

THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.

JOHN CLARK, RODNEY DILLON AND ROCKY SAINTY, ABORIGINAL & TORRES STRAIT ISLANDER COMMISSION, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIRPERSON (Mrs Sue Smith) - Thank you, gentlemen, for your attendance here today. We note in a letter written by Mr John Clark that you would have a response after your meeting of 24 February. We invite you to make comments to the committee and then if the committee believes it necessary to clarify anything or ask any questions, they will do so.

Mr CLARK - Thanks for giving us the time. Just for the record, this is the opinion of the Tasmanian Regional Aboriginal Council and we are here as representatives for this on behalf of the council. We have some dot points, and if it is all right with the committee, if I don't elaborate enough on specific things then the others are going to for their specific things.

CHAIRPERSON - For the tape, if you swap, could you just identify yourself then it is much easier, when *Hansard* is doing the reporting, to know who the comments are attributed to. It is sometimes hard to pick the voices; it is much easier if you identify yourself first. Thank you.

Mr CLARK - I suppose the first thing is that TRAC has a perception - there is no written hard evidence or anything like that which is recorded anywhere - that the consultation process internally in the Aboriginal community probably was not as wide as it should have been, and therefore some of the points that we might raise could have been probably sorted out if that process had taken place. We want to state emphatically that TRAC supports fully the proposed land hand-back, and in fact we don't believe there was actually enough land handed back specifically by the Government to address the cultural needs of the Aboriginal community in strategic areas. There is a perception that the amendment has probably been more politically driven than driven to actually address some of the cultural needs of the community in strategically handing back areas probably in the south, on the west coast and probably on the east coast that Aboriginal people can have access to muttonbird rookeries and the like for practices of culture. And maybe that might have been something that could have been negotiated or might not.

We also believe that there should be in this proposed legislation in some areas such as, I believe, at Wybalenna and Risdon Cove, some of this land goes down to the low water mark for specific reasons, and there are sensitive areas and those areas need protection. I mean, it is a known fact that some of the middens in this area predate the pyramids, so they are assets that have cultural significance to the Aboriginal community, but they are also things that need protecting from a general point of view. We believe that part of the legislation should actually be a commitment of governments to adequately fund and provide resources to effectively manage this land that is coming back, not only in dollar terms but also resources, and those resources might take some pretext of legislation that now these areas that have been handed back are conservation areas. If there is access given and they are hard packed down like proposed roads, there must be some legislation to enable those wardens or heritage officers or whatever to proceed with legislation if someone goes off those tracks or they start damaging areas and that sort of stuff. So it is imperative the Government put this stuff in place so that the management groups of these areas actually have the resources to be able to manage them effectively. Otherwise it is just rhetoric, it is not actually addressing the needs of the management groups in those areas.

Did you want to add anything to that, Rocky?

Mr SAINTY - I was going to talk on it later on, but I can. West Point and Sundown Point, at present has that legislation, that protection. Now, if these areas of land came back to the community then, as in the areas of land that have already come back, we are not going to have that protection and it is going to make it a really hard management process for the community. If we don't have that legislation put in then, for instance, anyone can go in there and maybe cut a load of firewood, or if people drive off formed tracks - and we have areas we want to protect - we have no way of enforcing or booking those people for doing the wrong thing, whereas at the moment it has that protection.

CHAIRPERSON - So could you not use some trespass law as other private property owners have to utilise?

Mr SAINTY - I think we need to be a bit harder than that. If some of the areas are going to have public access, then we need to be really strong on this and say, 'Yes, you can access this area and these are the tracks you need to stay on, but if you go off them then it is going to be on-the-spot fines' as the National Parks process happens with their legislation. We have Aboriginal wardens now, so why can't we have a better protection put in place, because there are sensitive areas that we don't want anyone to be going to. If people drive off the areas and go out of bounds to those areas, I think we need to have legislation that gives us that protection.

Mr DILLON - And in that there may need to be some education for the wider community because of the sensitivity of those areas - some of them could be seal hides or things like that - and to alert the community on how important it is to look after those things from our side, and how important it is for them to respect it, like we have to respect other laws.

CHAIRPERSON - Have you any examples around Australia or even around the world where there is technically a private police force with some legislation that allows them to do what you're suggesting?

Mr SAINTY - Well, those sites would still be protected under the Aboriginal Relics Act and, as a warden and as a ranger authorised under those acts, those sites are protected. But any of the land that comes back to the Aboriginal community, if there are going to be caretakers then they are going to be there on the ground and we need to have some kind of legislation so those people can enforce that.

CHAIRPERSON - I'm asking, though, are any of you aware whether there is any legislation like that in other areas of Australia?

Mr SAINTY - No. The only legislation I am aware of is the Aboriginal Relics Act, and if that didn't happen it would be protected under that.

Mr FLETCHER - But the critical part of the question, Rocky, was do you accept that this is a private police force, that you would have people with police powers who would have the capacity -

Mr SAINTY - Only on those lands.

Mr FLETCHER - On your land, yes, but that's what you're looking for?

Mr CLARK - Well, it is part of the resource that governments should give people to be able to manage effectively. Whether it is a private police force, well then you're going to call National Parks and Wildlife officers a private police force of the National Parks and Wildlife Department, because their charter is to manage land, and this is effectively tools to manage the land. If you haven't got anything to stop anybody from digressing across that if you are managing it, and they say, 'Well, bugger you, we're going to go across it', if there is nothing in place to effectively do that -

And to answer your question about those things in other areas, not in Tasmania, but I believe there are similar things that are developed in the Northern Territory in traditional areas and that where they have these things in place. It might not necessarily be for land management, although I think some of the rangers on Kakadu and those places do have pretty strong powers if anybody is up there doing the wrong thing. Traditional owners that manage land have those powers. I mean, the traditional owners have the right to deny anybody access to those lands. But there are movements afoot now by the Queensland Government to put community policing in identified Aboriginal communities as an

appendage to the police and law enforcement up there. So I would see this type of power as just another management tool, if it's possible, but it is just part of the resource that the Government could do by legislation to allow people to effectively manage land.

Mr BAILEY - If I could just ask a question there, or put a proposition, at the moment throughout Tasmania there are land-owners who own large tracts of land. They don't have any special powers as the owners of that land but they are required to manage it, and trespass would seem to be the appropriate remedy that they have. Now why should that be different so far as land which has been given to the Aboriginal community - and they are the land-owners - why should they be treated differently than an ordinary land-owner whether they be indigenous or non-indigenous?

Mr CLARK - Ray, I couldn't agree with you more, but a person that owns land like that can stop anybody from trespassing on the land, they only have to lock the gate. Surely the major kerfuffle in this was because somebody wanted to put a gate on to protect their land and that's not happening, that's not allowed to go ahead. So you can't have your cake and eat it too. You can't say, 'You have the power of someone that privately owns land and you can stop anybody from accessing that land that you want to' and then say 'Well, but we need to have' -

CHAIRPERSON - Yes, I think a better analogy perhaps to be put on was that there are instances around Tasmania where land would be privately owned but there would be right of ways for people to have access across private land, and in some of those instances people have gone off those right of ways et cetera. This would be a similar situation to what you're talking about, that whilst the legislation allows access on a right of way virtually, your problem and concern is people not adhering to those right of ways, and the fact that you don't have any process to utilise to correct it if they stray off. How does it differ to the person who owns private property but must have right of way and has it on their title to allow other land-owners or the public access across their land to other areas?

Mr SAINTY - Well, they probably haven't got a culture that's thousands of years old that is being destroyed by four-wheel drives and trail-bikes and cattle. I mean, if these areas come back, there is going to be, I guess, public access in certain areas of that land that is coming back, and we have had enough of our sites destroyed, and I am sure as a committee you have been there and seen that west coast and you know the history of the west coast. At present that area is now a conservation area - it used to be a protected area - and it gives Parks and Wildlife even a lot stronger management and control of the area. For instance now they've got to stay on formed tracks, and if they go off it they are going to be on-the-spot fines. We have a culture that has been destroyed for so long. We are prepared to share it, and we want to protect what we have left and we don't want to see any more destroyed.

Mr CLARK - Can I answer that, just to throw another light on that, I would not put it in the context of privately-owned land, because I would say that any privately-owned land would have an economic value to it, so that whoever owns that land has the ability to generate resources off that land. In this instance it's not given back for economic generation, this is for cultural values.

But the same right, if a farmer has a crop of wheat and he has an economic value on it, surely the same respect to the Aboriginal community for the cultural value that they place on that should be weighted equally, and if they don't want to have access there then they should be given the right to do that. But there is nothing to allow them to enforce that. A private person can put a fence up. They probably have the resources to be able to do that - buy the fence. They can also ring the policeman and say, 'Look, there's someone trespassing on my land. I don't want them there'. So there are those things. Privately-owned land, I would put it more like government-owned land, crown land, that hasn't got an economic base but it could have a base for flora and fauna, and the Government have National Parks and Wildlife. They used to have Land Management, they used to have the Fauna Board that were there to control these things, and they could book people for doing those things, and trespass, and deny access. If you go up through the Lakes you will see where they are stopping people going camping down round a lagoon, like Little Pine Lagoon and that. They are doing that now. Surely you would extend the same courtesy to the Aboriginal community on areas that they own?

CHAIRPERSON - I put the scenario to you that I have put to several representatives of different Aboriginal organisations that have appeared before us, and I ask the question: considering the history of access problems et cetera of the 1995 legislation, would any transfers of land be better managed by

being transfers, no strings attached, as if it was private land, no access et cetera. So it is treated on transfer as private property, title to that community to do with as they wish in whatever way they wish? Do you see that as a better scenario?

Mr CLARK - Unless that provision stopped any land coming back, and a case in point would be Wybalenna, where there was already an access-made road through there, access to a freehold property on the other side. Now if that provision was in there that this is the only way that land could be handed back, then that would have stopped that land coming back, so in that sort of instance. I wouldn't say whether I supported that or not. In certain instances, yes. But I think you've got to remember, too, that we are talking about control of sensitive areas, not necessarily every area that is going to be handed back to the Aboriginal community.

This probably leads to the next point, that there should be more control vested in the management group, because there is a perception that ALCT control the land - and remember that this is purely the perception of TRAC - that if more control was given to the management group, i.e., that land management capability along with the extra resources for wardens and that sort of thing, that they would manage that particular piece of land that is handed back in the most sensitive way to the areas on that piece of land, but it would be their determination what they do on it.

Mr SAINTY - Did you want me to answer that now?

CHAIRPERSON - Yes.

Mr SAINTY - My answer to that, in all honesty, would be ideally yes, if it could come back, no questions asked, because I can see down the track we are still going to have problems - if and when the land comes back - with four-wheel drives, trail bikes and, I guess, cattle in some areas where for whatever reason they get through fences or whatever. But ideally my own personal opinion would be yes, no questions asked, to come back.

CHAIRPERSON - The instance of Wybalenna pre-hand back, the road through it was access to a private property, wasn't it?

Mr CLARK - It still is.

CHAIRPERSON - It wasn't to be public.

Mr CLARK - No, it was private. It was actually maintained by the local council as a gazetted road.

CHAIRPERSON - As a gazetted road?

Mr CLARK - Well, there are two there. There is one that goes down to the McQueen's property, and there's one that goes round to the wharf there, and that was under the auspices of the local council to maintain that.

Mr DILLON - You're probably talking about two different areas.

Mr CLARK - Well, that's what I'm saying.

Mr DILLON - That's more sensitive around here, because of the middens and the things that are on and off the soil to the tracks on the way through, so I think that you're talking about two different areas, and my view is that if that land's given back with no strings attached then that's probably the best way of doing it.

Mr CLARK - I have no problem in agreeing with that whatsoever, as long as it doesn't stop any other land of significance coming back that might not comply. And with the no strings attached approach, would that mean the Government wouldn't have to put any resources in it to manage it, because that then could be a -

CHAIRPERSON - I think in hindsight that's what the 1995 transfer did, didn't it? It handed back land, but there were no resources handed back with it, and I think hindsight is proving that it is creating

some problems and some headaches in lots of areas.

Mr FLETCHER - I'm not saying this is right or wrong, but the reality of the 1995 hand-back was that there was a perception that there was a public road through Mount Cameron West and that the public used it and had used it for many years, and if there had not been agreement with regard the access over the public road, the land would not have come back in the first instance. Given your previous situation, do you believe it would have been better that the land not come back, that particular parcel of land?

