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**PARLIAMENT OF TASMANIA**


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**PARLIAMENTARY STANDING COMMITTEE OF PUBLIC ACCOUNTS**

# **Administration of the Crown Lands (Shack Sites) Act 1997**

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*Laid upon the Table of both Houses of Parliament*

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The Committee was appointed under the provisions of section 2 of the Public Accounts Committee Act 1970 (No 54)

**MEMBERS OF THE COMMITTEE**

<b>LEGISLATIVE COUNCIL</b>	<b>HOUSE OF ASSEMBLY</b>
Hon I N Dean	Mrs H R Butler
Hon R Forrest (from 1/7/08)	Mr S Kons (from 18/6/08)
Hon S L Smith (to 20/5/08)	Mr J P Rockliff (to 25/9/08)
Hon J S Wilkinson	Mr G L Sturges (to 20/5/08)
	Mr R Hidding (from 14/10/08)

## **FOREWORD**

This Inquiry commenced early in 2007 and has taken nearly eighteen months to report to the Parliament. The Inquiry process was interrupted when the Committee received a reference from the Legislative Council in December 2007. It was necessary to investigate and report on that reference prior to resuming the Inquiry into the Administration of the Crown Lands (Shack Sites) Act 1997. A further delay impeding the Committee's work was the time it took for some witnesses to research, compile and forward vital information requested by the Committee.

A great deal of the substantial material required by the Committee spanned a period of nearly 10 years and the sourcing of the information was compromised by changes to management structures, local government representation and staff, government administration and the project team given responsibility to implement the legislation. In the report where numbers of shacks, determinations and costs are quoted it will be evident that the numbers quoted are not consistent. Despite efforts to confirm accurate and authoritative data the Committee were unable, from the evidence to establish the same numbers throughout the report. The variations are due to modifications and changes which were implemented during the project, the time at which the relevant data was extracted and the fact that there are still some transactions to be completed. Due to the constant personnel changes in the Shack Sites Project Team, vital corporate knowledge and time was lost and the time it took for the project to progress was repeatedly extended.

The project has still not been finalised. It is clear that the process to convert Crown Land leases to freehold title was beset by problems from the outset. The fact that the controversial legislation was introduced and passed by one government and then had to be implemented by another government administration created difficulties. Not all shack owners experienced delays and problems with the process but many did and the outcomes for them have been most unsatisfactory.

This Committee was not able to address all the issues and problems which were raised in the submissions and evidence, including environmental damage, coastal erosion and public access. The Committee's recommendations focus on the financial disadvantage incurred by some shack owners and measures which could go some way to rectify that disadvantage.

**Jim Wilkinson MLC**  
**CHAIRMAN**

**Parliament House, Hobart**  
**18 November 2008**

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## RECOMMENDATIONS

The Committee recommends that—

1. The Government establish an independent appeal process where aggrieved shack owners can seek ex-gratia compensation/redress for delayed valuation increases, unsatisfactory or incomplete infrastructure and, or, for other costs incurred by a sale which was not completed until after 1 January 2003 with the total sum within a pool accessible by valid claimants to be determined by the Government.

2. Any such ex-gratia payment should only be available to the leaseholders of shack sites who were the subsequent purchasers or are to be purchasers of the freehold title.

3. As a benchmark for delayed sales and any increase in valuations, the Valuer-General be instructed to provide a land valuation of all those shack sites which had not been sold by 1 January 2003 and which become the subject of a claim. This valuation is to be calculated on unimproved land valuation as at 1 January 2003.

## **1. THE PUBLIC ACCOUNTS COMMITTEE**

The Public Accounts Committee Act 1970<sup>1</sup> provides for the establishment of a joint committee, comprising three members from the Legislative Council and three from the House of Assembly.

The relevant excerpt from the legislation proscribes the functions of Committee as follows—

- (1) The Committee must inquire into, consider and report to the Parliament on any matter referred to the Committee by either House relating to—
  - (a) the management, administration or use of public sector finances; or
  - (b) the accounts of any public authority or other organisation controlled by the State or in which the State has an interest.
- (2) The Committee may inquire into, consider and report to the Parliament on—
  - (a) any matter arising in connection with public sector finances that the Committee considers appropriate; and
  - (b) any matter referred to the Committee by the Auditor-General.

## **2. THE REASONS FOR THE PUBLIC ACCOUNTS COMMITTEE ESTABLISHING THE INQUIRY AND THE TERMS OF REFERENCE**

On 14 November 2006 the Public Accounts Committee received correspondence from Hon Sue Smith expressing her concerns about the administration of the Crown Lands (Shack Sites) Act. Specifically Mrs Smith requested that an Inquiry be established to investigate the costs of the project, the time taken to ensure the process of determinations for shack sites and the projected time and cost to complete the process. The Committee considered the correspondence and resolved to conduct an inquiry with the following Terms of Reference—

Inquiry into the Administration of the Crown Lands (Shack Sites) Act  
1997

The Standing Committee of Public Accounts has resolved of its own motion to examine administrative costs in relation to the Crown Lands (Shack Sites) Act 1997 and in particular report upon:

- The legislative requirements;

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<sup>1</sup> *The Public Accounts Committee Act 1970*, No.54 of 1970 and subsequent amendments in the *Public Accounts Committee Amendment Act No 89 of 1997*.

- The administration costs for each area in each financial year of the program;
- The infrastructure costs for roads, sewerage, power and water for each area in each financial year;
- The methodology used to determine administrative costs for the sale of properties and rental arrangements;
- Any variations to the methodology used and the reasons; and
- Any other relevant issues.

### 3. THE CROWN LANDS (SHACK SITES) LEGISLATION

Late in 1997, just prior to the final sitting days of Parliament the Crown Lands (Shack Sites) Bill 1997 was introduced into the Legislative Council with the imperative that it was passed before the end of the year.

The stated intention of the enabling legislation was to—

*“.....set up a framework to allow and to facilitate effective environmental management of existing shacks and the implementation of environmental tenure solutions worked out with shack owners, local councils, the aboriginal community and DELM....*

*... the cost to the shack owner will be the cost of the environmental infrastructure for effluent treatment plus the unimproved land value of the shack site.....*

*..... Shacks assessed and categorised as being environmentally unsustainable or preventing public access on the performance criteria will be relocated.... provides for a shack sites commissioner and a simple and independent appeal mechanism.....*

*..... leases would apply if shacks cannot meet criteria.....*

*..... the benefits to the shack owner will be the long sought after security of tenure by way of freehold title.....”<sup>2</sup>*

It was stated that all shack sites would be assessed and leaseholders notified within 12 months. In both the Legislative Council and the House of Assembly the legislation was debated under the suspension of Standing Orders. This meant that the usual time allowed for the consideration of legislation was suspended and less time was available for scrutiny of the legislation. At the time many Members expressed concern about the haste

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<sup>2</sup> Tasmania. House of Assembly Hansard 11 December 1997 p66

with which the legislation was passed. There was also considerable opposition from the Green Members of Parliament and the Aboriginal community. Doubts were expressed about the provisions in the legislation that the project would be implemented outside of the normal planning rules and not in accordance with the guidelines of the State Coastal Policy.

Generally however, apart from the previously mentioned opposition there was acceptance of the proposed legislation and the recognition that at the end of the day not everyone would be happy.

The Crown Lands (Shack Sites) Act 1997 received Royal Assent on 14 January 1998. There were two later amendments to the principal act. In 1998 there was a general election and a change of Government. In October 1999 the new Minister for Primary Industries, Water and Environment introduced an amendment to the principal act. The Minister described a number of unexpected issues with the legislation particularly with the consultation process as specified under S6. He stated that it was a complex and time consuming process. The Amendment was to allow for an extension of time—

*“to ensure that all stakeholders have adequate input without prejudicing the outcomes sought by the act.....”*<sup>3</sup>

The extension of time was for a further three years. Another provision in the Amendment provided that all costs associated with the conversion process are met by the shack owners and not the taxpayer. The Amendment was generally supported but with the Tasmanian Greens again voicing their concerns.

In April 2004 a further Amendment to the Act was debated in Parliament, the purpose of which was to allow the Government greater flexibility in the provision of assistance to shack licensees facing financial hardship. There had been some doubts about legal issues in providing leases to some shack owners. Once again the Minister stated that the process was nearing completion.

#### **4. HISTORY OF SHACKS ON CROWN LANDS**

The first shacks were constructed on Crown Land around 1944 and leased to the occupier. They had variously been described as having a unique character of construction and were part of the rich history and integral part of a way of life for many Tasmanians. Shacks were located in pockets all around the state but principally at relatively isolated beach areas and fishing spots in the Central Highlands. The shacks were built without regard to any planning or any environmental concerns. Land areas were not clearly defined or of standard size; water and effluent treatment was

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<sup>3</sup> Tasmania. House of Assembly Hansard 19 October 1999 p89

haphazard and of growing environmental concern; and road and access infrastructure was poor or ill defined. Owners had no security of tenure and leased on a year to year basis.

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

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

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

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

## **5. PROCEEDINGS OF THE COMMITTEE**

The Chairman of the Committee issued a press release on 12 January 2007 outlining the intention of the Committee to conduct the Inquiry. Advertisements calling for submissions were placed in the three regional newspapers on 17 February 2007 with a closing date of 31 March 2007.

The Committee called for evidence from selected local government councils, two engineering consultancies and the Minister for Primary Industries and Water who was accompanied by the officers of the department responsible for administering the shack sites programme. The

Committee also invited several shack owners to attend supporting their submissions and providing additional evidence.

All the submissions received, the documents tendered as evidence and the witnesses who gave evidence to the Committee are listed in the Appendices to this report.

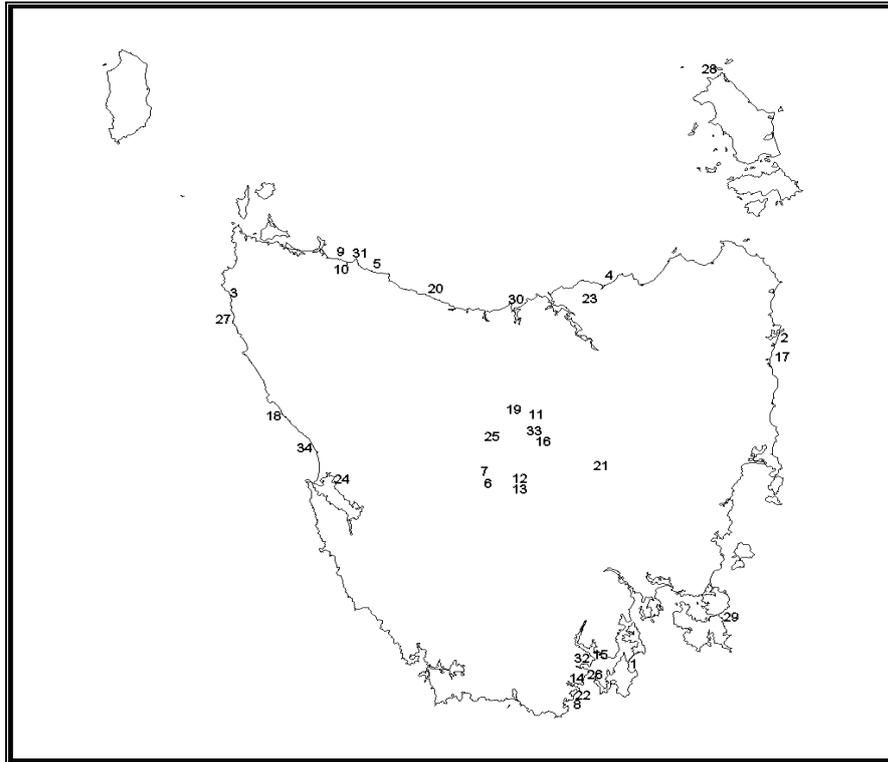
Apart from the shack owners, there were very few, if any of the witnesses who were able to demonstrate an understanding or knowledge of the project from the commencement in 1998 so a considerable amount of the Committee's evidence was obtained from file records, from colleagues and hearsay. Additionally there were several changes to the Ministerial responsibility of the programme.

