a shared heritage and I think that's something that should be borne in mind. Because it's a shared heritage we want to share it with Aboriginal people and all people and the only way that can successfully be done without causing division in the communities is for it to remain with the Crown and continue to be shared by all allowing public access to foreshores and for those islands that are now leased privately, that they come up for the public to make an option, when the leases expire. And similarly Cape Barren Island, uncommitted crown land on Cape Barren Island, we feel should also remain with the Crown.

**CHAIR** - We thank you for your submission and your attendance here this afternoon. We certainly shall take into account all the comments you've made. Thank you.

**THE WITNESSES WITHDREW.**



**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT  
FLINDERS ISLAND COUNCIL CHAMBERS, WHITEMARK, FLINDERS ISLAND ON  
THURSDAY 24 FEBRUARY 2000.**

**JOHN WHINRAY** WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIRPERSON** (Mrs Sue Smith) -Thank you, Mr Whinray. Welcome here this afternoon. We give the opportunity to you in the first instance to make a presentation and then the committee will ask and queries they have at the end of it.

**Mr WHINRAY** - I wanted to deal with a number of subjects and I wanted first of all to raise a very basic, and it seemed to me, a fundamental one that's been overlooked in this matter of Aboriginal land rights and so on. And I put it this way: in Tasmania we seem unable to avoid going to extremes about Aborigines. For a long time we've believed that none survived in the State. More recently, we accept that Aborigines survive for the whole of the State. Neither belief is correct. There is, for example, not even a single descendant of any of the original owners of the entire west coast of Tasmania. So there is nobody to make native title claims for any of it, nobody to make a claim, either legal or even moral, for any part of the area and no heirs whatsoever to any traces of any traditions that may have survived for the area.

One consequence of this is that the descendants of the tribal Tasmanians should have exactly the same rights and responsibilities in that area as every other Tasmanian. After all, consider the situation in the Northern Territory. The Pitjantjatjara from the Uluru, ... Djuta area do not claim native title claims or fishing claims or land claims in the north-eastern Arnhem Land area and conversely the Jungu of that area do not make native title or land claims down in the south-western part of the territory. Both tribes are fully aware that neither has any rights or responsibilities for the area of the other. Late in 1998 judgement was given in Victoria in the extensive native title claim, which included fishing and water rights, made by the Y... of central northern Victoria. The pertinent point here is the group made the claim on its own behalf. It did not make it on behalf of the Aborigines of Victoria. That's from a report in the *Mercury* of 19 December of that year.

It is not just the west coast of Tasmania that lacks any descendants or justified claimants. Most of the rest of the state has nobody to make any bona fide, in the sense of genuine, claims to either rights or responsibilities for it. The current Aboriginal population is unique in Australia because of its origin. It is derived from just eight sealers and six women. The sealers, whose names I won't all mention, one of them was actually a Maori called MaiTai. Of the six women, one of them was, all we know of her was that her name was Elizabeth and she was from New Holland. We have not another scrap of information about her. The four women we're absolutely certain about came from the Cape Portland-Ringarooma-Musselroe area and also from St Patrick's Head, which is just to the east of St Mary's on the coast there. The final woman, her origin is uncertain. When Tindale was on Cape Barren in 1949 he was probably able to speak to people whose memory went back to as far as the 1860's. I managed to gather information from Edgar Leopold Maynard who was born as late as 1888 and didn't die until the 1970s. But all Tindale could gather on Cape Barren Island, at that time, was that Thomas' woman was called Nimaramo. Plumley has found nothing whatsoever about her and Mollinson, in his very large genealogy, says that she was possibly a woman again from the Cape Portland-Ringarooma-Musselroe area. But he uses the word 'possibly' and he has no justification for that.

So the entire Tasmanian Aboriginal population is derived from women from just those two tiny areas on the north-eastern coast of Tasmania and that's why I think we've gone from one extreme to the other. From having no surviving Aborigines to having Aborigines from the whole of the state.

When it comes to things like cultural practices, there is not a scrap of evidence that any of the women were able to pass on traditions of any sort for the regions away from their own small one. Indeed, it could be said that they passed down very little even about the latter.