Mr SAINTY - No.

Mr FLETCHER - So you still believe it was better to have the land, even though there was a public access right given over it?

Mr SAINTY - Most definitely. The land is now in the control of the Aboriginal community and we have a problem there with access, but that is something we are working on to come to an agreement where everyone is going to be happy.

Mr DILLON - And I think that probably over a period of time the people that are using it at the moment will gradually be able to work around that and use other areas, and it won't be as bad as what it is, like at a flashpoint. It will gradually go away. It is a bit like our culture, they tell us it changes and moves, and that's the same with that.

Mr FLETCHER - I wonder would you give an opinion, John, if you're the spokesman, about whether Tasmanian Aborigines are different to mainland Aborigines, or should we expect to treat all Aborigines throughout Australia as equals?

Mr CLARK - In what context, Tony?

Mr FLETCHER - Well, the law applying to Aborigines, should it be consistent throughout the nation, or should there be one set of laws for Tasmanian Aborigines and another set of laws for mainland Aborigines?

Mr CLARK - Well, I think you've already got that situation. You've got to remember, I suppose, and it is a carry-over from - officially there has only been an Aboriginal community in Tasmania since 1995, since Ray Groom said 'We officially acknowledge there is an Aboriginal community here', yet governments for 27 years accessed funds through things like Commonwealth State housing agreements to build up assets of State Government on the back of Aboriginal communities. But officially they were recognised by the Groom Government, so it is only five years old. Now, having said that - official recognition I am talking about - indigenous rights in South Australia allow Aboriginal people, with clarification, to drive a vehicle on land heritage areas, certain heritages that are pastoral leases, to take food, to shoot kangaroos, to harvest food for sustenance. There are some restrictions on such things as abalone. They are not allowed to take them because they have a commercial value. But the Aboriginal people in South Australia can just go and do that as a right. You can't do that here because the justice system is in place and you fall foul of the thing. So you already have different laws in different States, so to say we treat them all the same I think is a little bit -

Mr FLETCHER - The Native Title legislation - we have High Court precedents with regard Wik, we have High Court precedents with regard Mabo, we have Federal law, Native Title law, which is applied consistently to Aborigines throughout the nation of Australia. Why shouldn't Tasmanian Aborigines make application for native title and be bound by the outcomes of that?

Mr DILLON - Firstly that question you asked before about whether we should be treated differently. Well, I don't think our laws would change that much from yours in some ways because you've different laws, like you've got mandatory sentencing in the Northern Territory and Western Australia. So I think our laws can differ the same as what your laws can on that one.

Mr FLETCHER - When you talk about our laws and your laws, are you saying we've got two separate laws here?

Mr DILLON - Well, you've got two different laws there. You've got laws in the Northern Territory and Western Australia -

Mr FLETCHER - Applying to State issues.

Mr DILLON - which are different to here, so I don't think that we would be any different. But we have got different laws of our own that we keep, different to what you have, so we do have our own laws in certain areas.

Mr FLETCHER - Are you bound by our State laws, by my laws?

Mr DILLON - Well, every time I come up to court I see to be, yes, and that's fairly often.

Laughter.

Mr FLETCHER - Go back to the question I asked with regard to Native Title legislation. Perhaps to clarify the position, there are tribal people and Aborigines generally throughout Australia who apply for native title. Because of their dispossession they are denied native title rights. That is the story of Tasmania, so why should Tasmania be any different to the rest of the nation?

Mr DILLON - Okay, I'll put it round the other way then. What are you going to do with all those Aboriginals' rights if native title doesn't apply? Say, for instance, how many native title cases have got up? Mabo's got up, Amandoo Yanna, would be the only two that have got up so far?

Mr FLETCHER - No, there have been more than two, but not many.

Mr DILLON - We'll say there's four, we'll double it. What are you going to do with the rest of the Aboriginals in Australia?

Mr FLETCHER - What they're doing - and I've put this question to you before, so you ought to be prepared for this - is providing somewhere between \$40 and \$50 million a year every year for ever to purchase private land for the Aboriginal people who are disadvantaged under Native Title law.

Mr DILLON - Yes, but you know very well, Tony, that ILC will not buy State or Commonwealth land.

Mr FLETCHER - No, they won't buy crown land, that's a different issue.

Mr DILLON - Most of our what you call poaching but we call our right to take food is off Commonwealth land, so what are we going to do? Are we all just going to sit back and drop our culture, or are we going to keep fighting for it the way we have been and try and get the Government to give us some of those rights back? I think the Government does understand that we have got a culture. They've accepted that we're here as Aboriginal people and accepting that we're here is a bit like accepting that someone's a Catholic, so you can really guarantee he'll go to church at some time. Right? So really by accepting that we're Aboriginal, along with that comes a responsibility of accepting that we must have a culture of some sort and we should be entitled to practise it and keep going with that and show our children that culture so that's handed down. And I think you're a fairly proud sort of person and a family person that hands down your morals from you to your family, and that is the same thing that we are doing with our families. That is exactly the same thing, and the commitment you've got is the same commitment that we've got.

Mr CLARK - Could I try to answer that question for you, or throw my two bob's worth in, whether I answer it or not. As Rodney said, ILC was set up for dispossessed people that can't prove native title. I don't think that should block Aboriginal communities or communities or individuals, or whoever wants to put up a native title claim, from doing that, because it is a possibility and there are Federal Government funds to allow Aboriginal communities to apply for native title back to traditional lands. The circumstance in Tasmania is, because of the dispossession and the moving about - the Wybalenna experience, the Risdon Cove experience - that a lot of people were moved from their traditional areas. If you go through that legislation, if there's been a lease or a freehold or it has been sold, then you can't claim those lands back, so there is very little opportunity except on crown land or in areas of crown

land where there has been a continual occupation of members of that family, and that is a very limited area and a very limited group of people in this State that can actually prove that traditional link.

Mr FLETCHER - I accept that. You don't have to argue that.

Mr CLARK - Right. It doesn't mean that those people should not be given the right, and in actual fact they have the right to go and access those things. If you put that in the case of Tasmania, then it would be pretty hard for somebody to prove a traditional link to areas like Mount Cameron West.

Mr FLETCHER - I accept that, you don't have to argue that.

Mr CLARK - Okay. And ILC are put up for dispossessed people like the circumstances that most Tasmanian Aboriginal people find themselves in.

Mr FLETCHER - Correct.

Mr CLARK - However, they can only buy private land. They refuse to purchase land because they believe that the onus is on the State or Commonwealth governments if they own that land to transfer that land back if it has that significance. That is what they believe the implication of the State Government should be. So that is a limited pot of money, but it is there for a specific purpose, and that is to right the wrongs that can't be wronged under the native title law where somebody might be able to prove that they come from that area, but the other legislation like leases and that have knocked it out.

Mr FLETCHER - Isn't that the nub of the matter? Your last statement was that the ILC \$40 to \$50 million a year for ever, whatever it is, is there to right the wrongs of what can't be proven under native title law. Could I then ask you to comment on the position that one of the models that has been put to the committee and needs testing is that there ought to be this purchase of private land, as indeed there has been some experience in Tassie already, through the ILC money, and that the crown land ought to be retained in the Crown ownership for all Tasmanians but there ought to be a process of identifying the Aboriginal sites, and the Aboriginal sites managed for their special Aboriginal values. So the ownership would stay with the Crown in common ownership but the sites would be managed for their special -

Mr CLARK - I totally disagree with that, Tony.

Mr DILLON - I've got one before that. The one before that, you've talked about the State with the land. When the land comes back from the State, it comes back with the rights for Aboriginal people to be able to practise their culture. When you get land back from the ILC - when you get land back from the State it is that State and those people in that State recognising you as people. When it comes back from the ILC, it is like a compensation. But when you get it back from your own State Government, your State Government is recognising you people and we are giving you back that land that we took, and that is the significance of that land, more so than ILC. It is a bit like a family earning the money and buying something, or someone gets a bad back and he gets a pay-out. That's the difference in the comparison.

Mr CLARK - Yes, the ILC money is there because the Government hasn't got it in its power to hand it back to the community, as it should do, so there is a way of people buying that freehold stuff. But I might say, too, that there are specific guidelines on the reasoning that it is bought, and it has to be of cultural significance. And that is the onus that is on State governments to make sure that if they're committed to reconciliation, if they're committed to the deaths in custody recommendations, if it is there it's crown land, you can act over it, you've got the power over it. Thanks very much, it should come back as a right, not as gratitude.

I have a couple of other points. You can go back over all of them, because some of them might be answered. We will just touch on that ILC thing, because that was the next one. To go through that ILC experience, there are some pots of land that were bought through the ILC and I can speak on one of these with some authority because I have been involved in negotiations on actually getting that. The ILC have a different attitude. There are some other things that they won't do - some of this legislation is pretty grey. A local community or an individual community around this State puts in for a significant

area for cultural value for that community or whatever it is. ILC will come and investigate that. In the case of Tasmania, because it is pretty hard to identify traditional owners for some of these areas, they have taken that the elected body of ALCT would hold title on behalf of the community. However, before they will purchase a property there are some things that have to go through, like the community they are buying those for give a guarantee that they have no problem with ALCT holding title. ALCT in turn have to give a guarantee that the community has control and management on that site. That's a negotiated position between ILC, ALCT and the individual community that they're buying the land for.

The question that council would have on that is if that is part of the legislation, if that goes back through this amendment because it's part of the amendment and I think there are three parcels of land that that is actually handed back on. If there is an economic value or there is value derived from that land, under this proposed legislation would this allow the statutory body, the State Government, to derive any sort of economic benefit out of that land when that wasn't the reason it was bought for in the first place? And, as I said, part of this negotiation might very well be that if it goes through, then the statutory body - the State Government - could impose costs from those local communities, i.e. leases or whatever, because under this legislation it takes the pretext of having been part of the 1995 legislation. So the conditions in the act apply there. I can't see anything in there, any value that is derived from that, so council's policy on that is that any economic value should actually go to the management group, okay, so there isn't the imposition on some of these things that ILC might buy. And again, whoever the management group is should receive the benefits out of that.

CHAIRPERSON - If I might just clarify that there, your position on the Tasmanian Regional Aboriginal Council is that you are comfortable without having the title as the statutory body under legislation but if there is an economic benefit, the management committee, whoever they are, should have utilisation of the funds from that economic benefit as part of the management process of the land they are managing?

Mr CLARK - I would say this for all land, whether it is handed back by State governments or it is specifically purchased. If the statutory body, the State governments, receives any interest in land whatsoever from anybody that gives them a gift, whether it is from ILC, ATSIC or somebody who bequeaths a pastoral property to ALCT on behalf of the Aboriginal community, then the management group should derive the benefits out of those things. That is a position that TRAC supports, that the management group should have more control. If you are going to let these people manage this area on behalf of the community but give them more control to manage that site, anything that is generated on there should go to the management and the control of that site, so that the resource that is developed there stops there so that you've got that stuff in place to manage it.

I don't think it is up to TRAC to say on behalf of individual communities or organisations, whatever that might be, that have negotiated a position with ILC and ALCT to overturn that position. If that individual community is happy to have ALCT hold the title, it is not the position for the regional council to go in and tell that community what it should do.

CHAIRPERSON - That sits comfortably with the ILC, because that's the Commonwealth rules and regulations. We've been given some evidence that there are some communities who have concerns that with ALCT holding the title, local communities as they perceive them, local bodies, may be overlooked in the management process and they would feel ostracised as a local Aboriginal community because they had not been included in the past in management and have some concern they may not be included in the future in management.

Mr CLARK - And, as I said, it would be for that local group to take that up and negotiate that position with ALCT. Without knowing a specific instance, I don't think it is regional council's position to go in and tell someone what they should do or what they shouldn't do. As I said, these are points that we believe should have clarification. And if the consultation process - and I'm only talking about a consultation process - within the Aboriginal community was probably a little bit more extensive and wider ranged, some of these issues may very well have been sorted out in that before any proposed legislation got up.

Mr DILLON - I think where you're getting at too, that would be an internal thing for Aboriginal people to sort out.