## **6. THE SUBMISSIONS**

The Committee received a total of 23 submissions from shack owners in six of the sites - Surveyors Bay (10); Ansons Bay (6); Cowrie Point (2); Arthur River (1); Heybridge (2); and Great Lake (2).

Some submissions were from a representative of a small shack community and others represented a family group. The Shack Sites project involved 39 sites and over 1300 individual shack owners throughout Tasmania so it may be observed that submissions came from a relatively small number of shack owners in a few specific locations. The submissions highlighted a number of issues and it was clear that while there were some issues which were confined to a particular local area most submissions detailed multiple problems and concerns with the overall management of the Shack Sites project. .

The following map shows the location of the shack site communities included in the project.



**Tasmania - Location of Shack Sites**

<b>Location</b>	<b>No.</b>	<b>Location</b>	<b>No.</b>
Adventure Bay	1	Granville Harbour	18
Ansons Bay	2	Great Lake	19
Arthur River	3	Heybridge	20
Bellingham	4	Interlaken	21
Boat Harbour	5	Kingfish Beach	22
Bradys Lake	6	Lefroy	23
Bronte Lagoon	7	Lettes Bay	24
Cockle Creek	8	Little Pine Lagoon	25
Cowie Point	9	Little Roaring Beach	26
Crayfish Creek	10	Nelson Bay	27
Cramps Bay	11	Palana	28
Dee North	12	Pirates Bay/Tasman	29
Dee South	13	Port Sorell	30
Dover	14	Rocky Cape	31
Eggs and Bacon Bay	15	Surveyors Bay	32
Flintstone Drive	16	Tods Corner	33
Gardens Binalong	17	Trial Harbour	34

It is impractical to detail all of the issues contained in each submission so the following short summary highlights just some of the concerns featured in the submissions.

### **Surveyors Bay**

- R Bennett described a process which took over eight years after being given information that it would be completed very quickly; a requirement for excessive and visually polluting fire tanks; sewerage problems both with the situation and operation; increases in land values; increased cost of infrastructure; and public servants having to work outside their area of expertise, competence and ability.
- P and J Verdouw cited the time delays; road infrastructure and sewerage treatment costs.
- K and C Thompson described the time delays; the problems with infrastructure solutions; and excessive communication problems with project officers.
- R and J Beck received a price determination which increased from \$26,345.00 (10.9.2002) to \$145,000 (August 2005) and still have no access and have unsatisfactory road and sewerage infrastructure.
- D and D Ashlin detailed issues with the design and installation of infrastructure; the constant staff changes; time delays and valuations.
- L Bender cited severe financial disadvantage due to time delays and design alterations; changes in staff; problems with communication; the refusal by project officers to listen to input from shack owners; and money handed over but with road infrastructure still not finished.
- J Scott (same property as L Bender) described the valuation process “*where the Discount Sale Agreement Price was \$165,000 a staggering 77% higher than the independent valuation in 2006 and a staggering 119% higher than the assessed market value reached in 2004 by the Government itself when the actual sales process commenced*”; a project which was under resourced and owners disadvantaged with the government to reap windfall revenue.
- R Dance (through Murdoch Clarke, Barristers and Solicitors) cited valuation and cost increases due to delays; requests for valuation reports denied stating that they were restricted and intended only for a particular purpose.
- S McKibben described time delays; expiry of valuation which changed from \$70,000 to \$145,000; erosion issues; additional infrastructure costs including unsightly fire tanks. (It was noted that the valuation included communal fire tanks (2)

however a later decision has resulted in unsuitable individual tanks.)

- D Palmer provided a particularly detailed submission with significant supporting documentation highlighting the extraordinary delay and expiry of valuations; a comparison with sales of other comparable shack sites showing a clear and significant disparity in the square metre price rate; the disproportionately high cost of infrastructure; the tender process not transparent; constant changes to shack sites personnel; departments not cooperating with each other; poor communication at critical times and over critical issues; time taken to obtain permits and approvals; poor aesthetics of the onerous requirement to install fire tanks on each lot which was far in excess of stated Tasmania Fire Service guidelines; the existence of considerable known restrictive covenants, easements, conditions and obligations, and the real risk of further, unknown covenants, easements, conditions and obligations in favour of the Crown and/or the Huon Valley Council; and the existence of negative environmental factors including erosion which is ongoing and largely unquantifiable.

#### **Ansons Bay**

- N L Freeman as the family representative named valuations and price increases; time delays; infrastructure costs; titles which were issued incorrectly, recalled and then withheld; costs of legal advice, inequitable apportionment of costs to different classes of owners using the same infrastructure; money paid to Government but no title; and unsatisfactory communications and responses to and with public servants.
- G Ponting included similar issues to the Freeman submission.
- E Springer referred back to the intention of the legislation with respect to time for completion; the personal cost of using independent consultants for help; the Government holding money; and delays due to council requirements.
- The Denney family detailed time delays (including an associated court case) and costs; money paid with consequent loss of interest; provision of power.
- D and F Atkins described inequitable costs for power; and infrastructure costs and delays.
- F Wagner's submission included time delays and valuation increases; power costs; suitability of effluent treatment solutions; and council problems.

#### **Cowrie Point**

- G Spinks noted the infrastructure costs; over engineering of infrastructure; design of the sewerage system and alternatives;

valuations; and the desirability of a cut off date; and administrative delays.

- D Sutton as the area representative detailed excessive and inappropriate infrastructure design and costs; impropriety in tender processes; council requirements; communication with and from project team; the quality of information; and called for more common sense.

### **Heybridge**

- K McNeil wrote of price increases and subsequent hardship.
- J Boatwright provided details of financial hardship and substandard road infrastructure.

### **Great Lake**

- I and J McLaren received a determination in 2001 but still had no title in 2007 and were critical of the changing standards which were required; and all the costs.
- The Burrows and Berry families experienced seven years of negotiations; significant road issues particularly with the Central Highlands Council; money paid but with road works not completed and consequent damage to vehicles; property access problems; and serious communication issues including unanswered correspondence and phone calls.

### **Arthur River**

- E Fidler noted planning permission problems after purchase of shack in 2006.

## **7. THE LEGISLATIVE REQUIREMENTS**

The legislation required a detailed and extensive consultative process which could only be completed in a linear time frame. It mandated—

- (1.1) the conversion process and determinations;
- (1.2) the effect of the determinations which comprised—
  - (1.2.1) the design and installation of infrastructure;
  - (1.2.2) the valuations; and
  - (1.2.3) the sale and transfer of the title.

Within each of these steps there were many factors which had to be considered and which influenced, impeded, and generally delayed the project planning. The process has been very drawn out and has required a number of amendments to the legislation to deal with the difficulties that have occurred during the process.

## 7.1 The conversion process and determinations

In order to make each determination the Minister was required to refer to ‘Model Conversion Criteria,’<sup>4</sup> Schedule 1 to the legislation. There were a number of additional factors which also had to be taken into consideration including—

- the State Coastal Policy;
- the objectives of the Land Use Planning and Approvals Act 1993;
- access to and use of coastal foreshore; and
- the appropriate treatment of sewerage and waste water.

The criteria and other considerations had to be assessed against each shack site and then provided for the removal of a shack or shacks if the criteria conditions could not be satisfied.

The conversion period gave a time frame (i.e. the period commencing on the commencement day of the Act and ending on 20 November 2002 or, if a later date is prescribed, at midnight on that date<sup>5</sup>) for the assessment of each shack site. Before the end of the conversion period a process which provided for sale, removal or long term lease of each shack to determine the future status of shacks had to be completed.

The Minister provided the Committee with a Shack Site Project Fact Sheet<sup>6</sup> detailing that, as at 30 April 2007, 1160 shacks had been assessed, with 1019 to be offered for sale, 88 for lease and 53 for removal. When the determinations were finalised by the Secretary of the Department copies had to be given to the shack owner, the surrounding owners, the responsible local council and the Aboriginal community.

The Committee did not receive any submissions from shack owners where there had been a determination resulting in a lease or removal although to April 2007 some 55 shacks were assessed as necessary for removal and 88 for limited lease conditions.

On 13 November 2002 the process of making the determinations of shack sites—

*“ended with the signing of determinations for the final settlement on the Project’s agenda – Boat Harbour Beach”<sup>7</sup>*

The same website reference noted that 1335 shacks had been determined, however, the Minister’s Fact Sheet lists total shacks assessed as 1160.

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<sup>4</sup> Crown Lands (Shack Sites) Act 1997 Appendix A Schedule 2A

<sup>5</sup> Crown Lands (Shack Sites) Act 1997 S 3 (1)

<sup>6</sup> Hon D Llewellyn correspondence dated 30 May 2007 Attachment 2

<sup>7</sup> Shack Sites on Crown Lands ([www.dpiw.tas.gov.au/inter.nsf/WebPages/SSKA-53WB5V?open](http://www.dpiw.tas.gov.au/inter.nsf/WebPages/SSKA-53WB5V?open)) viewed 1 November 2007

All the circumstances in which all the determinations were achieved were not entirely clear to the Committee. The Minister provided the following information—

*“The Shack Sites project contracted SKM and P&S to provide services on a state-wide basis. The firms were contracted to assess the suitability of shack sites for determination.....SKM presented approximately 40 assessment reports between March 2002 and January 2003”.*<sup>8</sup>

The consultants Sinclair Knight Merz were called to give evidence to the Committee and confirmed considerable involvement in the project including—

*“the preparation of guidelines for future shack assessments.....the conduct of environmental assessment of 102 shack sites at Ansons Bay.....some environmental assessments of 356 shack sites at the Great Lake.....a very large project which was environmental assessment across Tasmania of 549 shack sites..... the assessment of the environmental sustainability of shack sites built on Crown lands with a view to conversion to freehold title or leasehold”.*<sup>9</sup>

In an opening statement to the Committee Mr Richard Ebbs, State Manager, Sinclair Knight Merz Pty Ltd (SKM) one of the consultant engineering firms employed by the government during the project conceded—

*“It seems to have taken a very long time in terms of the tasks that were being undertaken and for that length of time the budget looks quite low. It does appear to me that it has had a bit of a stop-start nature to it. It does not appear to have been a project that was well defined at the start.”*<sup>10</sup>

The Committee went on to question Mr Ebbs on several aspects of the Sinclair Knight Mertz’s (SKM) work including the manner in which the company was awarded the tender for the work; what the actual brief was; what the guidelines were; whether SKM did the concept designs; whether the concept designs were passed on to other parties and so on. Mr Ebbs was not able to give answers, however at the time undertook to provide the information for the Committee. The transcript of evidence indicates the Committee’s probing about the nature, extent and costs of the various project briefs. SKM later provided a large folder of information including correspondence indicating that the first contact between the Shack Sites Project Team and the consulting firm was not until early 1999, at least 15 months after the legislation was passed in the Tasmanian Parliament. Formal arrangements to engage SKM to prepare assessment guidelines for the Shack Sites Project for the Great Lakes Area and Ansons Bay were

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<sup>8</sup> Hon D Llewellyn correspondence dated 11 October 2007

<sup>9</sup> Mr R Ebbs Transcript of Evidence 12 September 2007 p19

<sup>10</sup> Ibid p19

entered into about the same time. This brief also required SKM to review an earlier report regarding the supply of sewerage infrastructure for the same two areas. By about mid 2000 SKM were contracted to develop the limited area guidelines but this tender was later broadened in recognition that the entire assessment process should be encapsulated in one uniform set of assessment guidelines to promote consistent and sound decision making by the Secretary who had the final say about each shack site determination. SKM asserted that at May 2000 the Department of Primary Industries, Water and Environment (DPIWE) had already issued briefs for consultants to carry out assessments of shacks to determine if they were suitable for freehold title. SKM was confirmed as the chosen tenderer about August 2001.