As far as the community is concerned, it's not that all male law and lore were lost from the community at a particular date. They never existed within the community, because there were no male Aborigines in the community - none whatsoever. Of course, this leaves a large gap and so the phrase 'Aboriginal cultural practices' should be treated with intense scepticism. There is an example on the first page of the second draft of the paper headed 'Aboriginal Management and Self-Regulation for Taking Fish and Wildlife'. On the first page under 1(2) section (1) it reads: 'not seeking to impose artificial restraints on seasons, size and numbers of species taken and acknowledging the internal self-regulatory restraints of Aboriginal cultural practices'.

Aboriginal qualities are acquired, they are not inherent. If Aboriginal qualities and cultural practices were inherent, then not a single member of the stolen generation would have the slightest cause for complaint because he or she, despite being totally sundered from people and tribe, would still know all the various languages and everything else you can think of, but they obviously don't. People do need the cultural background to have those qualities and things like self-regulatory restraints.

When it comes to the management of land, according to Marie Fells - I'm afraid I couldn't find her paper despite about an hour and a half searching - the Tasmanians adopted the use of dogs for hunting by at least 1816. After 30 000 years of hunting with spears, it should have taken some time for a full adjustment to be made to the use of dogs. But by that stage, of course, with white settlement proceeding apace and the best hunting areas being taken over, I don't think there was an opportunity for that adjustment to be made. Talking to a former hunter I found that a party with a number of dogs, say ten large hunting dogs, would probably have to double the take of animals in order just to support the dogs. Now that opportunity of adapting to dogs was denied to those people. It was also denied to the sealers' women.

William Stuart's letter of the 28th of September, 1815 makes that clear. It's from the historical records. At that time the State was under martial law. He turned up in Launceston in 1815. The State was under martial law and he had a severe disagreement with the superintendent there and so on. But the bulk of his letter was written in Sydney later that year. He'd reached Launceston or the Tamar from Kangaroo Island with a cargo of salt and also probably picked up some skins on the way down from King Island. He mentioned that there was a banditti, as he called them, of bushrangers infesting the islands. But the pertinent point here is the last section from his letter. And he says: 'They also have a custom of getting the native women of Van Diemen's Land among them, who they mostly obtain by force, and keep them as slaves or negroes hunting and foraging for them, who they transfer and dispose of from one another as their own property - very few of whom ever see their native home, being away for numbers of years. And if they do not comply with their desires or orders in hunting et cetera, they by way of punishment half hang them, cut their heads with clubs in a shocking manner or flog them most unmercifully with cats made of kangaroo sinews. Several of them have from two to six women who they claim as their own private property in this manner'. I don't think their slaves would have had the opportunity of adjusting properly to the hunting with dogs.

The use of women as slave labour continued after that. One woman, called Warathmaylia... was even shot by the sealer, James Everitt, here on Woody Island because she wouldn't do what she was told. So the women continued doing what they were told as slaves or else. The hunting continued on a very large scale on the islands, not just on Cape Barren, amongst the Aboriginal community but also here on Flinders. It was sometimes so intense on Cape Barren that someone like Edgar Leopold Maynard - who is grandfather to the activist, Jimmy Everitt, in Hobart, whom you might have met - even had to come across here to hunt under the patriarchs with his dogs.

I don't think there was much adjustment on Cape Barren to a sustainable yield for hunting mainly because the population just kept on increasing and increasing. But hunting ceased on a large scale on Cape Barren and here in 1947. It also finished then in Canada. There was apparently a world-wide slump in skin prices and that was effectively the end of hunting in Tasmania after all that time - from probably about even 1805.

The latter part of hunting was not the use of dogs, but was the use of snares - which seemed to have derived from the European or the different snares used by the English snarers. Now even if there had

been any trace of Aboriginal practices in hunting and snaring and, as it finished in 1947, it's almost two generations since then, have passed since it ceased.

Another clue to the fact that no adjustment was made to hunting in the early years is that the sealers and their women managed to wipe out the wallabies on Kangaroo Island here, and to wipe them out on Long Island down here and Cape Barren. They wiped them out on Dog, they wiped them out on Preservation, they wiped them out also on Vansittart. They also wiped out the Brush Kangaroo on Vansittart and they wiped them out on Badger and they even wiped them out on Clarke Island, which is 22 000 acres - which is no small achievement. Also, at the same time, the wombats or badgers disappeared from Clarke Island and even from Cape Barren.