Mrs SILVIA SMITH - How would that work in instances like, for example, the Aboriginal group here in this area are not recognised by ALCT.

Mr CLARK - So they're not recognised by the Tasmanian Government or statutory body of the Tasmanian Government, is that what you're telling me?

Mrs SILVIA SMITH - Or by, what's the other group? I've lost track of them.

CHAIRPERSON - TALC.

Mrs SILVIA SMITH - TALC, yes.

Mr CLARK - But TALC's an individual community group with specific purposes. But you can't force anybody to recognise another group and say, 'Look, you'll do this'.

Mrs SILVIA SMITH - What if there's not a group then, in the area where a piece of land has been given back, who would look after it then?

Mr CLARK - But somebody in that - well, isn't the implication on ALCT at this stage to identify an appropriate group or management group? I mean, surely that's -

Mr DILLON - There wouldn't be an area in Tasmania where that would happen.

Mr CLARK - Yes, somebody would have the expertise or whatever to manage an area of land in that area, and it would be up for that individual group to sort of put their case forcefully. There might be groups in that area that don't want to partake in the management of land, but that is not a reason not to hand that land back to the Aboriginal community as a whole if it's significant.

Mr DILLON - That might come that sometimes when TALC work in an area in heritage work, I don't know that there would be anyone that's qualified to work in that heritage area with them from Circular Head, so what they're doing is an individual thing in that area, and I can't see where that would interfere with it, because if ALCT took over some area in SETAC, or somewhere in the south-east, the people in that area would have some say in it one way or another, and that would happen. So that's an internal thing for Aboriginal people to sort out.

CHAIRPERSON - I think perhaps we can extend this debate to some degree. As I said, there has been evidence given to this committee where there are some Aboriginal people who have felt they have gone through a test of aboriginality and it hasn't been accepted. They are not recognised as part of the Aboriginal community locally. Whilst the ATSIC Commonwealth process recognises them, the State process does not. Whilst you might say that is up for Aboriginal communities to sort out, I would think a government and people elected to have a responsibility through this particular process to try and encourage in some way that there is some reconciliation of that process -

Mr DILLON - We haven't got the other reconciliation going yet, why would you want to get this one?

Mr CLARK - We have an official position on that, and that is the next point, that the election process for the ALCT elections should be exactly the same as the process for ATSIC election. Okay? And that's the opinion of the council.

Mr BAILEY - And the qualification to be an elector should be the same?

Mr CLARK - Yes. There is a problem that is perceived, as Tony said, should you be treated any different? Well, alright, there are examples where there are different laws in different areas. You've got a national sort of criteria that for an ATSIC election there is a process in place where individual communities or whatever can confirm or deny the aboriginality of people voting in that area. That sits well with some people, it doesn't sit well with others, but TRAC's position is that that is the position of TRAC.

Again, if you go the other way then there are organisations in local areas. We'll say we have the right to identify - there's a process in place now. If we put another process in place under the amendment it is

probably perceived that those communities would lose the right to identify who should represent them and who can vote in that election. So for whatever purpose, for good or bad, TRAC's position is that it should be the same process.

Mr DILLON - In that, I think there is a bit of a shade on that from the Government's side looking at Aboriginals to say that there are always factions, and sometimes we have got factions. But I have had a bit of a look at the Liberal Party and the Labor Party, and they sort of have bits of them too, you know, but they sort of try -

CHAIRPERSON - That's nothing unusual.

Mr DILLON - They sort of keep it to themselves a bit. Sometimes it gets in the paper. So we're no different in that area.

Mr FLETCHER - John, you've made a statement with regard voting and enrolment procedures to the effect that your TRAC position is that people who are eligible to vote for ATSIC elections should be eligible to vote for land council elections. Is that an authoritative statement? Would that be the opinion of the Aboriginal community, can you speak with that sort of authority?

Mr CLARK - Probably not. It is just the opinion of the council on that basis.

Mr FLETCHER - So there is really still no one who can speak on behalf of the community as a whole.

Mr CLARK - Well, I mean, the community isn't a whole. It's not one community. This is a hypothetical argument. Someone will say that we are one community that lives in different geographic areas. If you adopted that scenario - and some sections of the community believe that's the case, and some believe that it isn't - that the Aboriginal community of Tasmania is one community that lives in different geographic areas, then why wouldn't you offer, under this thing, the same courtesy that you offer the non-indigenous people? The non-indigenous people live in local government areas, they have the right to manage their affairs in their areas as they see fit from a geographic area, so wouldn't you extend that same courtesy to the Aboriginal community?

CHAIRPERSON - Are you saying that perhaps instead of ALCT having statutory title, that the statutory title should transfer to the local Aboriginal corporation in Circular Head, Furneaux area et cetera, if there is a local corporation? That's the same philosophy of local government - Circular Head manage their area -

Mr CLARK - No, that's not TRAC's position on that. There would be varying individual views on it, but officially from TRAC that's not the position. TRAC have already recognised - and the instance is in one of these areas that's up for transfer back, i.e. Trefoil Island, that ALCT is the appropriate body to have the title transferred from ATSIC to, so that's not TRAC's position.

Mr FLETCHER - I might be wrong, but you mention Trefoil Island. That's not one of the subject lands, surely?

Mr CLARK - No, it's not one of the subject lands, but ATSIC own Trefoil Island. Okay? It is to be returned to the Aboriginal community in this State. TRAC have agreed previously that the title for Trefoil should be vested in ALCT. It can't happen until some of this - like it's just one of those that are sitting in limbo until an amendment goes through, but they have already recognised that ALCT is the appropriate body to hold the title for that land. If they'd had the opposite opinion they would have identified probably someone else. The same process with ATSIC. We believe that whatever the cremation process, whatever areas - I know they haven't been identified - but whatever happens in that area, the process should be through discussion through the management group and the family of the people involved, so it shouldn't actually go through an official -

Mr FLETCHER - I'm sorry. Could you identify the management group there, John?

Mr CLARK - No, just any management group of any area that's identified. I think TALC is the management group for Preminghana. If somebody from a family group really wanted to - if that was an appropriate area that was identified for cremation, then negotiation would be between the family and TALC as the managers of that area. It's just to say that that management group has control over it, or someone might come in and say 'we're going to do this' and they say 'no -

And the other one on the amendments was public drunkenness.

CHAIRPERSON - Public drunkenness does not relate to this particular process, that's in the Police -

Mr CLARK - I thought it was part of the amendment.

CHAIRPERSON - It has been removed because it comes in under Justice and Police something or other act.

Mr CLARK - No, that's fine. I thought that was part of the thing.

CHAIRPERSON - Originally it was an intention but when the amendment act came out it had been taken out of that because legal advice was it belonged under a different statute.

Mr CLARK - Okay, I've got no problems with that, but I only use it as an example where some governments will pluck things out of the recommendations into deaths in custody that as an individual recommendation under that document, and the Government's put a response out up until 1997 - that I think was probably under the Liberal Government - and this Government actually signed off it in April last year and have given a commitment that they will implement it. But it is our understanding that that document should be looked at as a whole package, not just plucking bits and pieces out of it that suits you for a specific purpose. But we believe that the whole document should be adopted as policy of the Government, because at the moment it is alright to say 'we support it and it's implemented' but legally that document doesn't mean anything. It is not adopted as policy of government and it is not legislated. If you really wanted to be fair dinkum about reconciliation and Aboriginal affairs, that whole document should be legislated and become law. And that's about it, so if there's anything else you want to ask us about.

Mr FLETCHER - I would just like to ask Rod a question. Once again we have discussed this previously, but he put a proposition that I find difficulty with, and the proposition is that the advantage in having crown land transferred back is that when crown land transfers back, transferred with it is the right to practise your culture, and I can't find anywhere in the 1995 act or in this present bill where it stipulates that, where that's the case. The right to hunt and gather is provided under the Living Marine Resources Bill, but it is not specific to this Aboriginal land, as I understand it.

Mr DILLON - I think Rocky's got a good answer for this.

Mr SAINTY - I don't know whether it's a good answer or not, but there is legislation there for the taking of muttonbirds and that's on Aboriginal land, land that was handed back in 1995.

Mr FLETCHER - Where is that, Rod?

Mr SAINTY - In the National Parks and Wildlife Regulations.

Mr FLETCHER - Oh, in the regulations. Okay.

Mr CLARK - But the Living Marine Resources Act, Tony, only covers the ocean, it doesn't cover land. That was another point, that really it would be nice just to put that same sort of thing on any land that comes back - national heritage areas and any other crown land that the Government owns, that the Aboriginal community can practise that culture for the taking of wildlife.

Mr FLETCHER - So it is in the Parks regulations, not in them all.

Mr SAINTY - Yes, it is.

Mr DILLON - And what it does do, Tony, at the moment if Rocky and I were both to go down to Turners Beach tonight and get a feed of muttonbirds, we'd both get pinned for taking the muttonbirds, and not only would we get pinned for it and get fined or whatever, but we would both lose our jobs because of the positions we're in. Here we're trying to represent our people as well as we can and we're getting done over by keeping our culture going. So what's happening, basically, we have either to give up our jobs and keep our culture going, or just keep our job and stop our culture, so it's not a real good position at the moment that we're in.

Mr CLARK - You see, I think it's a hang-up from the fact that the governments didn't recognise there was an Aboriginal community in this State until 1995. I quoted an instance in South Australia where the community had the right to go on pastoral leases, to go on crown land, and to go on heritage areas to take food for sustenance, whether that was kangaroo, emu or whatever, as a right. They can drive on there in a four-wheel drive and they can shoot them, as long as it is not for a commercial purpose, it's for sustenance, because the Government recognised, and the Aboriginal community there wasn't disseminated like it was in Tasmania. In 1995 when this legislation went through, if - I think it's imperative that government now addresses that, that they do change the law for that sustenance thing on areas of crown land, Commonwealth land or National Estates, that allows people to go and practise their culture. So you impose the stuff that's in the Living Marine Resources Act on other land that the Government can control, so that it covers taking kangaroo, swan eggs and muttonbirds for sustenance purposes or cultural purposes, and it is not a mandatory fine. We have seen some cases lately where magistrates have said, 'I believe you have the right to do this. However, because of State legislation I have to record a conviction' or 'I have to fine you x amount of dollars' because Parliament set this thing. I think governments need to address those things.

Mrs SILVIA SMITH - I just have one brief question. Does TRAC recognise that there are also, in the opinion of many people, other traditional land users - for example, shack-owners, the cattlemen, surfers et cetera - and that they have rights too, to work, fish, recreation, and pursue their cultural heritage? Does TRAC recognise this fact and, if so, how do you envisage we work it all together so that everyone -

Mr CLARK - In what context, Silvia?

Mrs SILVIA SMITH - In the context of us all being part and parcel of a group of Tasmanian people following their cultural heritage to the best of their ability under the law.

Mr DILLON - Up until tomorrow you don't accept that we've got a culture, but you want us to accept yours.

Mrs SILVIA SMITH - Who has said that we don't accept -

Mr DILLON - The Government. When we go to court it's proven that it's not our culture to take muttonbirds. They fine us for doing it, so it can't be our culture. But you want us to accept your culture first.

CHAIRPERSON - Don't you accept some of our culture, as you put it, in your ordinary everyday lives? Aren't you part of our culture as well as a part of your own culture?

Mr DILLON - Ambidextrous, sort of?

CHAIRPERSON - For want of a better word, yes.

Mr DILLON - In some ways we are, but it's pretty unique, the Aboriginal - up until the last couple of years when the Government has decided, for one reason or another, to accept that we are Aboriginal, all our culture had to be done in the dark and kept silent, and now all of a sudden we've been saying that these other people have got culture. Tony and I have had this argument once before. You don't want to accept our culture but you want us to accept yours first. Well, I can't see - I sympathise that there is a problem there, and it's going to take a little while to sort it out, but until our culture does get recognised, I think that we're probably well behind the starting block, and our culture has been strong and our culture has been going for thousands of years, not four generations.

Mr CLARK - Can you ask that question again, because I started making some notes, and I might have sort of -

Mrs SILVIA SMITH - I think the basis of what I was saying, without remembering every word identically, is perhaps what Rodney was suggesting there, that there are two sets of possible cultures here. For want of a better description the Aboriginal culture and the European culture, let's put it in those two contexts - do you agree that there are perhaps two cultures? I certainly agree that there are -

Mr CLARK - Yes.