If, as asserted, some shacks had been assessed before the development, preparation and adoption of appropriate guidelines then it would appear that the management and organisation of the project had not been well planned at the outset. Similarly it would also appear that the tender process was not well planned at the outset and had to be re-defined.

As reported earlier, at the time of the introduction of the Bill into Parliament, it was claimed that all determinations would be completed within twelve months, but the assessments took almost four years to complete. It is evident that the number of steps and consultation processes which were required under the Act to make determinations for more than 1000 sites in over 30 different settlements was a major undertaking. To specify such a limited time frame at the outset appears to show a lack of understanding, forward planning and strategic thinking.

The Minister in the incoming government in mid 1998 at the initial stages of the process made a point of insisting that it was his intention that he—

*“.....wanted to achieve an outcome that would convert as many shacks as possible that were being leased from the Crown to freehold”.*<sup>11</sup>

and—

*“If I had not set in place a policy that we wanted to try to convert as many of these shacks to private ownership as we possibly could and bent over backwards to do that, it would have been much easier for the department to say ‘look here you 30 people you can’t convert your shacks from lease to ownership because there are too many imponderables and therefore you’re going to have to remove your shack’. If we had done that all the way around the place we would have ended up with maybe 800 shacks out of the 1400, or 600 out of 1400 and the process would have been finished but it would have been a very painful process.”*<sup>12</sup>

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<sup>11</sup> Hon D Llewellyn Transcript of Evidence 4 July 2007 p1

<sup>12</sup> Ibid p12-13

This policy intent may well have contributed to many of the subsequent delays. During Debate on the Bill to amend the Crown Lands (Shack Sites) Act 1997 on 19 June 2002, Mrs Napier who was a member of the previous Government when the Crown Lands (Shack Sites) Act was planned, introduced and passed, spoke about the original legislation saying–

*“Yes it was about removing shacks. In fact there was a list of a number of areas in which we determined there would be no shacks.”*<sup>13</sup>

The Committee did not receive any evidence about such a list, but there is evidence to suggest that the process of trying to allow as many shack owners as possible to gain freehold title was a major contributing factor to a number of problems and delays.

The final report from SKM on the Ansons Bay Shack Sites Assessment, dated November 2000<sup>14</sup>, clearly shows that there were many shacks that were not recommended for conversion. There were a number of other properties where restrictive covenants were recommended, some where the adherence of one property to another was recommended and further recommendations specified strata titles, new public walkways and access points to properties and off site sewerage solutions.

The table below from the SKM Report identifies those sites not recommended for conversion.

Principal Assessment Criteria or Reason	Shack Sites	Total Number of Shack Sites
Reasonable public access to and along the foreshore	97, 73, 72, 71, 70, 69, 68, 67, 66, 65	10
Legal private access	112, 111, 95, 89, 81, 16, 15A, 14, 13, 12, 10, 9	12
Erosion and Foreshore Stabilisation	69	1
Aboriginal Heritage and access	92, 93	2
Ecological impacts and public access along the foreshore	51, 50, 48	3
Voluntary relocation	94	1
<b>Total Shacks Unable to Meet Assessment Criteria</b>		<b>29</b>

<sup>13</sup> Mrs S Napier House of Assembly Hansard 19 June 2002 p41

<sup>14</sup> Sinclair Knight Merz, Ansons Bay Shack Sites Assessment. Final Report, Volume 1 Main Report, p56

The Committee did not receive evidence showing which if any of these sites were allowed to remain. When the Committee inquired about the final determinations in the table above, the Department was unable to locate or identify the table in the agency's records.<sup>15</sup>

The conversion criteria were very difficult to satisfy – in retrospect there may have been many more shacks that should have been removed particularly those in environmentally sensitive areas adjacent to coastal foreshore and on land unsuitable for subdivision and presenting serious drainage issues. Many of the shacks that were given a favourable determination i.e. approved for conversion to freehold title would not now appear to satisfy all the Model Conversion Criteria particularly those relating to environmental concerns.

Certainly from the local government perspective Mr Walker, Management Development Services, Break O'Day Council noted–

*“our big concern is the conversion process to freehold title....we had shacks ...that the Government's own consultants recommended be removed because they are in active sand dunes but political will resulted in them remaining”.*<sup>16</sup>

The Break O'Day Council were concerned about future council liability and planning issues. Mr Walker said that there were also a number of shacks which were recommended for removal by consultants at the assessment stage due to proximity to beach and for access purposes. Initially the Council formally opposed many of the determinations for freehold title but when the council were offered additional funding and incentives (by the Government) they (the Council) were persuaded to accept the decision of the Shack Sites Project Team about the determinations.

Subsequent problems associated with the project particularly but not limited to that municipality have resulted in access issues, protracted planning appeals, legal costs, substandard infrastructure, serious conflict between residents in the area and a high level of frustration for council employees.

## **7.2 Effect of determinations**

Once the determinations had been completed for each shack area or settlement the next part of the process under the legislation was–

- (a) the design and installation of the necessary infrastructure;
- (b) the valuation of the property to be transferred to freehold; and
- (c) finally the sale and release of titles.

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<sup>15</sup> Hon D Llewellyn, Minister for Primary Industries and Water, Correspondence dated 21 October 2008

<sup>16</sup> Mr T Walker Transcript of Evidence 16 August 2007 p19

### **7.2.1 Design and Installation of Infrastructure**

The design and installation plan for the required infrastructure such as roads, fire protection and sewerage was necessary before the next step, the valuation of the property and subsequent offer of sale to shack owners, could take place. All shacks were required to install complying waste water systems approved by the local council and there were some settlements where roads needed upgrading or in some cases re-routing.

### **7.2.2 Valuations**

When the infrastructure design, installation details and projected costs for all the residents in a shack community had been settled, the next part of the process could commence. The Shack Sites Project Team then notified the Valuer-General and requested valuations for each property.

### **7.2.3 The sale and release of titles**

The final process in conversion of shack sites from leases to freehold titles was the actual sale and provision of titles to the owners. Even this process was not without problems. There were instances of titles being recalled and non issue of title following payment for the property.

## **Findings - THE LEGISLATIVE REQUIREMENTS**

The Committee finds that—

- **The Crown Lands (Shack Sites) Act was passed in December 1997 but due to an election and a change of Government there had been little or no action in relation to the project in the first 12 months.**
- **The determination period originally specified 12 months but it took 4 years to complete.**
- **There was a significant change in the policy direction with the incoming Minister stating he wanted as many shack owners as possible to be able to purchase their shack site.**
- **The engagement of appropriate consultants was a delayed and protracted process and was not clearly defined at the outset.**
- **It is likely that the scale of the project, the diverse geographical nature of the small communities and the complexities of the Model Conversion Criteria were underestimated by the incoming administration.**

## **8. THE ADMINISTRATION COSTS FOR EACH AREA IN EACH FINANCIAL YEAR OF THE PROGRAM**

The cost of administering the Crown Lands (Shack Sites) Act were to be fully met from the funds collected and held in the Crown Lands Administration Fund with no additional public funding. When the Bill

was debated in 1997 there was no mention of the matters relating to these costs in the Second Reading speech. However the speech notes which were distributed with the Bill did state that that the project would be completed without requiring any public funds.

The Crown Lands Administration Fund was nominated for receiving all monies from the project and for the discharge of expenses, costs, fees, charges and obligations with respect to:-

- “(a) the activities of the property Sales group; and*
- (b) the provision of services and preparation of Crown Land relating to the requirements of subdivision under the Local Government (Building and Miscellaneous Provisions) Act 1993; and*
- (c) sales leases and Licences relating to shack sites on Crown Land; and*
- (ca) the assessment of public reserves; and*
- (d) such other expenditure as the Treasurer may determine.”*

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Any other costs incurred for administration of the project were to be paid out of money appropriated by Parliament for the purpose.

The Minister provided details of the administrative costs by year, and by shack site settlement, in a table which was attached to his correspondence of 30 May 2007 and is available in the papers tabled with this report. He noted that while some administrative costs were attributed to individual shack settlements, the majority of administrative costs were recorded under the Shack Site project generally. During the course of the project the sale price for shack sites as determined under the Act was not increased to take into account any changes or increases to administrative costs.

Mr Stephen Godfrey during discussion about the administration made the following comments—

*“All costs and all the revenue go into the Crown Land Administration Fund, which sits within the Minister’s portfolio but is actually administered by Treasury. So this project has been completely funded out of that money. It has not been an impost on the Consolidated Fund.”*<sup>18</sup>

The table<sup>19</sup> provided by the Minister clearly identifies very large differences in the administrative costs between various locations with the lowest cost per shack site at \$172 (Dee South) and the highest cost per shack site \$7981 (Nelson Bay). The Parliamentary Research Service provided the Committee with a summary (see Table I) which shows the administration costs for each area as well as the revenue.

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<sup>17</sup> Crown Lands Act 1976 Section 48B

<sup>18</sup> Mr S Godfrey Transcript of Evidence 4 July 2007 p3

<sup>19</sup> Hon D Llewellyn Correspondence 30 May 2007

At the time the table provided by the Department of Primary Industries and Water was compiled (April 2007), the Shack Sites project had total administrative costs of \$7,522,038 which equates to an average of \$6485 per shack site. The variations were attributed to a number of reasons including the adoption of three different financial systems; consultancies for a whole area in relation to Aboriginal and heritage issues; and large area contracts. These costs were not necessarily disaggregated to reflect the cost to individual shack sites. Both the Minister and witnesses from the department were emphatic that, however administration costs were allocated and whatever they amounted to, none of those costs were passed on to owners.