Hunting was so intense on Cape Barren that George Augustus Robinson and a party of Aborigines, and they had some hunting dogs as well, managed to walk right across from here, across the inner side to the start of the falls at Vansittart in March 1831 and in all that time they saw not even one kangaroo. They found a few wallabies by one of the lagoons and the dogs killed one during the night.

All this will come down to saying that there was no chance then for any sort of adjustment to the management of animals on behalf of the sealers' women. By the way, we don't know when they stopped hunting. We don't know when their further ... set in and they moved from the field to the home, exclusively to the home.

But later in the 19th century the wallabies were killed off on Badger Island, by the Beetons and their relatives and those on Babel Island lasted until 1912, but there are no later records. There are many birding sheds there. Nothing on any of the recorded hunting - which included snaring - shows that any hunters, white or black, had even the slightest understanding of how to achieve a sustainable yield.

To sum up, there is no knowledge or experience in the Aboriginal community of managing macropods or other Tasmanian animals. Only the Parks and Wildlife Service have such knowledge and expertise. That's why I am intensely dubious at the idea of either handing over either national parks or of Aboriginal management in such areas.

I could make similar remarks for mutton-birding here. The original mutton-birding was of families going along to get mutton-birds for a feed and probably live for some weeks on them. But mutton-birding started here by the 1820s on an absolutely massive scale and it was just a trade in feathers. It was on such a large trade that there were even feathers in the mattresses at a small country inn in the Derwent as early as 1826, 1827, and they were so noticeable that one of the visitors commented about them.

The early mutton-birding was immensely wasteful and millions of birds were killed and their carcasses were discarded after plucking. But the exploitation didn't cease when the sealers' children took over. If anything it worsened because by the 1860s eggs were being gathered on a large scale and young chicks were being fattered, boiled down for their fat, and all the chicks salted for sale. Gross over-exploitation continued when the industry was restricted, despite the complaints of birders, to the salting of all the chicks. Chappell Island had 24 sheds working the season of 1899, but only eight were in use by 1938. Doctor Ian Norman who has shown how the rookery on Big Green Island was largely wiped out by excessive birding. And the quotation from the end of his paper is as follows: 'Early birders, knowing little of the ecology of the species and nothing of its delayed maturity and low adult mortality, would have been unaware their practices could lead to the destruction of the resource itself'. Chappell Island went the same way as Green Island and it was obvious that no birders, white or black, had the slightest clue as what constituted a sustainable yield.

Since the Aboriginal dispersal from the Furneaux group started birding has shrunk from about 60 sheds in about 1938 to only four sheds working in 1996 - and there may not be any this season. So the Aboriginal population has largely given up commercial mutton-birding and even the eating of mutton-birds. That being so, I find it very difficult to understand from this land rights, this judgement on the land rights act of 1995. A quotation here from Mr Groom in the *Hansard*, page 4597, 24 October 1995, when he mentioned: 'The mutton-birding season is an important social occasion for the people providing the opportunity for family and kin to get together'. Well, that might have been so in the 1950s when there were about 20 sheds on Babel, four sheds on Little Green, sheds on Little Dog and a

few on Chappell. I don't mention the sheds on Dog because all the sheds on Dog at that stage were being run by white people. But by the time Mr Groom spoke there were just four sheds going. And I don't know who told him that information but he was misinformed. If it formed the basis for the granting of the three mutton-bird islands and I think he was simply being misinformed.

As a Doctor Gillham, who was here in the late 1950s - and her reports are in the Division of Wildlife Research at the CSIRO in Canberra - also noted the decline in mutton-bird catches on Little Dog and Little Green. The point of going into all these figures is that, I would iterate again, there is no evidence whatsoever that anyone, white or black, had at that time the slightest indication of what constituted a sustainable yield. It's only since the Parks and Wildlife Service started to do proper surveys and compare the percentage of birds taken with the number of chicks hatched that this has got into any sort of workable basis. And again, it calls into strong question that quotation I gave from the 'Aboriginal Management and Self-Regulation of Taking Fish and Wildlife' about the internal self-regulatory restraints of Aboriginal cultural practices determining proper management. I do not think that they exist in this matter.