Mrs SILVIA SMITH - and how do we work together? I'm just sort of looking for a loop-hole of how we can go from here. Where can we go from here, so that we can all be together?

Mr CLARK - Members of the Aboriginal community in this State wouldn't recognise that there is a non-Aboriginal culture, however diverse, whether it's English, German, Greek, Roman Catholic, Presbyterian, Buddhist, whatever it is -

Mrs SILVIA SMITH - Don't you find that a little bit unfair, though?

Mr CLARK - Why?

Mrs SILVIA SMITH - You are saying we are unfair.

Mr CLARK - Don't you recognise that?

Mrs SILVIA SMITH - I recognise that there is a very diverse group of people in Tasmania -

Mr CLARK - Absolutely.

Mrs SILVIA SMITH - and they all have their own cultures.

Mr CLARK - And they've got their right to practise it.

Mrs SILVIA SMITH - Yes.

Mr CLARK - But the legislation is in place in this State and in this country that denies the Aboriginal people the right to practise their culture.

Mrs SILVIA SMITH - So are you saying that until the Government recognises the culture of Aboriginal people, the Aboriginal people are not going to recognise other cultures?

Mr CLARK - No, they are recognising other cultures. We can recognise that it is there, but it's like Macquarie Street at the moment. She's all one way, because there is nothing in place to recognise the needs and the aspirations of the Aboriginal community. Rodney's case is a typical case. If he wants to pass his expertise on to his children, and part of the culture is the taking of muttonbirds, now you'd recognise that was probably an appropriate practice for an Aboriginal person to take place. Up until last year when I think TRAC negotiated with the department, or was involved in the opening of Fort Direction, wasn't it, or whatever it is, where in the southern part of the State could these people go and access, when they wanted to go and practise their culture, not when they were told that they could go on the second Saturday in the third month and be there at 10 o'clock? That's like saying to someone that is a Roman Catholic, 'you can go to Church next Sunday but you can't go for another 10 weeks because we won't give you a permit to go'. So he has an inbuilt belief to pass this culture on to his children like Lou and Brooke, so he takes them down under the cover of darkness, or whatever it is, and puts them in danger to show them how to take a muttonbird out of a burrow and what appropriately to do with that to take it home and eat it.

He is torn between two things here. Because the laws of the land don't recognise through legislation that he has the right to do that and penalise him for doing it because muttonbirds are a protected species or whatever, he is then passing on that culture to his children. He is teaching them by passing that culture on to break the law of the land. So, subconsciously, for his urge to pass this information on,

to pass these life skills on, under the current format and the current legislation, he is also teaching them disrespect for the laws that stop him from doing that.

I hope it doesn't happen but it could very well happen by passing on his culture, his inherent culture to these kids, when they get to 15, 16 or whatever, for whatever reason, whether it's social pressure, economic pressure, can't find a job or not going too good at school, they need something, they don't see a lot of difference between taking something else of value to support their lifestyle, as they do by doing what has been taught to them. So he is torn between two worlds. Does he teach them how to break the law, to impart their culture to them, because the legislation isn't reflective or flexible enough or doesn't have, as you said, respect for the culture, enough to allow him areas to practise it?

Mrs SILVIA SMITH - Has that always been so?

Mr CLARK - Well, up until 1995, absolutely. There was not even official recognition from this Tasmanian Government that an Aboriginal community lived here.

Mr FLETCHER - But, more importantly, there was a recognition from the Australian Government, and they are the law of the land.

Mr CLARK - But unfortunately, Tony, this isn't national legislation that you're talking about, this is State legislation.

Mr FLETCHER - I accept that, but you say there was no recognition of the community prior to 1995.

Mr CLARK - There was no official recognition from the State Government.

Mr DILLON - And yet that State Government took probably \$1 million a year in housing money for Aboriginals, and still didn't recognise us, and had done for about the last 16 years.

Mr CLARK - The last 27 or 29 years actually.

Mr BAILEY - Can I just ask you about your voting rights? As members of the ATSIC area, are you entitled to vote for the ALCT elections? Do you qualify?

Mr CLARK - Some don't.

Mr BAILEY - I am just asking you three.

Mr CLARK - In what way?

Mr BAILEY - Are you able to vote at ALCT elections? In relation to the Aboriginal Land Council of Tasmania, do you have a right to vote?

Mr CLARK - The last election I was refused on the grounds that I didn't provide enough information.

Mr BAILEY - Each one of you?

Mr CLARK - No, me personally.

Mr BAILEY - Has that been rectified now?

Mr CLARK - The process is in place again. If I require to vote I go through the process, and I might say that I was part of the interim ALCT, the first one that was set up when it was appointed by the minister. But the next election, I didn't fit the criteria as it was set.

Mr BAILEY - So notwithstanding that your aboriginality - well, I'm not sure, are you in the case, John?

Mr CLARK - Yes.

Mr BAILEY - But your aboriginality was accepted by the court case in relation to ATSIC elections. Why is there a different standard in relation to your aboriginality in relation to ALCT elections?

Mr CLARK - Because it is a State standard that has been adopted by the State Government or ALCT on a process that they will go through.

Mr BAILEY - Well, as I read it, the definition of aboriginality in the proposed legislation is virtually based on the judge's decision in the case in which you three were involved.

Mr CLARK - No.

Mr BAILEY - No, except for onus. The criteria that has to be met is as the judge adopted when each of you were recognised as being aboriginal.

Mr CLARK - Yes.

Mr BAILEY - The only difference in that definition is that the onus has been reversed from, in this case, ATSIC, from being able to not prove that you were not Aboriginal. So it was a different onus of proof. Will the change in that definition help you or not help you in -

Mr CLARK - Well, it didn't matter - last time I wasn't accepted by the commissioner of the Electoral Office to be eligible to vote in an ALCT election, yet in the community I live in I'm accepted as an Aboriginal person and I am chairperson of that community.

Mr BAILEY - Yes, and the court recognised that you were an Aboriginal person.

Mr CLARK - Yes, but in this process I have to go through it again for the purposes of voting in this election. Whether you do or whether you don't really isn't the point, I suppose. I suppose if you want to look at it at a point, if an individual community in an area like the community that I live in, if they identify and accept me as an Aboriginal person then they would like me to vote for somebody that they want to represent them. In this instance they haven't got the right to do it.

Mr BAILEY - You haven't?

Mr CLARK - No, the community hasn't, because that community are not the ones that confirm whether you are Aboriginal or not, it goes through a process.

Mr BAILEY - Do you think there could be a better process for determining aboriginality, rather than having to go to a court to have that determined where there's a standard -

Mr CLARK - No, because even in the amendment you can ... in court. The provisions there are for the person to take it to court.

Mr BAILEY - Yes, ultimately it will be determined by probably a white judge.

Mr CLARK - Absolutely.

Mr BAILEY - And so the non-indigenous people are no longer represented in that process.

Mr CLARK - I suppose if you're not going to take notice of the individual communities these people come from, and you're going to have to set a wider criteria, at the moment I believe the community does determine aboriginality because the community people in those areas determine whether they accept you or whether they don't, or there are areas that you come from, the community people can do that.

Mr BAILEY - From your community, how many people would claim aboriginality and how many would qualify to vote at an ALCT election.

Mr CLARK - Oh, mate, that's hypothetical. How long is a piece of string? It depends. I'm not sure whether this is correct or not, it's just how I remember it, and I'm talking about the last ALCT election.

I put in an application, and someone in the community challenged whether I was an Aboriginal person or not. They asked for more information because they have a group of people set up to determine whether they'd accept you on an oral confirmation, and that never happened, so I didn't vote. I got a letter back from the commission saying 'You're not entitled to vote in this election. This does not mean you're not an Aboriginal person'. But the process that I went through was that, so it could be the same again, but I can't say how many people that live in my community are accepted or aren't. That would be a guess and it would be hypothetical on my part, the same as I couldn't say who from other areas wouldn't be accepted.

Mr BAILEY - In relation to the communities that each of you represent, how do you see the granting of land, reconciling the Aboriginal people with the non-Aboriginal people? Can you explain to me the advantage to your group based on reconciliation?

Mr CLARK - You're asking me personally?

Mr BAILEY - Yes, I am asking you privately.

Mr CLARK - The answers I gave you on those last two aren't a TRAC answer, they're personal. So how do I see the benefit of land coming back in my community, having benefited what?

Mr BAILEY - The reconciliation process. The word 'reconciliation' is used -

Mr CLARK - It depends which side of the fence you're looking at reconciliation from, because if you look at it from an Aboriginal community point of view it really hasn't done a lot yet, because they haven't got enough land back.

CHAIRPERSON - So reconciliation is about land transfer.

Mr CLARK - No, he asked me purely - no, reconciliation is not necessarily about land transfer, but Ray asked me the question in relation to land transfer, and I see this process as not enhancing reconciliation at all because it is grudgingly given. So if you're not willing to say, 'Look, we understand that there is a process and you have been dispossessed, you can't practise your culture. We've got some laws in place that really jam you people, and although we think you should be able to do it, at the moment we haven't moved enough to change the legislation so you can do it', then I don't see any of it as a reconciliation thing at all. And I don't see it a reconciliation process in my particular area if members of the community in my area don't control the process or are barred from the process. If we set a body up, whether it's National Parks and Wildlife, whether it's ALCT or whether it's anybody else, if they have the right to come in and determine how that individual community will react to anything, what they will do on the land, if they've got to ask permission to go on the land or they don't control that process, then it's not reconciliation because I personally believe - I don't care whether they're black, white or brindle - no one has the right to come and tell me how to live my life.

Mr SAINTY - I just think that the reaction from this parcel of land that is to be handed back shows there are more people against reconciliation in Tasmania than there are for it.

Mr CLARK - For instance - and I can tell you this actually happened in my community - when the announcement was made that this was going to happen there was no one on that island who knew this was even in place, and that's why we say there is a perception that the consultation process wasn't as wide as it should be. We didn't even know what the hell people were going on about, about handing this land back. Where we drove round the corner there's a single poster bed with a mattress on it, and put up underneath it was 'This utility is for the use of people of Irish descent that are affected by public drunkenness'. This was sitting on a post right outside the Aboriginal community.

Mr DILLON - There's also the part of reconciliation. I think that perhaps land coming back through reconciliation is the Government understanding reconciliation, it comes through National Parks and Fisheries and people like that being able to understand reconciliation to the point that the land they controlled now is being controlled by Aboriginals, and sometimes National Parks come through. You have people like Rocky coming through National Parks now. I think that's all part of it. Before we didn't have anyone in there as recognised Aboriginal people.

So in some ways we think reconciliation is not working but in other ways - when you went to school, Fletch, they probably told you the Aboriginals were all shot out and they died of the cold or something like that. I think that was a pretty common thing. But now in the schools you've got ASPA (?) committees, you've got things like that where there is recognition that Aboriginal people are here and they didn't die of the cold and they have been slaughtered. Those are the things that the white governments are coming to terms with and the Aboriginals are coming to terms with some of it as well, and I think that is the path where with reconciliation and land coming back, there is that overlap where the people in the Parks and Fisheries and Forestry and people like that are starting to work in reconciliation, and we don't realise it and it's probably going to take 50 years. Little Johnnie Howard might have been right with his statement. He was saying that for one reason, I'm saying it for another, but that's how I see reconciliation and the land coming back, and I think the land coming back is part of the Government's reconciliation, saying 'We haven't been the cleanskins over the years and we were the people that took the land off you'. You people here, you are still the Government, we're not shitty with you, but we understand you are still the people that control it, and you see us as the Aboriginal people. We're 200 years apart, but you're saying - even thinking about giving the land back is part of reconciliation.

Mr CLARK - A well known member of the Aboriginal community said this quite often: 'when the Aboriginal community had nothing, there was nothing to fight over. Now that you've got something then we're going to have some problems'. And that has really borne fruit, because there's something to fight over. So while it was ideals et cetera it was a pretty simple sort of thing.