Ms Sue Chapple—

*“Theoretically it is possible to attempt to disaggregate the ones (costs) that have been put in the state-wide basket but it is probably a fairly big exercise. Again, none of us were here ten years ago or five years ago doing this so this is probably the best that we are able to put the figures to.”*<sup>20</sup>

#### CROWN LANDS – SHACK SITES PROJECT

TABLE I - SHOWING REVENUE AND ADMINISTRATIVE COSTS

Shack Site Area		Administrative Costs	Administrative Costs per shack site	Revenue - Settlement	Revenue per shack site
Location	No.				
Adventure Bay	7	2,145	306	627,362	89,623
Ansons Bay	80	316,891	3,961	3,090,635	38,633
Arthur River	19	22,842	1,202	209,846	11,045
Bellingham	7	34,234	4,891	652,610	93,230
Boat Harbour	34	107,547	3,163	3,125,766	91,934
Bradys Lake	119	54,809	461	1,401,334	11,776
Bronte Lagoon	21	4,947	236	419,805	19,991
Cockle Creek	11	35,470	3,225	251,587	22,872
Cowie Point	15	12,482	832	1,403,697	93,580
Crayfish Creek	8	17,203	2,150	365,045	45,631
Cramps Bay	44	46,361	1,054	688,658	15,651
Dee North	11	2,024	184	94,764	8,615
Dee South	8	1,377	172	181,587	22,698

<sup>20</sup> Ms S Chapple Transcript of Evidence 4 July 2007 p5

Dover	10	7,484	748	266,679	26,668
Eggs and Bacon Bay	9	13,319	1,480	0*	0*
Flintstone Drive	116	55,982	483	2,152,246	18,554
Gardens Binalong	6	37,381	6,230	134,750	22,458
Granville Harbour	8	17,236	2,155	435,271	54,409
Great Lake	379	142,687	376	6,608,121	17,436
Heybridge	42	26,747	637	1,577,768	37,566
Interlaken	12	9,609	801	161,753	13,479
Kingfish Beach	4	4,542	1,134	4,230	1,058
Lefroy	2	1,415	708	57,205	28,603
Lettes Bay	29	12,886	444	824,152	28,419
Little Pine Lagoon	9	28,210	3,134	500,143	55,571
Little Roaring Beach	11	42,344	3,849	502,329	45,666
Nelson Bay	14	111,735	7,981	913,172	65,227
Palana	1	4,319	4,319	70,970	70,970
Pirates Bay/Tasman	2	14,248	7,124	203,334	101,667
Port Sorell	3	3,567	1,189	323,034	107,678
Rocky Cape	36	14,740	409	*0	*0
Surveyors Bay	16	27,764	1,735	1,361,940	85,121
Tods Corner	22	10,782	490	217,930	9,906
Trial Harbour	29	40,227	1,387	489,741	16,888
<b>Total</b>	<b>1160</b>	<b>1,285,556</b>	<b>1180</b>		

\*Revenue and Costs not finalised.

\*\*In addition there are Administrative Costs of \$7 522 038 (per site \$6485) which could not be assigned to individual areas.

(Table compiled by Parliamentary Research Service from data provided by the Hon D Llewellyn 30 May 2008))

When asked about the number of staff assigned to the Project Team the Minister said—

*“Prior to 1998 there were two people involved in the scheme. From 1998 to 2001 it was five; 2001 to 2006, ten and 2006-07 back down to five again.”*<sup>21</sup>

The Chair then asked the Minister if it was always considered a high priority project. His response was—

*“.....we had a permanent work force on the program. I suppose I could try to handball it a bit by saying it was not this Government’s scheme initially.....I took responsibility of it in 1998 so we did not set the actual deadline.”*<sup>22</sup>

Mr Rockliff posed the question of whether the allocation of more resources would have expedited the project to which the Minister replied—

*“Yes but it would have probably also cost more.”*<sup>23</sup>

He went on to explain that there had been a number of staff changes during the course of the project but considered there was a limit to the number of people (staff) who could be involved with owners on a one-to-one basis as was necessary and some of the shack owners involved needed to be revisited many times in order to resolve issues and clarify arrangements.

### **Revenue from the Project**

There had been some allegations and criticism from witnesses that the government stood to make a significant profit from the sale of shack sites and that the delays in the whole project added to the revenue gain by the government.

The Minister confirmed the revenue to date as follows—

*“The total settlement cost is \$24.5 million; total settlement revenue that has been raised, \$28.6 million; and there is a net surplus balance of \$4 million (4 July 2007).”*<sup>24</sup>

Mr Godfrey added—

*“..... in all the budget papers going back over previous years there’s always been a revenue that would come to Government. There’s an argument that the larger community ought to get some benefit out of the sale of these properties, not simply pass them across to those shack owners at no benefit to the community. We have been estimating in the budget estimates since I have been involved which is nearly five years ago, that about \$4 million to \$4.5 million worth of profit would be made by the Government. You will see that now, even though there is an increase in the infrastructure costs compared to the sale valuation price, that the*

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<sup>21</sup> Hon D Llewellyn Transcript of Evidence 4 July 2007 p3

<sup>22</sup> Ibid p2

<sup>23</sup> Ibid p1

<sup>24</sup> Ibid p5

*\$4 million to \$4.5 million stayed pretty well constant during that period.”<sup>25</sup>*

The Committee were not provided with an estimated revenue figure at the beginning of the project and it was not featured in the reference material collated at the commencement of the project.

There have also been suggestions that project delays added to the cost of administration, however Mr Godfrey asserted that —

*“I do not believe that the delays can be attributed to the fact that we would have saved on administrative costs by delaying things. As a matter of fact our administrative costs in terms of trying to find solutions to meet council needs and also solutions by which we can get people to do the work meant we spent more time on that project so actually the administrative costs borne by the government increased rather than decreased.”<sup>26</sup>*

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<sup>25</sup> Mr S Godfrey Transcript of Evidence 4 July 2007 p5

<sup>26</sup> Mr S Godfrey Transcript of Evidence 4 July 2007 p3

## **Findings - THE ADMINISTRATION COSTS FOR EACH AREA IN EACH FINANCIAL YEAR OF THE PROGRAM**

**The Committee finds that—**

- **It is a reasonable expectation that Government would derive some profit from what was the sale of large areas of Crown Land including coastal foreshore and other desirable land areas.**
- **There is no evidence to support the assertions that the Government sought to increase the revenue for the purpose of increased financial gain.**
- **The project was not a high priority for Government from 1998.**
- **Ministerial changes and staff movements and the repeated loss of corporate knowledge contributed to the projected timelines being constantly changed and extended.**
- **The administration costs varied considerably between communities.**
- **The administration costs increased as the times for completion were constantly extended.**
- **It is unacceptable with current accounting processes that a breakdown of administration costs could not be attributed more accurately to individual areas. The difference between \$7 522 038 and \$1 285 556 highlights the need for greater accountability and more transparency.**
- **The areas with few problems and with issues which required less complex solutions incurred significantly less administration costs.**
- **The administration of the project may have been more effective and efficient with a different allocation of resources. It was possible that more staff would have achieved better results had a strategy whereby staff were allocated to a specific area for the duration of the project had been adopted.**
- **Additional resources at critical times during the project may have alleviated some of the problems.**

## **9. THE INFRASTRUCTURE COSTS FOR ROADS, SEWERAGE, POWER AND WATER FOR EACH AREA IN EACH FINANCIAL YEAR**

In the Second reading speech the Minister at the time said—

*“In general terms if infrastructure can viably be installed to ensure that all sewage and grey waste effluent from a shack is treated to a standard acceptable to the local council and to the Department of Environment and Land Management and provided that the shack does not prevent public access to any public recreation areas such as beach river lake the shack owner will be offered a special freehold shack title to the site. The cost to the shack owner will be the cost of environmental infrastructure for effluent treatment, plus the unimproved land value of the shack site.”*<sup>27</sup>

After the initial phase of the shack sites project when determinations were completed all shack owners who qualified to be offered freehold titles were given a choice of installing individual complying sewerage and waste water systems or being part of a group arrangement which entailed the agreement of the whole group. It would appear that in the shack communities where the infrastructure solutions were relatively simple to implement, satisfied local council requirements and had the agreement of all the residents, the design and installation of the infrastructure was achieved quickly and efficiently and the sale and transfer to freehold title proceeded without delay or controversy. However, for those owners where there were problems associated with the design and development of appropriate infrastructure solutions – solutions which had to satisfy the owners, the council and the engineers - there were constant delays and plans were subject to many amendments and re-design and repeated applications to local councils for permits and approvals.

Many of the submissions received by the Committee described the problems and the issues associated with infrastructure particularly with sewerage and waste water systems and that this was the source of most of their problems. Infrastructure design and installation was also a problem for the local councils. Despite the fact that the legislation had temporarily removed the usual council planning standards from the project each local council still needed to be satisfied and assured that there would not be any future liability as a result of failure of any systems approved for the shack sites. The two or three settlement areas where there were, and still are, significant environmental problems, account for almost half of the submissions received. In all instances the local council has delayed the final process and demanded guarantees that the design specifications would meet the current requirements as well as future needs.

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<sup>27</sup> Hon P Hodgman House of Assembly Hansard 11 December 1997 p66

Pitt and Sherry who were first contracted in 2003 to do some of the infrastructure design said—

*“our brief was to work with the concept design.....turn that in to a detailed design and obtain the necessary approvals and then engage contractors..... Our brief also declared that we weren’t to change the original design concept that had been the subject of quite a lot of discussion with shack owners and statutory bodies over a lengthy period.”* <sup>28</sup>

Mr David Connolly went on to comment on the difficulties the brief presented. The Committee understands that the brief referred to included guidelines and concept designs prepared by SKM however, as reported earlier, the Committee did not receive copies and could not examine the original briefs. Mr Connolly said the communal systems were the most difficult, took more time and were the most controversial. He spoke of the time it took to get the necessary approvals—

*“It was one of the most complex things I have been involved in, just considering all the factors. With hindsight it is easy to see why it has taken so long, whilst appreciating the shack owner’s perspective and even the Government’s perspective..... Something would be put up to Council; it might take two or three months to work up the solution and perhaps do site investigations and so on and then two or three months might go by before a reply.....then with the next set of questions in that process a year has disappeared.....there was a sense of urgency conveyed to us.”* <sup>29</sup>

In moving from the concept designs prepared by another firm to detailed design and installation he said that the—

*“The view was, that we had, in effect agreement in principle from every local government authority that was involved because they had seen the report (concept design).....the reality was as we got into it that there were different levels of understanding of what people were getting and different levels of understanding at local government level. It had never been approved but the understanding was that the council had accepted it as a concept but hadn’t signed off on it.”* <sup>30</sup>

The Committee heard evidence from the Minister about infrastructure generally—

*“We went out and got engineering advice about how to deal with the various shack sites from the point of view of access, sewerage and power. We were at the time faced with a very expensive proposition that was being put forward – almost a gold-plated solution to the exercise. Of course to impose that sort of solution*

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<sup>28</sup> Mr D Connolly Transcript of Evidence 12 September 2007 p1

<sup>29</sup> Ibid p4

<sup>30</sup> Ibid p7

*onto the shack owners would have been very costly to individual shack owners..... We went back and looked at how we could do things in a more cost effective way.....in every area we tried to minimise costs to the people” ...*<sup>31</sup>

The Committee asked about the choice of consultants and the basis of payments to the engineering consultants suggesting perhaps that the expensive and unaffordable schemes that were put forward were a waste of time and money. The Minister said the conditions of contracts varied and Mr Godfrey added—

*“We have engaged an overall engineer firm, a consultancy, to do assessments and QA’s on the prices of options that come forward or the preferred system....when developing these systems we need to take on board the requirements of local government.....That is where some of the issues come up about Rolls Royce projects. Councils in some instances may have over specified on the side of caution.....At the end of the day if the local government do not agree to take over these services and systems then they will not give us a certificate to issue the title and we cannot sell.”*<sup>32</sup>

The Minister added that possibly the term ‘Rolls Royce’ was wrong but the infrastructure requirements of local councils became the same as they would demand for a normal subdivision and in the case of the shack sites there were unusual circumstances involved and a different more cost effective solution may have satisfied the requirements.

Another complication in the design and installation of infrastructure was the difficulties faced by the Shack Sites Project Team in securing contractors to undertake the work as the timing coincided with the property boom throughout the state.

The infrastructure costs for the project as can be seen from the table below<sup>33</sup> varied throughout the state but it is evident that the highest costs per shack site were from the areas where the Committee has received the most complaints.