Also I noticed the briefing papers has a section in it which says that a shallow area between Little Dog and Tin Kettle is a traditional Aboriginal fishing area. I found that very curious because all the early people, George Augustus Robinson for example, made it very plain in his diaries, put into friendly mission, that the Aborigines with him didn't eat scale fish. Now Betty Hyde, in quite a substantial paper *In Oceania* in 1967 also has two or three pages of records of Aboriginal diets and scale fish are simply not mentioned in there. And *Weep in Silence*, which deals with all the journals that Robinson kept up here at Settlement Point, scale fish don't even come into the index for that as food for Aborigines. Now to call that a traditional fishing area, well, there are various things about that. First of all, I think it's a misuse of the word 'traditional', because I take a traditional language as one that was in use by 1800. Now, traditional fishing. As there was no scale fishing, it couldn't possibly be traditional. There's that point for a start.

Secondly, Lady Barren wasn't really settled till after 1911 and has always been a mixed area with Aborigines in a minority. Now to talk of any area around Lady Barren as if it were exclusively used by one group or the other is quite fallacious. And I don't know how it got into the briefing papers but I think it's fallacious. I think it's an imposition to say that.

The further point is it has got into the briefing papers without any local consultation because I can imagine that the people of Lady Barren, who probably still don't know about that, would be a little upset to find this going in as a traditional Aboriginal fishing area. Now when it comes to fishing, obviously it seems to me that, with scale fishing being, if Aborigines have fairly recently taken to throwing a line over the side of the boat - there are no 19th century records of fishing, by the way.

**CHAIR** - If I might, Mr Whinray, so you don't waste the precious five minutes you have left. Traditional fishing rights etc are not something that is included in this particular process. I acknowledge you have spent considerable time testing the basis for transfers and perhaps so we that ensure that you have your main points, what you wish to say, I would just acknowledge that you only have about five minutes left. Therefore, you should make the best use of it.

**Mr WHINRAY** - When it comes to management, again Betty Hyde mentions in this paper that according to Rhys-Jones and excavation on the west coast, the Aborigines there wiped out the population of elephant seals and it's plain that all the early sealing in Tasmania was done mainly on Bass Strait and on Seal Rocks, well away from the coast. This also, to my mind, goes to the matter of this sort of self-regulation or the lack of it. I don't think that there is any expertise in management within the community and this should again come back to the Parks and Wildlife Service.

To get onto the briefing papers briefly. No sources whatsoever are given for the historical details and so it's impossible for the average member of the public to check them for accuracy or completeness. As far as can be told, all the details come from early manuscript or later published sources, but it seems first of all unlikely that the average member of the Aboriginal community knows any of the details or that they are part of his general knowledge or background.

So the briefing papers need to be revised in a major manner to actually give some sources and allow people to actually check them. The details they give for Aboriginal occupation are of a very early area and are of something like anything like a tenth or even a twentieth of local history. Now the briefing papers are particularly poor in that they completely ignore white history. Goose Island is on there, but not even I, for my thousands and thousands of pages of research, know of any Aboriginal who ever lived there. But from beginning to end of the island there are traces of the lighthouse period, both the manned lighthouse period and there's a cemetery there with a number of graves including the two assistants who were drowned in 1922. If you look at the briefing papers, absolutely none of those things is mentioned.

And if you go through the briefing papers it's similar. The historical period dealt with is tiny. It is a tiny proportion of local and it ignores the bulk of the usage of all those places: of Clarke Island, of Goose Island, and even Little Dog and Vansittart as well. As far as Cape Barren is concerned this area here goes up for a white grazier and a sealer called Harley was in occupation there by 1861, and probably earlier. And that area has been in white hands ever since. Someone called Stafford was here at Apple Orchard Point by 1861 and that's been in white hands ever since. This area here was taken up, I think, by the first policeman and is still in the hands of the family of a later policeman, as I understand it. The Barretts have had leases here from about 1880 and that's still in white hands. This ground was taken up by 1896 by the disgraced school teacher and is still in white hands. None of those areas have ever been in Aboriginal hands and Aboriginal interest has been concentrated in the far western part. If there are to be any grants at all they should be confined to that far western part. The papers don't make up any case for the granting of the rest of the area.

By the way, when they mention the artefacts and sites, they neglect to say that according to the reports on which those records are derived all the artefacts are simply loose artefacts on the ground. They are not in a sort of stratigraphy that would allow anything to be told about them. And also the report by Sims makes it perfectly plain that none of them is under any sort of danger or threat. There are thousands of similar sorts of sites around Tasmania. They are all protected by law. If you are going to say that every single site has to be in Aboriginal hands it would be hard to stop.