If the Government's fair dinkum about reconciliation - and reconciliation, as I said, means different things to different people, so it depends from which pair of glasses you're looking through - the first thing it should do is make policy and adopt the recommendations in that deaths in custody report. Amongst other things that says is that the Government will give resources to the Aboriginal community and individual groups and whatever, to enable them to develop resources, to provide program moneys to fix their own problems. Whether that is economic development or whatever, let's do that. When you've got a Federal Government that can't even say they're sorry for what's happened in the past because they think, 'Jesus, we might have to pay some compensation'. You've got out of traditional Aboriginal resources such things as abalone and that sort of stuff, because they're worth x amount of dollars, not only in this State but in places like South Australia, because it will generate so much money for the wider community, 'Oh, we don't know whether you can have rights on that sort of stuff'.

Mr DILLON - There's another thing. It's not only reconciliation, but it is understanding - with the seal hides how the four-wheel drives have gone over the top. A lot of those people who drove over them didn't even know they were there, or the significance of it. That fellow who was in here just before us was saying 'Gee, they get that land back and all that gorse has grown on it', but he doesn't know that they haven't got any money to control that. It's just a misunderstanding, a lot of it. They can see the gorse growing, and the poor old blackfeller is sitting there saying, 'Jesus, I didn't bring the flipping gorse here'. You know? It's just a misunderstanding and something we've both got to work through to control it. Like I said to you before, there will need to be money handed back, with the things that come back, to look after it, to keep it in good order.

Mr FLETCHER - I have a question, not an easy question at all, but one of the fears - and there are fears in society like fears of the unknown and that sort of thing - that strike a bit at the hearts of people from my perspective is that I don't know what you are, John. Are you an Aborigine or are you a Tasmanian or an Australian or Australian Aborigine or Aboriginal Tasmanian?

Mr CLARK - Geez, I take a fair bit of offence to that, Tony.

Mr FLETCHER - How do you rate yourself? How do you see yourself?

Mr CLARK - I'm an Aboriginal person that lives in Tasmania.

Mr FLETCHER - So you're not Tasmanian or Australian, you're an Aboriginal person.

Mr CLARK - I'm a Tasmanian Aboriginal person.

Mr FLETCHER - You're a Tasmanian?

Mr CLARK - Yes.

Mr FLETCHER - So you recognise your European heritage as well as your Aboriginal heritage?

Mr CLARK - In what context?

Mr FLETCHER - Just in how you feel about yourself.

Mr CLARK - I mean, you can't be part and part, can you? You're either one thing or the other, aren't you.

Mr FLETCHER - You can't or you can?

Mr CLARK - You can't. Are you going to be part European or part Aboriginal? Which foot's going to be European?

Mr DILLON - I've got a question. What do you see yourself as?

Mr FLETCHER - I'm an Australian with a mixed background.

Mr DILLON - But you call yourself Australian?

Mr FLETCHER - Yes.

Mr DILLON - Do you look back at your mixed background?

Mr FLETCHER - My Irish or Scottish or whatever?

Mr DILLON - Yes.

Mr FLETCHER - Yes, I'm really interested in that, really interested in that, but at the end of the day I'm an Australian.

Mr DILLON - Well, I think it probably works exactly the same the other way for us.

Mr FLETCHER - In what way, Rod? Can you explain it to me? How do you see yourself?

Mr DILLON - Exactly what you've said.

Mr FLETCHER - You see yourself as an Australian?

Mr DILLON - No, I see myself as an Aboriginal with an interest in my background, exactly the same as what you said.

Mr FLETCHER - No, it is not exactly the same, because -

Mr DILLON - Why can't it be? You want to be different.

Mr FLETCHER - No, I would have to be seen to say I'm an Irishman with an Australian -

Mr DILLON - No, you told me you were Australian.

Mr FLETCHER - I am an Australian, yes.

Mr DILLON - Are you Irish or Australian?

Mr FLETCHER - Well, I'm Australian, because that's where I was born, that's where I live and they are the rules I follow.

Mr DILLON - As you know, I don't follow a lot of the rules, but -

Mr FLETCHER - But if you were to be consistent with me, you're saying 'I am what my ancestors were. My ancestors are Aboriginal, so therefore I'm Aboriginal'.

Mr DILLON - No, no, no. This is a very easy way to pick us off, and it's not a good way of doing it, but we'll go along with it. It is exactly the same thing. You can't have two sets of rules. You want to be Australian, right?

Mr FLETCHER - Yes.

Mr DILLON - I want to be Aboriginal. You've got a background, I've got a background. Fairly simple, and there's a line there and you can't get over it. Now I'm not going to get over your line and say 'No, you're not Australian, you're really Irish' or 'you're really Scottish' -

Mr FLETCHER - Not at all.

Mr DILLON - and you're not going to get over my line and say 'No, you're not really Aboriginal'.

Mr FLETCHER - No, but I thought you were saying you were Australian Aboriginal or a mix, but you're saying, 'No, I'm not Australian, I'm not Tasmanian., I am Aboriginal', the same as I'm saying I'm Australian.

Mr DILLON - Yes.

Mr CLARK - I am a Tasmanian Aboriginal person. I live my life as a Tasmanian Aboriginal person. Some members of the community accept me as such and some don't, but that's not my problem, that's their problem. Okay? I live my life. My culture is the way I live my life.

Mr DILLON - And like a lot of our people, our Aboriginal people were dragged from one area to another, and some of them were raped and bashed, so some of us have got a fair mix of cultures and it's probably not always their fault.

Mr FLETCHER - Yes.

Mr DILLON - Does that clear it up for you?

Mr FLETCHER - I've got to say, in all honesty, I struggle with it.

Mr DILLON - I struggle with yours too.

Mr FLETCHER - Yes, I understand that. But I'm not denying you your Aboriginality, I wouldn't like you to think that.

Mr DILLON - No, I'd never think you would.

Mr CLARK - But see that's a perception that people stereotype people, isn't it, that someone's got an inbuilt perception of what it is and you really have problems grasping at something that isn't.

Mr DILLON - A lot of people do have exactly the same thing and that's why I answered it because I've answered it a couple of times like that.

Mr BAILEY - What I wanted to ask was do you think it would be better - and provision is in the act - for the land which is being given in various regions to be managed by local committees rather than being directed through the Hobart office? We have had a lot of evidence on this about local communities being the managers.

Mr SAINTY - You'll probably get three different opinions here.

CHAIRPERSON - Do we have a position first of all from the Tasmanian Regional Aboriginal Council?

Mr CLARK - Yes, I think we do, haven't we?

CHAIRPERSON - I think you intimated that earlier. Let's just qualify who you're representing first, and then we will take the three different opinions, if you so wish, as an individual.

Mr BAILEY - You're representing the Tasmanian -

Mr SAINTY - No, TRAC. So if you can ask that question again - what do we see as the best way to go?

CHAIRPERSON - Yes, thank you. And answer it as three individuals, that's the safest.

Mr SAINTY - Yes, I'm just trying to find it here.

Mr DILLON - There's a way you can answer it a little bit. When you talk about TALC being the manager, TALC look after a lot of things on it, or ALCT do. They have specialists in heritage officers. The local group haven't got those, but the local group does have some sort of input into it. But if you were growing beans and you came down the Huon and I was growing apples, you wouldn't try to tell me how to grow apples the way you grow your beans, would you?

Mr BAILEY - No.

Mr DILLON - But if we were in partnership in the farm, you'd take notice of me because I'd been growing the applies, wouldn't you.

Mr BAILEY - Yes.

Mr DILLON - TALC's got land management skills and that's what they look after.

CHAIRPERSON - We received evidence this week from local Aboriginals, one of which was an elder, that they have had no involvement in any way on advice as a local group into Mount Cameron West, for instance. Now the apple grower/bean grower scenario, would you like to make a comment?

Mr SAINTY - I would. I'd like to know where that elder was when we were reclaiming Rocky Cape and Oyster Cove and Risdon Cove and marching in the streets, because I probably know the elder you're talking about, and that particular elder wasn't there. And then when Mount Cameron came back, all of a sudden they wanted to put their hand up and be involved in management. ALCT called for expressions of interest for local people, if there were any local people there that had the skills to manage that land, and if there's not, then it will go to the appropriate organisation or people that have those skills to manage the land.

Mr DILLON - But those people from that area can still go on that land.

CHAIRPERSON - No, I just wanted to qualify, because you made the comment about local, so I was looking for some -

Mr DILLON - But that fellow would still be able to go on that land, if he's an elder. He might get smart next week and he can become a real elder.

Laughter.

Mr DILLON - From South Australia or somewhere.

Mr SAINTY - Couldn't handle that, could you.

Mr DILLON - No, I couldn't either.

CHAIRPERSON - Thank you, let's stick to the issues.

Mr DILLON - Sorry. Those people can still go on that land, just like I can. I can come up here and go on that land. I'm not part of that land, but I'd come to that land, and people do have those skills. TALC do look after it. Whether you like it or not, TALC do look after it.

Mr SAINTY - Don't get bogged down to TALC though.

Mr DILLON - No, well ALCT or -

Mr CLARK - Can I circuit-break this a bit?

Mr SAINTY - As I said, if there is not an organisation or a local group of people there that can manage it, then ALCT call for expressions of interest. If it is a group outside that has the skills to be able to manage the land, then that's the way it will go.

Mr CLARK - Officially this is a TRAC opinion on what you asked before, and all through this we want more control for the management group. Now we haven't clarified the makeup of that group. However, when we got down to a scenario where land was bought specifically for an identified community for an economic venture or something, i.e. - and I will quote these things - like Full(?) Farm, like Monah (?) River and that sort of thing, then any guarantees, negotiations, contracts or whatever is in place, should not be over-ridden by the legislation. So any economic development off that or any other land - once a group is identified then the money or the generated stuff should go to that management group. Okay? So whether you class that as a local group or not, the connotation is the management group, however they are identified, whether it is by ALCT or whatever, and as Rocky said, if they tried to do it in his place there'd be real problems if the group weren't identified. But that comes down to the individual people in the area, I suppose.

But TRAC's position is the management group. We haven't identified locally or whatever. Now if you want to ask me personally, and this is what I'm answering as now, and I will answer it from the community where I live and where I come from, I believe that that community should have total control and management of the land that comes back in that area on one piece of land, because they fought and argued and fought a lot of battles to get that. There are other areas of land that come back in that area that have people that don't live in the area that have a vested interest in the area, and I believe that they should make up part of the management group for those parcels of land that they have a vested interest in. So there is a variation on different areas, different land for different reasons. So you don't have to be a local person to have a vested interest in that piece of land, and I would talk about a specific area like Big Dog. On Big Dog Island there are people that own muttonbird rookeries - that have the lease - who do not live in that local area. It doesn't mean that they should not have a right as a person with a vested interest in that area to sit on a management committee and make decisions how to manage that piece of land. So in one instance, yes, it is total local control on management. However, if it can be identified that those people have a vested interest, then they should also have the ability to sit on that management group. So different things in different -

Mr BAILEY - I accept that, but on the examples you have given - and one was obviously Wybalenna, or I assume it was Wybalenna -

Mr CLARK - Well, I used that, yes.

Mr BAILEY - How does it come about to achieve your vision for the management of Wybalenna? It hasn't happened yet, has it?

Mr CLARK - No, but you asked me for my personal opinion on who should manage the land.

Mr BAILEY - Yes, you did. Okay, they're not managing it, so how is that achieved?

Mr CLARK - No, I wouldn't say they're not managing it.

Mr BAILEY - Wouldn't you?

Mr CLARK - No. They've been up there and cut the lawns and mowed both sides of the cemetery. The non-Aboriginal that controls the land had been up there and managed the non-Aboriginal part, but the community on Flinders Island have been up there and started managing the site and mowing the lawns and that, and they've done it in their own right. They've purchased equipment to allow them to do that and the statutory body of the State Government haven't given them anything towards - I mean, if you're going to vest a title in someone and someone owns that title, the onus is really on those people to give the resources for the local management group, whatever they call them, to be able to manage it. Now if it's a statutory body of the State Government and they say, 'But we haven't got any money in the State Government', then I can't see how that's fair if the Government doesn't give that statutory body the resources to be able to impart onto the local community to give them the resource to be able to manage it. So everybody is up for ridicule, from the Government down to the local managers.

Wybalenna is really a specific thing and I think you should talk about that in that community. I can tell you that the community see that they have taken that land back under management control of it to do that, to have management and control of it. They went and got resources to allow them to do that - mowers, whipper-snippers, chain saws, vehicles. They've accessed it on their own right to allow them to do that. They do other things with it too, but it's the land management issue that they've bought those things with.