**CROWN LANDS – SHACK SITES PROJECT**

**TABLE 2 - SHOWING INFRASTRUCTURE COSTS**

Shack Sites	Infrastructure Costs			
	Location	No.	Total	Per Shack
Adventure Bay	7	8,174	1,168	
Ansons Bay	80	2,450,114	30,626	

<sup>31</sup> Hon D Llewellyn Transcript of Evidence 4 July 2007 p3

<sup>32</sup> Mr S Godfrey Transcript of Evidence 4 July 2007 p10

<sup>33</sup> Parliamentary Research Service compiled from data supplied by Hon D Llewellyn dated 30 May 2007

Arthur River	19	116,329	6,123
Bellingham	7	25,3452	3,621
Boat Harbour	34	1,148,513	33,780
Bradys Lake	119	964,625	8,106
Bronte Lagoon	21	215,368	10,256
Cockle Creek	11	6,985	635
Cowrie Point	15	1,265,617	84,374
Crayfish Creek	8	7,402	925
Cramps Bay	44	577,987	13,136
Dee North	11	17,886	1,626
Dee South	8	1,617	202
Dover	10	17,875	1,788
Eggs and Bacon Bay	9	219,247	24,361
Flintstone Drive	116	1,761,970	15,189
Gardens Binalong	6	50,285	8,381
Granville Harbour	8	55,635	6,954
Great Lake	379	4,330,958	11,427
Heybridge	42	613,855	14,616
Interlaken	12	4,610	384
Kingfish Beach	4	28,119	7,030
Lefroy	2	7,323	3,662
Lettes Bay	29	441,049	15,210
Little Pine Lagoon	9	43,468	9,372
Little Roaring Beach	11	387,368	35,215
Nelson Bay	14	191,009	13,644
Palana	1	1,211	1,211
Pirates Bay/Tasman	2	342	171
Port Sorell	3	5,050	1,683
Rocky Cape	36	51,124	1,420
Surveyors Bay	16	697,644	43,602
Tods Corner	22	11,647	529
Trial Harbour	29	416,825	14,373
		16,370,683	
<b>SHACK SITES PROJECT</b>	<b>1160</b>		

## 9.1 Central Highlands

Mrs Ilene Burrows gave evidence on behalf of her family and instanced very poor communication between the parties, that is, the council, the project team and the owners in relation to road infrastructure for their shack. She said we didn't really know what was happening—

*“We found out.....that the money we had paid to the Crown had been passed on to the Central Highlands Council to carry out the road-works ..... We then learnt that the Central Highlands Council had passed that responsibility on to a subcontractor and then the subcontractor went into voluntary liquidation.”*<sup>34</sup>

and

*“When we paid the money over in 2004, little did we think it was going to take until 2007 more than three and a half years later to get the road works completed.”*<sup>35</sup>

Officers from the Central Highlands Council gave evidence to the Committee about the standards of works which had been carried out previously. Some work was deteriorating and there was evident mismanagement and poor supervision, however because of the changes at the Central Highlands Council none of the current staff were familiar with a detailed history of the project or where responsibility for the substandard works could be attributed. At the time of giving evidence they reported that the works were now on schedule, that communication between the council and the government and the Shack Sites Project Team was good and working effectively. The Council officers did note that the constant changes to the shack sites team did present many obstacles. Mr Rodney Walsh noted—

*“I have been there 20 months and it has changed so much and that has been a lot of the problem. A lot of the staff there are employed only on a contract basis; they have not been there full time and that has made it difficult.”*<sup>36</sup>

Mr Gilbert Dillon added—

*“Because it has been a long process we have had difficulty in some instances working out what was said, when it was said and how it was said.”*<sup>37</sup>

## 9.2 Rocky Cape and Cowrie Point - Circular Head Council

There were several shack site communities in the Circular Head municipality and the two which caused most concerns were at Cowrie Point and Rocky Cape. Mayor Ross Hine acknowledged that there have

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<sup>34</sup> Mrs I Burrows Transcript of Evidence 15 August p22

<sup>35</sup> Ibid p23

<sup>36</sup> Mr R Walsh Transcript of Evidence 16 September 2007 p38

<sup>37</sup> Mr G Dillon Transcript of Evidence 16 September 2007 p38

been a multitude of problems and that better communication between all parties could have allayed some of the concerns of residents. The concern he expressed from the beginning at Hellyer Beach and Crayfish Creek—

*“is that a lot of the blocks surveyed are too small to cater for their own effluent and it has been creating some problems for us as a council..... they are freehold areas now of course - where they have gone from shacks to homes, from weekenders to full-timers. People want to renovate them because they are freehold and they cannot do it because of the problems we have with the effluent. It is to do with the size of the block and the make-up of the soil with its rocky outcrops. That is causing us a bit of a headache and I do not know what the answer is. The only answer I can see is a full-blown sewerage system in some of those areas out there which will be pretty expensive for the council to take on board.”*<sup>38</sup>

The issue of communication was emphasised when Mr Tony Smart, speaking about Rocky Cape in particular and some of the parties involved in the negotiations about infrastructure said—

*“It was not until the three bodies got together for the first meeting that we started to realise that there had been a fair bit of communication going on but the council had not been involved.”*<sup>39</sup>

At Cowrie Point the residents group elected Mr Dan Sutton as their representative and spokesman. Mr Sutton attended local council meetings and was active in putting forward the views of the shack owners. There were issues with the roads, with beach and jetty access and with the treatment of effluent. There were claims of over-engineering and inappropriate solutions to the problems. Changes to personnel including the responsible Minister, the council engineer and members of the Shack Sites Project Team exacerbated the situation. The owners wanted more transparency and input in the process and felt excluded from important discussions including a review which was conducted at their request. It was claimed by Mr Sutton that—

*“The review was held by the same people.....How can you have a review when the same people are reviewing themselves?.....I believe the review created by shack sites personnel was a fraud. Had that been a reasonable review with integrity and intent we would have had micro-systems and we would have been running on a system that cost us \$600-odd a year to maintain and the State Government would be about half a million dollars better off.”*<sup>40</sup>

Mr Dan Sutton spoke of poor or non-communication and the resident's dissatisfaction with the conduct of public meetings. He cited on-going concerns about titles and access to beach areas including a jetty. The local council had still not taken over the running of the system at Cowrie Point

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<sup>38</sup> Mr R Hine Transcript of Evidence 12 September 2007 p25

<sup>39</sup> Mr T Smart Transcript of Evidence 12 September 2007 p30

<sup>40</sup> Mr D Sutton Transcript of Evidence 15 August 2007 p29

and there are concerns that the cost of running the system may be enormously high.

In August 2007 when the Committee took evidence the owners, the Council and the project team were still investigating options for appropriate infrastructure solutions. The waste water issue at Rocky Cape has been a protracted and difficult situation. In an area where there is great potential for expansion and increased numbers of permanent residents any solution to current issues must also take into account any future needs. Sewerage systems could be very expensive both for Council and owners. One Council preferred option included the acquisition of adjacent areas for a treatment plant for effluent disposal, however, the Minister said that he was not inclined to view that as a viable option.

Another concern of the Circular Head Council is the expectations of newly created freehold owners wishing to extend and renovate. In many areas there is limited potential for property expansion and the Council is finding that properties are being sold with new owners often unaware of limits and restrictions and wanting to build multiple bathrooms and make other extensive renovations to what is in effect a beach shack. Mr Smart said—

*“These are the sorts of problems we are facing at the moment and we are a little bit lost as to why, when any of these shacks are sold, this information is not being processed. People do not understand.”*<sup>41</sup>

The Committee asked the Council officers about caveats on the titles and whether relaying information about encumbrances to new or prospective owners might be a council responsibility and should be part of the requisition process. Mr Smart took the question on notice but to date the Committee have not received a response.

On the question of delays to permits and approvals Mayor Hine was forthright—

*“ from our perspective we are not that fussed about dragging the time out as long as we get the right systems in place but then - ...it is a possibility – that it is going to cost a bit to run.”*<sup>42</sup>

Mr Connolly, Pitt and Sherry had commented previously about the delays experienced with permits in the municipality—

*“They, (CHC) have not been as easy to deal with as some Councils but I feel they have been diligent. They have considered the public interest. I guess they do not want to be left with a legacy of accepting something within their municipality that fundamentally does not work so they have certainly put us through the hoops in terms of scrutiny.....”*<sup>43</sup>

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<sup>41</sup> Mr T Smart Transcript of Evidence 12 September 2007 p26

<sup>42</sup> Mr R Hine Transcript of Evidence 12 September 2007 p33

<sup>43</sup> Mr D Connolly Transcript of Evidence 12 September 2007 p3

### 9.3 Ansons Bay - Break O'Day Council

At Anson's Bay the residents reported that they had been experiencing similar problems to those in other areas – namely incomplete infrastructure, infrastructure not working satisfactorily, local council rates being levied when infrastructure was still inadequate and criticism of the council for delays and communication problems with the Shacks Sites Project Team and the Government.

Mr Ron Freeman was most unhappy with the entire process, particularly for what he claimed was inequitable treatment in relation to power connection and payment for work not completed and delay of issue of the title. He considered that all the residents in the area and not just those that were part of the shack sites project should have been required to connect to the sewerage system and to pay a share of the cost of power connection. The sewerage and waste water treatments that had been paid for at Ansons Bay had been installed three years previously but there were still no permits.

Mrs Judy Denney spoke of a trial sewerage system proposed by the government but rejected by the Council who she said was continually negative—

*“Anything that has been suggested has had negative feedback from the Council.....In just speaking to the people in Hobart I got the impression.....that they found the council extremely hard to deal with. It just seems terribly unfair.”<sup>44</sup>”*

The Council officers from Break O'Day were invited to describe the project from their point of view. Mayor Legge—

*“It has not been highly favourable. There have been a lot of problems and there still are” .....There are some massive problems”<sup>45</sup>*

Mr Tony Walker was more outspoken in his condemnation of the process—

*“We had other areas as well (as Ansons Bay) – Binalong Bay. The Gardens, Mount William National Park – and they all had specific problems. I would explain it as a total disaster.....”<sup>46</sup>*

*“...Right from day one it appears that the Government's idea was to convert as many of those properties onto freehold title as they possibly could. I can understand the political ramifications...”<sup>47</sup>*

*“.....We have had shacks in the Mount William National Park that the Government's own consultants recommended be removed*

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<sup>44</sup> Mrs J Denney Transcript of Evidence 15 August 2007 p9

<sup>45</sup> Mr R Legge Transcript of Evidence 16 August 2007 p19

<sup>46</sup> Mr T Walker Transcript of Evidence 16 August 2007 p19

<sup>47</sup> Ibid p19

*because they are in active sand dunes but the political will resulted in them remaining....”<sup>48</sup>*

Anson’s Bay in Break O’Day municipality was one of the last areas in that municipality to be addressed by the project team and the Council were very wary of the whole process after their previous experiences. They sought assurances about sewerage connections and waste water disposal. Mr Walker told the Committee that the shack sites team had given the Council an assurance that no titles would be issued until such time as connections were complete but then they discovered that titles were issued to owners without any consultation and approval by the Council—

*“What I found continually through the process is that there have been so many people involved in the Shack Sites Project Team that there is no consistency whatsoever. I must have spent hundreds of hours with officers reaching agreed positions, to turn around and be totally disregarded. I walked every single site at Anson’s Bay with the engineer, the surveyor and the shack sites people..... and we reached an agreed position on a number of factors..... We wanted to try and keep sewer reticulation as close to boundaries..... wanted to ensure that wherever possible public access to foreshore was maintained between the shack sites and along the foreshore. The next thing I knew the titles were issued bearing no resemblance whatsoever to what we had agreed on the site. The officer I had walked around with had left and a new officer had come in and his comment was ‘I don’t agree with you’, .....There were lots of sites with *Melaleuca ericifolia* which is a protected species under the RFA.....We were finding that people were basically trashing the foreshore for views and access to the foreshore, so we wanted to get them out but they were all put back into the titles.”<sup>49</sup>*

Mr Walker continued with the list of problems and council frustration. He told the Committee the original consultants report had recommended—

*“.....that a number of shacks below the 1.5 metre line be removed and that a number of shacks that were subject to high erosion be removed..... Next thing we know there is an amendment to the shack sites act that says that the Crown and the council will not be liable for any loss under the shack sites process due to a natural occurrence. All the shacks were put back.”<sup>50</sup>*

He said in the Ansons Bay area there has been blatant disregard for planning regulations with the construction of an illegal sea wall, erosion problems, non-complying walkways cut through to the beach, loss of appropriate parking for visitors, disputes over boundaries, serious conflict

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<sup>48</sup> Ibid p19

<sup>49</sup> Mr T Walker Transcript of Evidence 16 August 2007 p20

<sup>50</sup> Ibid p21

between residents with police involvement, legal wrangling and court cases, emergency access routes compromised and allegations of conflict of interest.