Now I'd say some of my comments are ... to say that the proposed transfers are unacceptable because they are disproportionate to the small size of the local Aboriginal population. They concentrate on an area of brief Aboriginal occupation where land grants have already been made on a larger scale than any where else in the State. They offer nothing to the bulk of the Aboriginal population which, by the way, has long been urbanised. If there are 7 000 Aboriginals then there would be 6 500 at least that have been urbanised, some of them for half a century and some people left here as early as 1899. And they would be maybe for any native title claims to parts of the Tasmanian mainland that have been tested in court. To my mind, you have native title land claims first on the Tasmanian mainland from areas, from which the present population is derived and then, if they fail, that is the time to be generous and to make grants. So they'd have moral claim, but I think they should test legal claims first and then be generous, according to a moral claim after that. This is putting things back to front.

That's roughly what I wanted to say. There was one other very small thing and that's about land management. When it comes to Cape Barren, Cape Barren is about the only place in Tasmania that's been in the hands of, or been under the control of, or Aborigines have had sort of free rein on and the place has been absolutely wrecked by firing. This is a typical photo of Mount Monroe and the place has been absolutely gutted and so has most of the island. I did something in the *Tasmanian Naturalist* in 1997 saying that I thought the burning on the island was the sole Tasmanian Aboriginal land practice to survive in the State, but I'd modify that now to say it's burning that's become a habit. It's done at any time of year and for no purpose whatsoever. The last fire started on the north coast and went over the central part of the island, burning Mount Monroe again. I can't see that the island would gain by being in Aboriginal hands as far as management practices are concerned.

**CHAIR** - Thank you, Mr Whinray. You made comment about a fire, Mr Whinray. Was that in recent times?

**Mr WHINRAY** - Yes, that was a fire of about four years ago. It started roughly here and it burned right over Mount Monroe and apparently Big Head and Double Peak.

**CHAIR** - You seem to link it to the Aboriginal community. Was that tested and found proven?

**Mr WHINRAY** - In all the time I've spent there, when I asked Debono Brown about a particular fire which nearly burnt out the people at - usually there were only Aborigines on the island when the fires took place - I think that is the way to put it.

**CHAIR** - Thank you. Committee, do you have any other questions.?

**Mrs SILVIA SMITH** - It seems to me that your major concerns in this are that there's not been wide enough consultation. And that you're reluctant to agree that there should be any more parcels of land handed over for any purpose. Is the way I'm seeing it right?

**Mr WHINRAY** - Until native title claims have been tested - and also I would go back to my opening statement of saying there are simply the people who survive now are descended from the original owners of just the far north-eastern part of the State. I think really to suggest their rights elsewhere is really an imposition on the public. I think that the Aboriginal Land Act should be severely curtailed or rewritten to take into account the origins of the people.

Although I didn't mention it, a friend and I do own some land on Cape Barren and we were supposedly to be consulted by the Government. No-one has contacted us. It seems to me that at least some of the land would lose part of its value if it ends up being surrounded by Aboriginal land. One of the attractions to a lot of people on Cape Barren is that - lots of parties walk around it - it is a large area, a wilderness area of crown land. And that was partly why we bought these blocks here and I think some people bought the block here and so on. But that was its attraction and I can't see there is any way in which the land would be devalued just in terms of usefulness apart from anything else. And that doesn't seem to be taken into account at all.

**Mrs SILVIA SMITH** - So you're saying that at no time did anyone, for example from that working party, nobody spoke to you as a land holder?

**Mr WHINRAY** - No-one has ever come to us. The land is jointly owned with my former de facto wife. But no-one. I do all the legal side. No-one has consulted me or written to me or done anything whatsoever. None of us had any chance or opportunity to comment on this briefing paper. In fact, I gather from the councillors, that when the people came along to present the briefing paper to the council they sort of walked over their objections and said more or less, 'Well, that's what the Government's going to do'. So it was not consultation; it was more or less dictation. That's the impression I formed. I wasn't present.

**CHAIR** - Well, thank you very much, Mr Whinray. We do appreciate the amount of research you have done and we thank you for your time this afternoon.

**Mr WHINRAY** - Thank you. It might have been slightly easier but I am a very slow typist and time goes remarkably quickly.

**THE WITNESS WITHDREW.**