CHAIRPERSON - Mr Clark, if I can clarify that. You have signed off and you are legally accepted by ALCT as the land managers of Wybalenna on Flinders Island. Is that not correct?

Mr CLARK - ALCT have signed off, and ALCT have identified the community on Flinders Island as the local management group.

CHAIRPERSON - So that's all formal. There's no actual concern between those two parties now?

Mr CLARK - You'd better go and talk to that community about whether there's no concern.

CHAIRPERSON - I'm just looking at the formal process. We have had documentation that showed that Flinders Council and representatives of FIA and ALCT representatives signed a memo and then in August actually FIA received a formal document from ALCT to say that you were recognised as the local Aboriginal group for Wybalenna. So it is not a case of go in, take over, it's a case of everybody has come to an agreement. Is that right?

Mr CLARK - No, the agreement's not settled.

CHAIRPERSON - Okay. From your interpretation then.

Mr CLARK - Not from interpretation of those.

CHAIRPERSON - I don't see letters confirming back the other way.

Mr CLARK - What do you mean, letters confirming back the other way?

CHAIRPERSON - We have copies of letters that were presented to the committee from ALCT to FIA advising the council unanimously passing that FIA had been confirmed et cetera.

Mr CLARK - Yes.

CHAIRPERSON - Do you accept that formally FIA is now the management of Wybalenna, because that's been presented to us as documentation, that that issue is settled.

Mr CLARK - They're recognised by ALCT as local management.

CHAIRPERSON - ALCT has recognised FIA as the formal managers of the site.

Mr CLARK - No, local managers. That's not formal managers. But they also charge FIA with developing a management committee. Local management can't do that. Local managers haven't got the ability under the act to go and negotiate a management committee for Wybalenna or for any area of

land. They need to be identified as more than local managers under 18.6 of the act. ALCT has to divulge their powers that would make them more than local managers, that ALCT aren't willing to do.

CHAIRPERSON - Thank you. I just wanted clarification. The other issue, if I might, you talked about consultation, and there have been some concerns expressed about consultation, and certainly some people in the Aboriginal community and in the wider community said they didn't know anything about it until such time as the announcement was made, and I think you intimated that was the issue on the island. We again have a copy of a memo that there was a meeting on Flinders Island on 12 July 1999 over Fool Farm, Big Dog and Wybalenna. To your knowledge and recollection, were there any discussions of the other areas that were announced in October at that time?

Mr CLARK - You've lost me.

CHAIRPERSON - There is some controversy about whether or not local Aboriginal communities were involved pre the Premier's announcement in any input into the transfers that were announced in October.

Mr CLARK - I'm not sure of the dates - this is totally off the top of my head, you've got me at a disadvantage. We're talking about being involved with the working party negotiating these other things. No, there was no involvement from the community, to my knowledge on Flinders Island in that thing. However, there was an invitation to have representation, someone elected, to represent FIA on that working party. For two or three reasons they chose not to put a representative on the party, and then when the other documentation came out, like the Government's package to say these people were consulted and they support this, I think it was uneconomic with the truth. Being invited to be part of a process doesn't constitute consultation.

CHAIRPERSON - I understand that. There is a difference in the two. It's just that some intimated that the consultation had happened, others have intimated there was no consultation. Even though you're invited and for reasons - financial or whatever - you were not involved.

Mr CLARK - But if you're invited to be a part of a process, then it would be an ongoing process with meetings and you would go through a process and you're part of that process. If someone comes and tells you that we could be negotiating so-and-so, that's not part of a process, that's just not part of the deal, and this amendment's gone up before government and that community has had no input into that thing at all. As I said before, there is a perception that the consultation process wasn't as wide as it should have been. Maybe some of these concerns or some of these things, if it had been it might have been a longer, more involved process, but these things would have been sorted out so they wouldn't have been concerns and there would have been less ammunition for people to fire at the process.

Regional council - and I just get back to that - are in total support of this package and this land coming back, and it might have been that these concerns of strategically other areas - I don't think they would have been, because you've got to be fair dinkum. Politicians are real people and they're not stupid. They will hand pieces of land back and try to get some mileage out of it in the most appropriate area, so they will look at areas like, say, Furneaux Group. It's easy to hand land back over there if you offend all the people, because only 50 per cent of the people who live there vote for you anyhow, so if there are 500 people that can vote over there you're only going to do 250 votes if you upset everybody. So it's a political process.

CHAIRPERSON - We like your mathematical equation, Mr Clark.

Mr CLARK - But I don't think that addresses the concerns that have been raised here today in the need for governments to address the cultural issues that affect people that live in the south and other areas where it is a politically contentious decision. I don't think that governments should side-step that issue on the fact that we might upset too many people and we mightn't get back in, because the people are still breaking the law. If they had areas where they could go and practise their culture, they still would be breaking the law if they don't get a permit, or you can only go on the 6th day of the 7th month and -

CHAIRPERSON - So in order of importance, is the issue of being able to practise your cultural heritage when you wish, without permit or licence, a more important issue in the reconciliation and the cultural feel within the community than the land transfer at the moment which would, over time, take its course? I just get a feeling that this cultural issue of not being able to go out and do what you want to when you want to is exceptionally important individually.

Mr DILLON - It's not a matter of going out and doing what you want to when you want to. It's going out and doing it when the time is right. You don't get up in the morning and scratch yourself and say 'we're going muttonbirding today'. There are a fair few things involved in it.

CHAIRPERSON - I'm just asking because I get a feeling that issue is important.

Mr DILLON - It's a very strong thing, and that's a thing that the Government can do on the run without - giving the land back is very important, but letting people hold onto their culture is important as well. But giving the land back is of the utmost importance to probably the most Aboriginals in Tasmania at the minute but, on that, other people are still trying to keep the culture alive.

Mr CLARK - It is imperative that as part of this process the Aboriginal community have access to land, and land that they believe they own and they control. Now I don't mean to diminish the consequence of this land that is in this proposed legislation as not being significant, because it is. We fully support the handing back to the Aboriginal community of every parcel of land that has been put up, but we just don't think it's enough, so that's not an issue one little bit. Because of these pieces of land the community have something tangible that they own that they can control. I think in-built in all this is some control mechanisms so that not every person that identifies as being Aboriginal can access it, but the Government can address some of these cultural needs. The Department of Army have opened up areas of land to allow Aboriginal people to go muttonbirding. There are rookeries on crown land that the Government could open up for the Aboriginal community in the south of the State without handing that land over. It would be very, very bloody lovely if you did and said, 'Look, you can have these islands to go and practise your culture. We'll make this the next parcel of land and stand the flak'. So we probably need some statespersons and not some politicians in this sort of thing, but that is critical for those people in those areas. It is alright to say 'we've handed land back in the Furneaux Group and the people can go and get some muttonbirds over there', and then we come out and we see that the Department of Health and Human Services are not going to give them because they don't ... for food processing.

And then you have an argument over whether commercial birding is cultural or not. No, it's a commercial exercise, but it's a commercial exercise that allows communities as a group, or families more importantly, that have access to these things to come together to practise their culture. The commercial side of it gives them the resources to go and practise their culture. I don't know anybody that's made \$1 million out of muttonbirding. Top of the line birders would make probably \$1 to \$1.50 an hour for the time and effort they put into it. It's a way that they can make some resources to go and practise their culture. I think the Catholic Church probably takes round a plate or asks for donations. It's the same deal, it's just part of the process.

Mr FLETCHER - They don't get much in my church, I can assure you.

Mr CLARK - No, but -

CHAIRPERSON - Yes, we understand. Don't let him bait you. Does the committee have any other questions of the gentlemen?

Mr FLETCHER - Yes, I do. I just want to go back to the land question again, because the delegation have said that transfer of land is important. I have taken a position that you ought to qualify under native title, and if you don't you've got \$50 million a year, say, in all-round terms, to buy some private land. You're saying, 'No, that's not good enough. We want something different to that'. What criteria should we apply or what benchmark should we apply to identify the land that ought to be transferred back? How do we know which is the land to transfer back?

Mr CLARK - If you don't take notice - and you were part of the Government, Tony, that wrote those Deaths in Custody recommendations. You gave a commitment in there that you recognised the diversity of the Aboriginal community, that you will consult with those people, so through that process you will identify the pieces of land that they want handed back.

Mr FLETCHER - So we ask you what is significant to you? Is that it?

Mr CLARK - I mean, if I came to you and said, 'Tony, I really think I've pissed you or your community off over the last few years and I want to sort of help you out under reconciliation. I want to give you something back, I've got a piece of land here', don't you think it would be real good of me to ask you which piece of land you wanted back, and not give you something that was no good to you?

CHAIRPERSON - Well, I suppose, in answer to that, we've had some diverse answers from just what is there, to some more, to the entire State, and I think the question in fairness is how do you get a process that identifies what is significant?

Mr DILLON - I think that you've got a problem at the minute. The land that you're giving back is very significant, and the people that have been dealing with you have tried to deal as honestly as they can, and I think you have gone over those sites yourselves and had a look and seen how significant they are. They are very significant sites but, in saying that, I feel a little bit deprived coming from another area, because in the area we come from there is no land, or there's very little land, and the land that's in that area we can't practise our culture. But I'm not here to stop the people from getting back this land that's going to be given back, because it is very significant, and I've got to weigh up those hut depressions, those seal hides and all the other things that go with those places. I can wait for a while longer with my cultural things, but these are things that are urgently needed. Now I would like land to be given back in the south and I think that's what you're asking, but you want to say it in a different way. We would love land to be given back in the south for people down there, but at the moment this is what's given back, and it won't divide the community but it does put a strain on it, but it's no different to what's been put on the community over the years. But the land that is given back is probably the most significant land in this bout, and in the next bout that comes around we may get a better dip at it, and we might be a bit smarter and be clued up a bit for the next lot of rounds and attack the areas that need attacking to get land back. So we've got to -

Mr FLETCHER - Rod, I obviously have not explained myself well enough. I am one of the people charged with making decisions on behalf of the people of Tasmania, all of the people of Tasmania, and if I say yes to this land transfer I've got to ask myself why did I say yes. I said yes because John Clark said it was very, very significant land to the Aboriginal people. Okay? Now, the next time you come around, Rod says 'this land is very, very significant', so in consistency with myself or to remain true to myself I've got to say yes to you as well. So eventually, if I follow that logic, all Tasmania was occupied by the ancient tribespeople -

Mr DILLON - No, by our people.

Mr FLETCHER - Yes, well -

Mr DILLON - Don't dilute it.

Mr FLETCHER - Well, by the ancient tribespeople, the ancient people.

Mr DILLON - Well, that's our people. Put it down as our people just to save argument.

Mr FLETCHER - Anyway, it was populated. So if I followed my logic - and I want to be logical - I've got to agree to transfer all of Tasmania back to you. Now I'm not going to do that, that's not reasonable, it's not practical, so somewhere in applying a discipline and a rigour to my own judgments, I've got to say, 'What are the benchmarks?', and the benchmark is not that John Clark or Rod Dillon says it's significant, but I've got to test that somehow so that all Tasmanians can say, 'Yes, that's fair and reasonable. We've seen the process, there's rigour in the process, there's a test in the process, and we agree'. Then you get reconciliation if there is an agreement on the transfer, but there have to be benchmarks.

Mr DILLON - You're not going to have total agreement all the time on what land you're going to give back, but if you go to those sites and you feel, like you walk over those sites and you feel those people, they're our people who have been on those sites, and the feeling you get is a vibrant feeling and a strong feeling, sometimes it will make you cry, the strength of those sites. Like, in your own heart, and it doesn't matter who you are, when you walk over those sites and you think this is a real genuine area where our people were. You know, when you go to that hut impression, and there is probably no stronger feeling in any areas than there is in those areas - whether you are saying that's going to be a part that you'll give back. Now, you may be looking at another part in a couple of years' time, but you're not going to get back all the land because, for example, Woolnorth's got probably a third of the State, and that was given to them, and I don't think there was any significance used when they gave it to them. If we're talking about giving things, the Government has given away land for the last 200 years. As Aboriginal people we think you gave it away because it didn't belong to you, but that was only a feeling that came from our people. You give away something that's not yours. But the feeling is, when you walk on that land and you have a look over it, you know, you must even yourself feel that in that land. When you walk over where that hut depression was, and those big middens - you know how long it took to build those middens - and I'm sad when I go over where those seal hides are, how the rocks have been crushed down, but in a way I think some of these fellows didn't know what they were doing by going over it, and by giving that land back it may stop that from happening.