Mr Walker explained that the Council had not ever criticised the shacks while there was a leasehold arrangement however, with the conversion to freehold title the council would have less control over developments. When the council refused to be a signatory to certain covenants on titles because they didn't agree with the processes, Mr Walker asserted that the restrictions which had been previously placed on titles were removed; easements for waste disposal were removed; some new owners didn't comply with the previous owner's agreements and permits and the situation has become unacceptable.

The preferred sewerage system which has been installed does not meet with Council requirements and like the situation at Surveyors' Bay, the reasons include the suitability of the system for intermittent use, uneven loading on system, no flexibility in the design and problems associated with drainage and the low lying land. Some of the problems seem insurmountable and the Council will not take over a system until assured it is sustainable and will not cause a future financial burden to ratepayers in the municipality.

Early in the planning for the Ansons Bay community the council met with the Minister on site and Mayor Legge said he had put the following scenario—

*..... "would it not be cheaper in the long term to take all the shacks off the foreshore, for the Crown to buy the land - there was plenty higher up there - and give the people they were shifting a block of land and then walk away from it. That scenario was put forward?"*<sup>51</sup>

#### **9.4 Surveyors Bay - Huon Valley Council**

The Committee received several submissions and met with two of the owners of shacks at Surveyors Bay.

Mrs Lynette Bender's principal problem was with the delay her family experienced and the resultant increased valuation but she was also very critical of the design and quality of the infrastructure. She told the Committee—

*"I have paid the funding and it included the building of a road which is still not done..... Our money for that road has been given to the Government and someone is holding that money... We could still be getting interest on that money."*<sup>52</sup>

Mrs Bender went on to say the design of the system was possibly appropriate for permanent occupation but not weekends—

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<sup>51</sup> Mr R Legge Transcript of Evidence 16 August 2007 p28

<sup>52</sup> Mrs L Bender Transcript of Evidence 16 August 2007 p12

*“.....The sewerage is a botched up scheme and at one time I went down there and I did not stay because of the foul smell.....I wrote a letter to the Huon Valley Council, to Lionel Clark..... and told him it was just a terrible odour. ....He said the people who designed it or put it in there said it was relying on people being there, but it is a shack site.”*<sup>53</sup>

Mr David Connolly told the Committee that prior to the installation of the sewerage system there were consultations with the Council who would be the ultimate owner of the system and the decision to install the particular type of sewerage system was a Council decision on the basis that there were similar systems in the municipality and for the ease of maintenance.

Mr Godfrey spoke of the Surveyors Bay sewerage odour problem —

*“We liaised very closely with local government on that particular issue. We designed a system which everyone agreed would meet the purpose for shack owners, council and environment. Unfortunately no-one took into consideration the potential for that system and the owners of that system, so it was something that has come out of if you like left field, which neither us or the council has envisaged.”*<sup>54</sup>

Mr Connolly’s comments about technology and the council’s need to consider potential future use and the changing lifestyles of the community highlights the difficulty trying to satisfy competing objectives—

*“There probably isn’t a technology around that is ideally suited to intermittent occupancy and I think that’s a bit of a flaw in the system. The other thing is that just about every regulatory authority has the view that we should design, certainly on capacity grounds, to cater for 365 day-a-year occupancy, to cater for changing lifestyles and freehold title so they could become much more heavily occupied. It was trying to get some middle ground between those two competing objectives”*<sup>55</sup>

Mr Connolly went on to explain that nearly all regulatory authorities that design for systems should be based on capacity and for full year occupancy. When asked by the Committee how a situation could arise if there is a good auditing process yet the Department cannot transfer the sewerage system to the council because the council are saying it is not operational or not working properly, Ms Sue Chapple replied—

*“I cannot give you a blow by blow but I do know that Council has now taken over that system.”*<sup>56</sup>

Correspondence from the Huon Valley Council, signed by Cr Robert Armstrong dated over two months later however contradicts that statement—

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<sup>53</sup> Ibid p14

<sup>54</sup> Mr Godfrey Transcript of Evidence 4 July 2007 p11

<sup>55</sup> Mr D Connolly Transcript of Evidence 12 September 2007 p9

<sup>56</sup> Ms S Chapple Transcript of Evidence 4 July 2007 p11

*“Council will only take over full control and responsibility for the waste water system when the Crown resolves outstanding operational issues including odour problems and the system has operated successfully for 12 months without complaint. There is no current proposed time line for this to happen.”*<sup>57</sup>

Mrs Deena Palmer also cited multiple problems with the project – delays possibly caused by procedures or processes within the shack site project office, communication and timelines between the various interested parties like the Office of Aboriginal Affairs blowing out, applications for infrastructure permits held up with the resulting valuation escalation, stinking sewerage, erosion and frequent storm damage and a ridiculous situation in relation to fire tanks. In relation to fire protection, Mrs Palmer said—

*“Originally we were told there would be two fire fighting tanks situated along the beach and that they would be in a position that the Tasmanian Fire Service were happy for them to be in. Then all of a sudden that process was canned and we were sent a letter to say we were going to have individual tanks.”*<sup>58</sup>

The Committee asked about the reason for the changes. Mrs Palmer told the Committee that it had been conveyed to the residents that it was all too hard and that nobody had actually discussed it with the residents many of whom were members of the local Coastcare group with a great interest in the local environment and who cooperated well together. The result of the change, said Mrs Palmer is—

*“.....we’ve got these very ugly plastic tanks in the middle (of the blocks).....it just looks like an advertisement for Tank City. It’s not very pleasant”*<sup>59</sup>

Photographs submitted as evidence to the Committee support that contention. The tanks are kept locked and in case of fire it is necessary for the Fire Service to come and unlock them and hook up their pumps. The owners have no access, no keys and the Fire Service is 20-25 mins away.

Like so many others Mrs Palmer was particularly aggrieved by the poor and often missing lines of communication in the whole process. She instanced a public meeting held in 2004—

*“We were allowed to go as observers. We weren’t introduced to anybody..... I think from our point of view that was an issue right through the project that we didn’t feel we had enough contact and we weren’t able to have any say or input. It just felt as though we were excluded from the whole process apart from having to pay money at the end.”*<sup>60</sup>

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<sup>57</sup> Mr R Armstrong Huon Valley Council Correspondence dated 14 September 2007

<sup>58</sup> Mrs D Palmer Transcript of Evidence 16 August 2007 p4

<sup>59</sup> Mrs D Palmer Transcript of Evidence 16 August 2007 p4

<sup>60</sup> Ibid p2

**Findings - THE INFRASTRUCTURE COSTS FOR  
ROADS, SEWERAGE, POWER AND WATER  
FOR EACH AREA IN EACH FINANCIAL YEAR**

**The Committee finds that—**

- **SKM consultants assessed and made recommendations about the determinations for conversion to freehold title, removal or application of restrictive covenants but had no responsibility or input into appropriate infrastructure solutions.**
- **Pitt and Sherry were required to develop infrastructure solutions for another firm's concept guidelines and for changes where policy decisions affected the final determinations and therefore some of the agreed solutions.**
- **Political decisions prevailed against consultant recommendations.**
- **Some owners were advantaged by early completion.**
- **Local Government requirements were critical but not afforded the necessary level of importance in the planning – a factor which should have been integral to the project.**
- **The fact that the consultant engineers understood that local government councils had agreed to certain solutions which may or may not have been the case, highlights poor recording of discussions and agreements and a lack of rigour in the project management function and administrative processes.**
- **The Shack Sites Project team faced many challenges, difficulties and complexities in obtaining the necessary reports, solutions to problem areas and agreement between parties.**
- **The co-ordination and communications amongst all the authorities involved – Aurora, Aboriginal consultants, heritage professionals, local councils and engineers as well as the three principal entities involved (the shack owner, the local council and the Project Team) was poor.**
- **Communications were very poor at various stages and depended on the skills and interest of individual officers.**
- **The lack of appropriate sharing of information amongst stakeholders contributed to delays and frustration.**
- **Discrepancies and contradictions in the evidence received by the Committee were of concern.**
- **There were pressures within some communities by some residents wanting to accept and finalise the process by accepting inferior solutions to avoid further delays.**
- **Government financial incentives contributed to acceptance of**

**inferior infrastructure and potential problems into the future.**

- **The issue of titles being provided before and without completion of agreed infrastructure requirements and without local government permits is questionable and possibly open to legal action.**
- **The site installation and management of access to some fire-tanks poses major safety issues.**
- **The location of such fire tanks is aesthetically unacceptable.**

## **10. METHODOLOGY USED TO DETERMINE COSTS FOR SALE OF PROPERTIES AND RENTAL ARRANGEMENTS**

The methodology for arriving at a valuation for each of the shack sites included assessing the costs of the infrastructure and this has been discussed more fully in the previous section. The valuations and the infrastructure costs were the two most significant areas of concern expressed in the submissions received by the Committee. Many shack owners considered that the final cost to them was far greater than had been anticipated. The final cost was determined according to the process set by the Valuer-General.

The Valuer-General is the statutory government officer responsible for establishing and maintaining municipal valuation rolls used for local government rating and tax purposes under the *Valuation of Land Act 2001*. The Valuer-General is also responsible for the competitive tendering system which awards contracts for valuation services under the Act and for monitoring the quality of valuation services performed by contractors. The Mission Statement for the Office is—

*“The Office of the Valuer-General provides an impartial, efficient and cost effective valuation consultancy and land acquisition service to meet the requirements of government, local government, public authorities and the general public”.<sup>61</sup>*

When Mr Ian Mason, the Acting Valuer-General appeared before the Committee he stated that he was familiar with the shack site process and the role of the office of the Valuer-General in the process. In a brief overview he said—

*“We were asked to undertake a valuation once it had been through all the processes and they (the shack sites project group) were in a position to provide us with a survey and an area for the lots and*

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<sup>61</sup> [www.dpiw.tas.gov.au](http://www.dpiw.tas.gov.au) website 8 May 2008

*advise us as to what the required infrastructure for each lot was.”.....*

*.....the valuation instructions we received were for a defined shack sites settlement and they were lodged with the Valuer-General at the same time to ensure that the lots within a settlement were all valued at the same relevant date of valuation and that was to ensure uniformity and consistency in relation to the levels of value.”<sup>62</sup>*

All the officers involved in the Shack Sites Project expected at the outset that all phases of the programme would be completed between 1998 and 2001. However, as described previously the delays and problems experienced during the determinations phase and then the further delays in reaching agreement with both residents and the local council on the most suitable and compliant infrastructure, meant that many of the valuations were delayed until much later. Some owners received valuations as late as 2006 and were dismayed to find that they were significantly higher than their expectations. Mr Mason explained—

*“Certainly there was a dramatic increase in the selling prices and values of land in Tasmania across the board, more particularly for coastal land. .... We have generated statistics, that I am happy to table, showing that a dramatic increase, or boom as it is known started off really in 2002. It was quite dramatic through 2002-2005 and is still strong.”<sup>63</sup>*

On the subject of price expectations Mr Godfrey from the Shack Sites Project Team had the following to say—

*“...in instances where shack owners asked us for a price before the infrastructure went in, we provided them with an indicative price. We also made it quite clear that it was indicative not the sale price and that the sale price was subject to the infrastructure going in and the cost of the infrastructure.”<sup>64</sup>*

Mr Mason through the Minister provided the Committee with a number of tables and graphs demonstrating the increases in the median sale prices of residential land on a state-wide basis and for two particular shack communities, Ansons Bay and Heybridge.<sup>65</sup> These tables are included with the evidence tabled with this report.

When he was questioned further about the valuation process and if it would have been possible to value property before the completion of all the infrastructure design and costs he affirmed it was necessary to know all the infrastructure requirements - (road works, wastewater systems, fire tanks etc) to form the correct valuation of the property.

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<sup>62</sup> Mr Ian Mason Transcript of Evidence 12 September 2007 p12

<sup>63</sup> Ibid p12

<sup>64</sup> Mr S Godfrey 12 September 2007 p45

<sup>65</sup> Hon D Llewellyn Correspondence dated 11 October 2007

He went on to say—

*“.....we could certainly do a valuation, determine the current market value of the land on the basis that the infrastructure works were to be completed even though at the date of valuation they were yet to be completed. So we would know what was involved and what had to be done to create the freehold lot. When it came to the actual sale price notification further down the track – within 12 months I think of our assessment – certainly the cost of that required infrastructure needed to be known then in order to show the three components in the sale price: the land component, the cost of infrastructure and a third component under S 25(2)-being administrative costs.”* <sup>66</sup>

The Committee received evidence to show that there were cases where sales had been completed, owners had received titles and were paying council rates on the valuations and yet the agreed infrastructure including roads, sewerage and waste water systems had still not been satisfactorily installed or completed. It is likely that there are still instances where residents are waiting for the agreed infrastructure to be finished satisfactorily.

The Committee put the following to Mr Mason—

*“You are quite clearly telling us that you value on the design of the end product but it appears that we do not yet have the end product even though we have the valuation of your department which people are being charged on. They have paid on that valuation and now are repaying in a rateable concept to a local authority.”* <sup>67</sup>

Mr Mason again confirmed that the basis of the valuation undertaken is that all the required infrastructure is compliant and to a standard agreed by all parties and that at the completion of the sale process all the identified infrastructure would be in place.

The Committee then questioned Mr Mason on the life of a valuation as there had been evidence that some valuations had been completed and then because the necessary council permits for the infrastructure had not been issued, the valuation expired and the process had to be re-done and the valuation had increased. Mr Mason informed the Committee that in a buoyant market the life of a valuation would be 12 months or less.

Further questions about a specific situation in Surveyors Bay where there were large and inconsistent increases in property valuations completed 12 months apart on adjacent properties. Mr Mason agreed that the increase was significant but without further investigation and inspection could not ascribe any reasons for the variation. He stressed that the methodology

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<sup>66</sup> Mr I Mason Transcript of Evidence 12 September 2007 p13

<sup>67</sup> Ibid p13

for valuation had been uniformly and consistently applied throughout the state.

The Minister in his overview to the Committee said —

*“In latter times there has been some escalation in the actual price of shack sites but that is all relative. It is a factor of a process which is taking such a long time. When one is dealing with individuals on a one-to-one basis from the time that we started this that is probably not surprising. Maybe we should have foreseen that it was going to take that length of time.”*<sup>68</sup>

And—

*“.....“I think the only thing that could be observed – and certainly it is a comment that is coming from shack owners – is that those people involved very late in the program because we have only just got to them, are finding that the cost of acquiring the property is much more than what it was at the beginning of the scheme because the cost of those assets have changed over that period. We have had a boom in property prices and we have the Valuer-General involved. Even though that has occurred the relative price early in the scheme..... 1999 or 2000 – is still the same relative price as what it is now. The value that people get out of their shacks is still on that relative scale. The assets are worth that amount of money or more money than they would have been back in the earlier times.”*<sup>69</sup>

Hon Sue Smith, the Acting Chair pursued the matter with the Acting Valuer-General—

*“There has been a bit of complaint, Ian in relation to people who had their blocks ready for sale in 2002. They were obviously far better off than those who are still waiting to purchase those blocks. I would imagine you would be able to go back to 2002 or a date around there and still value that block as at 2002 as opposed to 2007 or 2008.....”*<sup>70</sup>

Mr Mason replied—

*“Correct, if so instructed we could.”*<sup>71</sup>

Mrs Smith asked Mr Mason if the law would allow that if it was the Ministers’ instruction and Mr Mason replied—

*“I do not know about the law but certainly from the valuation principles’ perspective we certainly could.”*<sup>72</sup>

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<sup>68</sup> Hon D Llewellyn Transcript of Evidence 4 July 2007 p1

<sup>69</sup> Ibid p4

<sup>70</sup> Hon S Smith Transcript of Evidence 12 September 2007 p16

<sup>71</sup> Mr I Mason Transcript of Evidence 12 September 2007 p16

<sup>72</sup> Ibid p16

Mrs Smith put a similar hypothetical question about the valuation at a particular date to the Minister. The following is an excerpt from Hansard—

*“Mr LLEWELLYN - The act doesn't allow us to do that.*

*CHAIR - But we can sort that out can't we?*

*Mr LLEWELLYN – We would be in the position of having to go back to the whole lot of individual situations and re-assess things that have already happened.*

*CHAIR – The Valuer-General said that he would be able to do that.*

*Mr LLEWELLYN – Did he?*

*CHAIR – He said he could go back and revalue that place as if everything was in place in 2002.”*<sup>73</sup>

The Committee heard of instances of financial hardship where properties had been sold with the expectation of imminent purchase of shack sites, and had money invested on a short term basis on the understanding that the purchase would be completed within a short time. When the sales were repeatedly delayed many of the valuations had increased substantially and shack owners were consequently severely disadvantaged by the process.

Mrs Lynette Bender in her evidence to the Committee described a process which was very stressful and harrowing beginning in 1998 with the expectation of a purchase price of \$40,000 to \$50,000; selling other land to pay for the shack; receiving a sale price in November 2005 of \$160,000; then obtaining independent valuations; negotiating with the government to have the price amended; and then still having to contend with a road not completed, a sewerage system not working and continual difficulties with communicating with the many different officers from the Shack Sites Project Team.

In the Heybridge area many of the shack owners were permanent residents and faced additional costs including road construction. Ms Jenny Boatwright told the Committee of her own valuation which almost doubled and the uncertainty of future responsibility for road maintenance. As a pensioner she faced financial hardship in order to be able to purchase her dwelling. At meetings with constantly changing shack site personnel the residents of the Heybridge community were critical of the quality and accuracy of the information given to them.

Ms Denney also relayed a story of financial hardship and frustration with the delays and unsatisfactory contact with the Shack Sites Project Team—

*“If we had known we were going to be held up for that long we could probably have invested, but our finances have been locked*

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<sup>73</sup> Hon D Llewellyn Transcript of Evidence 12 September 2007 p44

*in waiting for the outcome of the price et cetera. We found that very frustrating and it has been a tiresome nine years.”*<sup>74</sup>

In the case of the Denney family the major delays have been attributed to the local council and their negativity. The Break O’Day Council for their part have been very concerned about the programme of conversion to freehold titles of the shacks in their municipality and have not been prepared to accept solutions which may contribute to future liability.

Mrs Denney told the Committee—

*“We wondered about going against the price that they offered but our group members advised against it saying it would probably be dearer because they would come and revalue it and add the cost of the valuation on again. By that stage everyone was so exhausted. It has been so negative and stressful.”*<sup>75</sup>

Mrs Denney again —

*“But if everything had gone smoothly and we had the go-ahead the values would have been much lower in 2001 and 2002. Interest rates are going up now ..... We have been caught between a rock and a hard spot.”*<sup>76</sup>

Another shack owner at Ansons Bay Mr Ron Freeman was asked by the Committee to describe his experiences from the start to which Mr Freeman responded—

*“I am sick of starting at the beginning though, that is the trouble, it has gone on and on.”*<sup>77</sup>

Mr Freeman itemised a number of problems including inequitable arrangements for power connections and sewerage connections at Ansons Bay, the administration of the whole project, the uncertainty of road and sewerage completion and the fact that he has been paying rates for land for which he had paid but had not received title. His concerns were such that he felt compelled to employ a solicitor to investigate and pursue compensation for loss of interest income, delays and the title issue. At the time of giving evidence Mr Freeman had not made a decision whether to accept the offer of compensation which had been offered by the government. He finished giving his evidence to the Committee saying—

*“The compensation of \$3000 was a lot for me for interest lost on the loan business but I know other people down there who do not have their titles and they paid way back at the same time as me. It is unfair on these people - they cannot afford the legal costs and everything like that.”*<sup>78</sup>

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<sup>74</sup> Mrs J Denney Transcript of Evidence 15 August 2007 p9

<sup>75</sup> Ibid p12

<sup>76</sup> Ibid p13

<sup>77</sup> Mr Freeman Transcript of Evidence 15 August 2007 p15

<sup>78</sup> Mr Freeman Transcript of Evidence 15 August 2007 p21

Many shack owners received a letter from the Minister undated but identified as November 1998 stating that recently passed amendments to the Act to extend the period of provisions of the Act would not mean increased costs to owners as had been reported in the media. Clearly many of the owners understood this comment to relate to and include their property valuations although at that stage the property boom had not started. The Minister when questioned about the wording of the correspondence said—

*“I do not think the general issue of valuations over a particular time can be construed to be encompassed in that particular statement.”*<sup>79</sup>

The Committee did not receive any evidence or submissions which addressed a situation where rental by shack owners was an issue so has no comments to make in relation to rental solutions.

### **Findings - METHODOLOGY USED TO DETERMINE (ADMINISTRATIVE) COSTS FOR SALE OF PROPERTIES AND RENTAL ARRANGEMENT**

**The Committee finds that—**

- **The quality of information about the necessary processes and likely outcomes including correspondence from the Minister and advice and comment from members of the Shack Sites Project Team led to misconceptions and false assumptions about the cost of shacks and valuations.**
- **Some shack owners were given misleading indicative prices at a time when the extent of what was entailed had not been determined.**
- **The Committee did not receive any evidence of Departmental records showing what may or may not have been said or indicated to owners at the outset. An accurate administrative record of conversations and decisions would have afforded accuracy and assurances to all parties.**
- **Valuations assumed completed and working infrastructure.**

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<sup>79</sup> Hon D Llewellyn 12 September 2007 p47

## 11. VARIATIONS TO THE METHODOLOGY USED AND THE REASONS

The Committee did not receive any evidence in relation to changes in the methodology used.

## 12. ANY OTHER RELEVANT ISSUES

### Property Titles

The Committee received two quite separate complaints about the titles which were issued following the sale of properties.