Mr SAINTY - Tony, I think you could say to the wider community, 'These are a few of the reasons that this land should be given back to the Aboriginal community'. In 1994-95 from West Point through to Ordnance Point, Dr Dave Collett undertook an archaeological survey with the Tasmanian Aboriginal Land Council and recorded 189 sites. Some of those sites were known about but not recorded, and in that survey he discovered hut depressions that hadn't been found and recorded before. He found seal hides. Is everyone aware what a seal hide is?

Mr BAILEY - No, I don't know.

Mr SAINTY - Okay. Well a seal hide is sort of a cobbled beach area and our people took out the rocks and they made hides that they got down in and waited for the seals to come up off the beach and they clubbed them. The north-west of Tasmania is the only place that they are found. There are a few that haven't been destroyed by four-wheel drives, but there are many that have. You have rock engravings that have been recorded as 15 to 25 to 30 000 years old, no one really knows. You've got middens down there that are up to 40 000 years old, the archaeologists says. They are recognised world-wide as the richest midden areas that exist today. So to give justification as to why those particular areas should be given back, I think if you do your homework and talk to a few people, in particular people like myself, who are on the ground trying to manage those areas and who get damned frustrated - I will go so far as to say that - in trying to protect the sites that haven't been destroyed or impacted upon. That's why I said to you before, if we could have some kind of legislation to help us protect the sites -

Mr FLETCHER - My position is that the pre-European people were here for - you tell me - 40 000 years or 50 000 years. One thousand years is a longer period of time than I can comprehend, I just can't comprehend that period of time - a bloody long time - and they were nomadic, they were tribespeople who lived in regions but were nomadic, and so it's reasonable for me to assume that they covered and lived in and were present in every inch of Tasmania at some time during that period of time. So there's not a place in Tasmania where the ancient indigenous people weren't, and so surely you should get that same feeling down the Channel and round the south west, and indeed the stone scatters and the middens extend from Port Davey all along the west, north-west, north-east, down the Bay of Fires, Triabunna or wherever, all around the coast.

Mr DILLON - Can I tell you something there? I don't get that feeling when I go to Baskerville and the cars are roaring round it, and I don't get that feeling when I go to Macdonald's, and I don't get that feeling when I go over the Tasman Bridge, but you do get that feeling - and that's what Rocky's talking about, it's even hard for some to explain - that inner feeling that when you go to places like where there are seal hides and where there are big middens there, where the people have come back, the old fellers have come back there, and the little sites that are around that. You know? The feeling of all that is different to some other areas, but there are significant areas that are in those other places as well, but you don't get it everywhere. You only get it in the areas where - and that is fairly sensitive in those

parts of land that have been handed back. You know, when you see where they have been eroded away and they have just driven straight over the top of those middens and they've pushed those seal hides out and those seal hides are now flat to the ground, it would be a bit like doing a Toyota ad on top of the pyramids. We're talking about the same age, and the same significance to us. But it's not the same significance to you, but it is to us, and that's how long. Those Arabs would jump up and down, wouldn't they, if they drove up over there? But yet these are allowed to be eroded away, these middens here.

Mr CLARK - Tony, would you say that Wybalenna was a pretty significant sort of site, in your -

Mr FLETCHER - Oh yes.

Mr CLARK - You could have no trouble selling that?

Mr FLETCHER - No, no, it's a significant site, I think, for Australians. It's probably the second or third or fourth most significant site for all Australians in Australia.

Mr CLARK - Right, then the same criteria - up until the late 70s there were cattle walking over those Aboriginal graves up there. They knew they were there, but they fenced them off and fed cattle on them. When the community over there went back and put some cairns up and reclaimed it, people came in there with four-wheel drives and smashed the cairns to pieces, and this is just a couple of years ago. They knew that. Now the same people - you're saying this is reconciliation, we think we should do this - the same people that you are representing are doing this sort of thing to the Aboriginal community on the most significant site in Tasmania probably. So if you transpose that and try and dilute some of these sites because it's not tangible - like 'we can sell that one but we can't sell this one' - when you've got that sort of thing still going on there - some of the community went up there and they were shot at, and that happened in this State in the last nine years.

Mr DILLON - The other thing that really saddens you, where they've gone right through the middens and where the seal hides have been pushed out, a lot of our Aboriginal sites have been damaged, but the one real thing that means a lot to the people down there that they don't touch, and that's their corner posts for the surveyors' peg. There that is sitting there with a big heap of rocks round it and that has not been touched. That's significant to them. How would they go if we went round and pulled all them out? All our things have been damaged, the whole lot of them in that area - or a lot of them in that area have been - and yet it's only one way. All the damage has been to our things. That's the sad part for me as an Aboriginal person being in that area.

CHAIRPERSON - I believe, Mr Sainty, you wanted to make some comments.

Mr SAINTY - It's just three dot points and it won't take very long. Some of them we've already touched on, and this is a personal view and not the view of the Aboriginal council. I believe that the ALCT elections should stay as it is. At the moment the members are all Aboriginal people, and why would you want to change that? That's my own personal opinion. If you make changes to it and you set it up as the ATSIC elections are held, then you're just opening up a can of worms. I've already touched on the penalties, I'm not going to go into that again.

Just as a matter of interest, when this parcel of land was talked about being handed back to the community, for some reason - I don't know why - the local people down here pointed the finger at the Aboriginal community. That is, with West Point and Sundown Point, people have been removed for camping and having dogs in those particular areas. I would just like to make it known to you that Sundown Point was declared a State reserve in 1973 - and you would be aware of that - and West Point in 1976, and the situation there is that Parks and Wildlife are to blame for that particular situation that it wasn't managed under the legislation that gave it the protection. You may have heard I got on radio and made the local people here aware of that. It was pointed at the Aboriginal community, 'Oh, you're getting the land back, you're not going to give us access, you're not allowing us to camp'. For 20 years that wasn't enforced.

I have already spoken about Dr Dave Collett doing that survey there and the reasons that Tony asked for, and I don't think he listened because he asked again why should it justify giving that back.

Mr FLETCHER - I think there are artefacts like that generally throughout the State, Rocky.

Mr DILLON - As significant as that?

Mr SAINTY - You won't find engravings like that throughout the State, Tony.

Mr FLETCHER - No, you won't.

Mr SAINTY - Or the seal hides. The only place they're recorded is on the north-west coast, the ones that are left.

Mr FLETCHER - Yes.

Mr SAINTY - I'm going to briefly touch on access for Preminghana, and I won't take long. If it's good enough for the Aboriginal community to stop at that car park and walk up the beach, then I think it should be good enough for everyone. I have taken school children down there and we walked from the car park right up to the carvings and walked back again. Since the four-wheel drives have stopped accessing that beach, the bird population has tripled - the nesting birds that nest on the beach - and the only time the community access the beach area is to probably take elders up that aren't capable of walking up there and back again. That's all I wanted to say. They are the dot points I wanted to mention.

CHAIRPERSON - Thank you very much. Thank you, gentlemen, for your appearance here this afternoon at the committee. We've gone well and truly over time but I think it has been beneficial to all that we have. Thank you.

THE WITNESSES WITHDREW.

THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.

NOEL GREY, PERRY KING AND ROSS BRITTON, ARTHUR-PIEMAN COALITION WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIRPERSON (Mrs Sue Smith) - Thank you, gentlemen. I note that you have been sitting in the public arena so you are aware of the process that we have been using. I presume you have some order of process between you as to who, one or all, that will speak to the committee and then the committee will ask questions of one and all of you.

Mr BRITTON - Thanks, Sue. The coalition, as you've have seen in the draft we sent to you, was formed in August 1999 as a result of community concerns about the management of the Arthur-Pieman conservation area. It is a coalition with a wide range of interests that include recreational vehicle users, cattle agistors, recreation and commercial fishermen, kelp harvesters, surfers, horse riders, family camping, shack owners, private land owners, tourism and small business operators including mining and local government.

We have been, as you can see, only going for a very short time. In that time I think we have made inroads for the Arthur-Pieman area and there again with the coalition are strongly against handing back land to the Aboriginal community as we feel that this will not promote reconciliation but will create a further division in the community.

It will give additional power and recognition to particular factions within the Aboriginal community at the expense of many people of Aboriginal descent in the Circular Head municipality. The political dominant and Hobart-based TALC, ALC and TAC faction deny local Aboriginals a right to manage local Aboriginal sites. Reconciliation can only take place in Circular Head when the local Aboriginals are empowered to actively manage the Aboriginal sites with the support of the wider community.

The coalition seek the support of the Legislative Council to block the transfer of land to the Aboriginal community. West Point and Sundown Point are Aboriginal reserves now and should remain that way with the proper management of these two areas including the local Aboriginal community, Circular Head Council, Parks and Wildlife and the establishment of the Arthur-Pieman Management Authority. By keeping these areas as reserves and having local people manage these areas can bring reconciliation to our area.

Native title and that type of thing that exist in Australia with Mabo and Wik doesn't involve Tasmania and, again, this is Premier Bacon's decision to hand back this land and there again we believe he has the whole thing wrong. We believe that with the proper management of the area that we can achieve the same results with the local Aboriginal community down here and the Circular Head community through the proper management authority put in place to manage these areas of great importance to not only the Aboriginal people but the people of Circular Head, the Aboriginal heritage in the area because it is great. It doesn't only involve those two areas. I believe it involves the whole of the Arthur-Pieman area, which is basically 100 000 hectares down there. So we believe with the proper management authority put in place, with locals managing it - and not just the two areas but the whole of the Arthur-Pieman area which is very rich in Aboriginal heritage - we don't have a problem of very important sites being fenced off, locked up. I think with proper management and consultation in the whole area that the local community would help the Aboriginal community go down there and put up proper fences to preserve these areas for perpetuity. Talking to a lot of the locals down there they are only too willing to get in and give a hand and give the Aboriginal people as much support as possible in the whole area.

Mr FLETCHER - Ross, there has been, by my personal knowledge, efforts over the last twenty years, all of them unsuccessful to date, to establish a management plan for the Arthur-Pieman River area. It has been close a number of times but it just never seemed to happen. I wonder would you make some comment about that proposition and present efforts to establish a management plan for the area, if you feel so qualified?

Mr BRITTON - Well, I believe, given the support, that we can come up with a management authority to manage that area down there, basically with the Circular Head Council - they are very keen to have a management authority put in place. We have discussed this and between themselves, who would basically lead the way in these efforts, and through Parks and Wildlife with their officers and through maybe selected members of the coalition and with the Aboriginal communities I think we could come up with a very good management team to really manage that area. As you well realise, what you probably saw down there yesterday you only saw a very small part of it but, as I said, it is a huge area down there and it can't be done from Hobart, like they have tried to do in the past; it just doesn't work and it won't work. I think if it is orchestrated through these offices here and with the right people on it I have no doubt that that can work and work very well.

Mr FLETCHER - Evidence has been put to the committee in the past that one model may be that Tasmanian Aborigines make application to the Federal Tribunal for native title rights; if those native title rights are denied, as there is a weight of opinion that says they would be, they then make application for a share of somewhere between \$40 million and \$50 million that is available annually to purchase private land, but in regard crown land crown land ought to be managed as a block for all Tasmanians, whether of Aboriginal or European descent, and that the special land identified as having Aboriginal significance been managed for its Aboriginal values. Would you agree with that proposition or disagree?

Mr BRITTON - I would agree with that, Tony, because crown land is there and I believe crown land is land for all Tasmanians, regardless of colour, creed or whatever. It is a big area but properly managed with the right management team there I think all people could get great benefit out of it and I think at the end - well, even in the last ten years - people's ideas in the Arthur-Pieman have changed dramatically to what they were ten or fifteen years ago and people are becoming more aware of the Aboriginal heritage in the area and I think if it is crown land, properly managed and there for all people of Australia to use that that is the way it should be used.