When the Break O’Day Council gave evidence to the Committee Mr Tony Walker was particularly critical of the manner in which changes were made after there had been agreement. Until such time as title is transferred, the Crown, as owner of the property is in a position to include appropriate covenants on the title to the property. In the case of Ansons Bay Sinclair Knight Merz<sup>80</sup> made a number of recommendations which included placing restrictive covenants on a number of titles. The restrictions were associated with public access, flooding, erosion and waste water treatments.

It would appear that following the on-site meetings and inspections referred to by Mr Walker, the Shack Sites team as agents of the Crown did not include all the restrictive covenants on the titles as had been agreed previously. The Committee did not receive evidence of this happening in other areas but it cannot be discounted.

There were other problems associated with the issue of titles in Ansons Bay. The Committee had been told of titles that were issued and then recalled. Mr Sean McArdle when giving evidence to the Committee said—

*“With regard to Ansons Bay and the recall of some titles, the way that the titles were created for the shack site settlements was that they surveyed the sites, created the plans before the infrastructure was complete. At Ansons Bay we completed a number of sales but because of the works that were still going on with the infrastructure we required the creation of additional easements and that was flagged in the sale contracts. With those sites that had previously been sold to get those easements put on title we needed to recall one or a number of titles. Even if it was only affecting one lot on the plan the Titles Office requires all those titles to be returned before they can deal with one change.”<sup>81</sup>*

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<sup>80</sup> Sinclair Knight Merz, Ansons Bay Shack Sites Assessment Final Report Vol 1 November 2000 pvii to xiii.

<sup>81</sup> Mr S McArdle Transcript of Evidence 12 September 2007 p48

The fact that a recall was necessary shows some inadequate forward planning with the resultant inconvenience, delays and frustration for the property owners.

The Committee heard evidence from Mr Freeman also in relation to titles at Anson Bay. Mr Freeman described his experience saying—

*“I thought that within thirty days of payments of money we would get the titles. The shack is nothing until I get the title – you have to present that to your bank when you have to borrow money.*

.....

*After about nine months went past I was pursuing compensation for the interest lost on the money. They agreed to pay me \$3,000 in compensation.”*<sup>82</sup>

The Committee was interested in the circumstances which led to the offer of compensation. Mr Freeman told the Committee that because of the delayed issue of title and the other infrastructure hold-ups and time spent in negotiation he sought the advice of a solicitor who advised him to seek compensation. Mr Freeman had not at the time he gave evidence decided to accept the offer as he was still considering further claims. Mr Freeman has subsequently provided evidence of the compensation agreed through his legal representative.<sup>83</sup>

In response to a question as to whether Mr Freeman knew of any other people in the same situation, Mr Freeman said he was aware of others not offered compensation but who were in a similar position but did not have the time available or the financial ability to employ a solicitor as he had done. He said that the Ansons Bay community still had serious infrastructure problems and the Break O’Day Council would not take over the sewerage system because it was not working properly. Mr Freeman noted—

*“When you pay for something you expect to get it. This \$25,000 should have gone into my solicitor’s fund and when the sewerage is up and ready that amount of money should have been handed over to the shack site Committee. I should be getting the interest on that, not them. It is just so wrong.”*<sup>84</sup>

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<sup>82</sup> Mr R Freeman Transcript of Evidence 15 August 2007 p15

<sup>83</sup> Mr R Freeman Copies of correspondence

<sup>84</sup> Ibid p19

## **Findings - ANY OTHER RELEVANT ISSUES**

**The Committee finds that—**

- **Titles that were created before all the infrastructure and sewerage connections had been completed and therefore not in accordance with the assets that the official valuation was based upon raises serious concern and has the potential to create future problems when properties are sold and titles transferred.**
- **The practice of using official valuation figures as a basis for sale, issue of titles, state land tax and local council rate payments where the agreed infrastructure is incomplete is questionable.**
- **There was no evidence that agreements and infrastructure solutions were formally confirmed and recorded, resulting in later dissatisfaction.**
- **Compensation was paid by the government to one owner.**

**Jim Wilkinson MLC  
CHAIRMAN**

**Parliament House, Hobart  
18 November 2008**

## APPENDIX A

### SCHEDULE 2A - Model conversion criteria

#### Section 5(4)

##### 1. Removal

- (1) Other than in exceptional circumstances, a shack should be removed if –
  - (a) the removal of the shack is necessary for due protection of an Aboriginal site, or a relic as defined under the *Aboriginal Relics Act 1975*; or
  - (b) the shack is located in an actively mobile dune.
- (2) Other than in exceptional circumstances, a shack should be removed where the continued occupation of the shack, either alone or together with other shacks, would, or would be likely to, give rise to significant—
  - (a) land management costs or land management difficulties for the Crown or any public authority; or
  - (b) environmental degradation.
- (3) Other than in exceptional circumstances, a shack should be removed where the continued occupation of the shack, either alone or together with other shacks, would, or would be likely to, significantly—
  - (a) impair the ability of natural or physical resources on or near the site to meet the reasonably foreseeable needs of future generations; or
  - (b) harm, or interfere with the due protection of, ecological, geomorphological or geological features of conservation value; or
  - (c) harm, or interfere with the due management of, aquatic environments of conservation value; or
  - (d) harm, or interfere with the due management of, important coastal wetlands, or impair the potential of such wetlands to be managed for nature conservation and public benefit; or
  - (e) compromise the diversity of native flora or fauna or their habitats, including seagrass and seaweed beds, spawning and breeding areas; or
  - (f) interfere with the due protection of migratory species and the due protection and recovery of rare, vulnerable or endangered species.

## SUBMISSIONS

### **Inquiry into the Administration of the Crown Lands (Shack Sites) Act 1997**

1.	Mr Robert Bennett	36 Cemetery Road Geeveston
2.	Piet and Jeltje Verdouw	63 Beach Road Kingston Beach
3.	Mr Ken McNeill	12 Thomas Street Ulverstone
4.	Ian and June McLaren	73 Leighlands Avenue Ulverstone
5.	Jenny Boatwright	51 Crown Circuit Road Heybridge
6.	Kenneth & Carol Thompson	38 Surveyors Bay Road Surveyors Bay
7.	Narelle Freeman	50 Blacks Road Wesley Vale
8.	Ron & Judy Beck	3/29 Wilmot Road Huonville
9.	Dallas & Dianne Ashlin	88 Benders Road Huonville
10.	Gary Leslie Ponting	5 Wayne Street Devonport
11.	Elizabeth Springer	PO Box 43 Legana
12.	N R & J Denney	PO Box 34 Sheffield
13.	Lynette J Bender	1/8 Short Street Huonville
14.	David & Fiona Atkins	5 Maxwell Place Summerhill
15.	F J & D J N Wagner	477 Racecourse Road Winnaleah
16.	Dan Sutton	C/o Roberts Ltd Havelock Street Smithton
17.	Gregory John Spinks	633 Backline Road Forest
18.	Brett & Elizabeth Fidler	41 Raglan Street Somerset
19.	Ilene Burrows	C/- PO Box 153 Somerset
20.	Deena Palmer	12 Greenacres Road Geilston Bay
21.	Jane Scott Pash	160 Nierinna Road Margate
22.	R & J Dance	C/- GPO Box 408 Hobart
23.	Scott McKibben	GPO Box 586 Hobart

## DOCUMENTS RECEIVED AND TAKEN INTO EVIDENCE

### Inquiry into the Administration of the Crown Lands (Shack Sites) Act 1997

1.	Hon D E Llewellyn MP Minister for Primary Industries & Water	Letter dated 30 May 2007 with 2 attachments.
2.	Hon D E Llewellyn MP Minister for Primary Industries & Water	Letter dated 3 August providing the additional detailed information the Committee required.
3.	Mr Dan Sutton 15 August 2007	Cowrie Point Access Investigation and photographs.
4.	Ms Jenny Boatwright 15 August 2007	Copy of correspondence addressed to Mr Brett Whiteley MP dated 4 July 2007; copies of correspondence (9 pages)
5	Neil & Judy Denny 15 August 2007	Copy of Rates Notices from Break O' Day Council
6.	Mr Rod Walsh General Manager Central Highlands Council 16 August 2007	Paper - Rural Roads Project
7.	Deena Palmer 16 August 2007	Photographs of Surveyors Bay
8.	Mr Richard Ebbs SKM State Manager Tasmania 11 September 2007	Paper summarizing the projects SKM were involved with in relation to the Shack Sites Project
9.	Cr Robert Armstrong Mayor Huon Valley Council 14 September 2007	Correspondence - Inquiry into the Administration of the Crown Lands (Shack Sites) Act 1997
10.	Mrs Lynette Bender 31 August 2007 and 26 September 2007	Additional information Inquiry into the Administration of the Crown Lands (Shack Sites) Act 1997
11.	Hon David Llewellyn MP Minister for Primary Industries & Water 11 October 2007	Response to questions and information from Acting Valuer-General
12.	Parliamentary Research Service	Tables showing – Costs of converting the shack sites; and Revenue received from the sale of the Shack Sites.
13.	Mr Richard Ebbs State Manager Sinclair Knight Merz	Response to letters re further information for Inquiry.
14.	Mr Ron Freeman 26 August 2008	Additional information for Inquiry into Administration of Crown Lands (Shack Sites) Act 1997.
15.	Hon David Llewellyn MP Minister for Primary Industries & Water 21 October 2008	Additional information for Inquiry into Administration of Crown Lands (Shack Sites) Act 1997.

## WITNESSES AND TRANSCRIPTS OF EVIDENCE

### Inquiry into the Administration of the Crown Land (Shack Sites) Act 1997

Hon D Llewellyn MP	Minister for Primary Industries and Water	4 July 2007
Mr Stephen Godfrey	General Manager ILS	4 July 2007
Ms Sue Chapple	Director Policy and Service ILS	4 July 2007
Jenny Boatwright	Shack Owner Heybridge	15 August 2007
Mrs Judy Denny	Shack Owner Ansons Bay	15 August 2007
Mr Ronald Freeman	Shack Owner Ansons Bay	15 August 2007
Ms Ilene Burrows	Shack Owner Great Lake	15 August 2007
Mr Dan Sutton	Shack Owner Cowrie Point	15 August 2007
Ms Deena Palmer	Shack Owner Surveyors Bay	16 August 2007
Ms Lynette Bender	Shack Owner Surveyors Bay	16 August 2007
Mr Robert Legge	Mayor Break O'Day Council	16 August 2007
Mr Brian Inches	General Manager Break O'Day Council	16 August 2007
Mr Tony Walker	Management Development Services Break O'Day Council	16 August 2007
Mr Rodney Walsh	General Manager Central Highlands Council	16 August 2007
Mr Gilbert Dillon	Works Manager Central Highlands Council	16 August 2007
Mr David Connolly	Pitt & Sherry Consultants and Engineers	12 September 2007
Mr Ian Mason	Acting Valuer-General	12 September 2007
Mr Richard Ebbs	State Manager Sinclair Knight Merz Pty Ltd	12 September 2007
Mr Ross Hine	Mayor Circular Head Council	12 September 2007
Mr Tony Smart	Executive Officer Circular Head Council	12 September 2007
Hon D Llewellyn MP	Minister for Primary Industries and Water	12 September 2007
Mr Michael Jones	Manager Crown Land Service	12 September 2007
Mr Stephen Godfrey	General Manager Shack Sites Program	12 September 2007
Mr Sean McArdle	Manager Shack Sites Program	12 September 2007