Mr KING - We recognise that while there are significant Aboriginal sites in the Sundown and West Point area they are not the only sites in that Arthur-Pieman region and that is probably why we would go down the track of managing it as a whole area because there are sites right through that area.

Mr FLETCHER - Would you explain for the record again in a bit further depth, any one of the delegation, just what your management team management concept is? Who would you involve? How would it come about? How would it be funded? Has any thought been given to those issues?

Mr BRITTON - How it would be funded would be what we have spoken about, whether it comes to fruition, is, okay, Parks and Wildlife service are spending so many dollars down there now with rangers and everything else that some of that money would be channelled back through the Circular Head Council who then employ people to actually manage the area locally here and if we have to we have to second people from Parks and Wildlife to give us a hand in the management areas of it.

Mr FLETCHER - Okay, I don't quite see the level at which the management team would work. Would the management team, involving council and government representatives and local representatives including representatives of the Aboriginal community and users, would that be charged with developing and approving the management plan or would that be involved in the day-by-day management of the area, just where does it sit in the overall structure?

Mr BRITTON - The way I would see it is that, say, an Arthur-Pieman management authority would manage the whole area; the money raised out of the area through, whether it be agisting, camping fees or whatever, and the money that the Government are paying now to ranges and that all be managed from this office here and then the authority would say, with the Aboriginal community representatives, 'We have to do this, we have to do that. There is x amount of money there from' - I think there are half

a dozen people employed down there now and at certain times of the year if they aren't required there or the authority didn't see fit that they were required to be down there just driving around basically doing nothing that we don't employ them at that particular time, we just bring people in if and when we want it and if it grows - the Government have a budget for that area and if it can be managed from the Circular Head Council point of view that they would spend that money as they saw fit to properly manage the whole area.

Mr BAILEY - In your submission you said that the Government is on record that the continued right to camp at Sundown Point will be enshrined in legislation, can you give me a reference to the documentation where that statement was made? That is on page 3 of your submission, point 2 under Access.

CHAIRPERSON - I have page 5.

Mr BAILEY - Oh, I'm sorry, it is page 5.

CHAIRPERSON - Comment on Aboriginal Lands Amendment Bill 1999 and you have dot pointed. 'The Government is on record' - can you tell us where the Government is on record that the right to camp will be enshrined in legislation?

Mr BAILEY - If that is a difficulty now that could be provided.

Mr BRITTON - I can provide that at a later date; I think that came from the Premier's Office.

Mr KING - That came from our meetings here.

Mr BRITTON - I can get that for you, that's no problem.

Mr BAILEY - Okay.

CHAIRPERSON - We might extend on that to some degree. In the submission from the Government over the issues, the concerns and the Government response as regards camping at Sundown Point, the Government's response was: 'Camping will be allowed at the Sundown Point camping area. This will need to be managed so the area does not expand outside the main area and to ensure that it does not impinge on the Aboriginal relics. The need for toilet facilities was acknowledged by all stakeholders consulted and the needs to be addressed in consultation with the Aboriginal Land Council of Tasmania and the local community. These management issues may restrict camping in the future'. One could take a presumption from that if there are environmental and health issues, that is in sanitary provisions et cetera there, what the wording of 'these management issues may restrict camping in the future' the designated meaning of restrict as in stop altogether or restrict it to a condensed area is, I think, perhaps open for some interpretation, considering past history. Would you like to make some further comment on that issue?

Mr BRITTON - Regarding sanitation, yes, when the APAMAC committee was running we started a voluntary user-pay system up in the Arthur-Pieman area and through that, I think, when APAMAC was closed down, there was something like \$16 000 in kitty there and the last time I heard they had spent some money on toilets and that somewhere else but part of that user-pay money was to look at putting in proper toilet systems in the Sundown Point area to overcome the ad hoc way people had been using the area because the APAMAC committee were very concerned about the way campers were using it and we wanted to get the proper toilet facilities put in there. But when that was closed down it just closed the files on the whole thing and we had no input into that, so where the money is being spent now I don't know. It is still a major issue in the area, the toilet facilities there, because there are none; people either take their own in or they just use a shovel, if they use that at times.

CHAIRPERSON - There has been some comment that perhaps in any transfer of land there should be a management plan, a documented management plan, at the beginning of the process that is open to discussion and interpretation and that management plan should be in place before there is any legal transfers. Would you like to make a comment on that?

Mr KING - Well, that would outline the process right from the start which would give us all a clear indication of where the whole thing was going to go.

Mr BRITTON - Well, with the handing back of this land at Sundown Point, I have another problem with that. Talking with people from the Aboriginal community the details are outlined up there where the boundaries are but if that land is handed back in the very near future they were going to go for more land because they would have Aboriginal burials outside that land and they want to include that into that reserve or into that Aboriginal freehold land. This is another major concern, that these burials, not that I am against burying the ancestors wherever but when they bury them outside, say, something like an Aboriginal reserve and this land is handed back some time in the future then they say, 'Oh, we have Aboriginal descendants buried all up the coast', what's to stop that happening in future, that they can bury people wherever and whenever they like and just keep going?

CHAIRPERSON - Are you aware whether or not they were given permission to bury those remains in that particular area? I believe they were remains that were brought back in from Europe. One would presume that Parks and Wildlife and thus the Government have, through a process, given them permission to bury those relics in those particular sites.

Mr BRITTON - They most likely have had permission.

CHAIRPERSON - One of the issues that has come forward quite regularly has been the issue of 'significant', what is and what is not significant. In all of our lives there are occasions when we have to classify what is significant to us and what we are prepared, if necessary, to drop off the other end because we have had to put some order into the process. Do you believe that the Aboriginal community should be given an opportunity to work through a process in Tasmania to classify what is significant to them in some order of some process, perhaps the end result being that designated specific special areas are perhaps handed back to total management, total non access to the community that may see not such a wide expanse of land but see their rights to protect what they have classified as exceptionally significant under their total management?

Mr BRITTON - Well, at this stage I cannot get an answer on what is a 'significant' area or site. Talking to some of the Aboriginal people, one shell over there or one stone over there, that is significant. Whether it has been dropped or whether it has been washed or how it has got there can't be answered but to me, under the Relics Act, it is ludicrous. Yes, if somebody could come and tell me a significant site, yes I guess with the rock carvings and that type of thing I would classify that as a significant site and some of the maybe hut depressions and that. But with the shells and that that are all along the coast and the stones - somebody said to me, 'Oh well, they probably chipped that stone off that and threw that bit away'. That to me is not significant because really when you are looking at other parts of the world where there are genuine hand-made tools and this sort of thing being picked up and put in homes and that type of thing, I would say that is a significant relic or whatever. But just a chip of a stone or a shell - and there are millions of them down there - they cannot be significant. It's got to be defined as a significant site by either their carvings or hut depressions or communal sites or something like that because a lot of it, the shells, they can argue they ate the shellfish and threw the shells into a heap. If their ancestors had so much going for them, why the hell did they go and light fires and burn all of these areas for their wildlife to come back to. All these shells in a lot of these places must have been burnt many, many times before, so at that point of time those shells wouldn't have been significant to them, they have just thrown them away. In the past, after that, they have just burnt the area to bring their wildlife back, have a clear area for them to walk and move up and down the coast.

CHAIRPERSON - You spoke earlier that you attended a meeting with the kelp harvesters and the Surf Riders Association where an agreement was reached, can you give us some information of how many meetings led up to this agreement? Who was in attendance at the particular meeting where surf riders and kelpers agreed but the Arthur Coalition did not? Was the council involved in these meetings?

Mr BRITTON - Well firstly, Sue, that's not right. It was only the kelp harvesters, not the surf riders. We haven't met with them and the Aboriginal community at all. I think Perry can answer this because he went to Launceston to a meeting on behalf of the coalition with -

Mr KING - Yes, we went with the kelpers and actually the surfers did go to that meeting too, but I think from the kelp harvesters point of view they have reached an agreement there probably largely on the grounds that they couldn't get anywhere with Parks and Wildlife as regard to access and that sort of thing, so I think they have chosen to go down that road.

CHAIRPERSON - So they have an agreement on Mount Cameron and a prospective agreement on other areas if the land is transferred?

Mr KING - No, that was not my understanding of the meeting, no.

Mr FLETCHER - I think Perry is talking about the Kelp Harvester's Association, as opposed to the Marawah surfboard riders.

CHAIRPERSON - Yes, he made that quite clear, the surf riders were not -

Mr FLETCHER - The kelp harvesters ... Gales Bay.

Mr KING - Yes, they had a meeting in Launceston and Noel and myself went from the Cattlemen's Association, just to introduce ourselves. The surfers went there and talked about issues that surrounded access for them. The kelpers had already gone a fair way down the track of resolving their issues.

CHAIRPERSON - And that particular meeting was in January, February, March last year?

Mr KING - January, I think.

Mr BRITTON - Then certain members of the coalition met with Clive down at -

Mr KING - And Daryl West.

Mr GREY - Daryl West at West Point.

CHAIRPERSON - And there was no common ground that the coalition could meet with ALCT representatives at that meeting?

Mr KING - No, I think that meeting at West Point revolved more around the members of ALCT and our executive getting together and getting to know each other a bit better. I would look at that as an ongoing process. I know it was back in January and a bit of time has passed since then, but I would see that as a process that would continue.

Mr BRITTON - I think this developed out of a meeting up here, I don't know - with Rodney and Sue Chappell. Members of the coalition hadn't met Clive. Clive was up here going through the kelp problems down at West Point, and while he was down here he and Daryl West were there and asked would certain members of the coalition go down and meet with him and just have some informal discussions. It wasn't a properly orchestrated meeting.

CHAIRPERSON - Were Parks and Wildlife involved in these meetings that you had as a coalition with ALCT, as the government representative body at this particular stage in these areas?

Mr BRITTON - No.

Mr BAILEY - In relation to the kelp meeting, is the agreement that has been entered into subject to the land being granted?

CHAIRPERSON - I think, as you are not representative of the kelp industry -

Mr BAILEY - I thought you were at the meeting with the kelpers.

Mr BRITTON - No, not at the meeting where they signed the deal, and so on, that was done purely and simply with the kelpers and not the coalition.

Mr BAILEY - I'm sorry, I thought you had been involved in the negotiations with respect to the kelpers.

Mr BRITTON - No.

Mr KING - I think part of the thing is, what part of the process comes first? It's like the horse and the cart, isn't it - who's in front? Are we here first and then do we go to the Aboriginal community or should we be talking to both at once? I think as coalition members, the kelpers have taken the decision that they would go that way first, driven by a lot of problems they've had with government departments. We've gone so far as to introduce ourselves to the Aboriginal community, but what the next step is for us, I don't know - governed by what comes out of this, I suppose.

Mr GREY - I think we probably took the first step, down to joint management to get to know each other and resolve our issues that way.

Mr BAILEY - Whilst you said you'd had a lot of trouble with the department, you as a coalition are content for the department to be a member of the local management group which was previously referred to in Mr Britton's earlier submission?

Mr BRITTON - I think we've got to go that way because we have to have contact with government and government departments. I think if we try to make a breakaway group completely away from government departments is not the right way to go because with their knowledge and technology and information they have on record I think we have to work through those systems and have that information available to an authority. If we don't have that, we only have our local council who would have to try to do something around that, and I think it would be very important that we do have a local Parks person on that authority.

Mr KING - I don't think our problem with Parks is at a local level; it's how they interpret the management issues. Our concern would be once a management plan's been written, the interpretation of that plan could go in a direction we didn't foresee when it was written. Having it here would resolve that.

Mr FLETCHER - I'm still not clear in my mind about the management regime that you propose. I notice on page 2 or 3 of your proposition you talk about the friends of groups and the district community consultative committee concepts. I wonder whether you've prepared any documentation on this? Have you ever put a proposition to government in relation to this matter or do you have a structure that you believe is documented that could be submitted to the committee for its consideration?

Mr BRITTON - Yes, we have; we're still working through that process, Tony. We have been to Hobart last week to meet with the department on the management plan for the whole of the Arthur-Pieman area because the department have put out a draft issue on the management of the whole area. We weren't happy with that. We have been to Hobart and we basically got most things sorted out. We are still working, and in the next two or three days we'll have that complete. Then we met with Minister Llewellyn on where we were at and what we were doing and he supported where we were as a coalition on that area. In the next week to ten days we hope to maybe have that tidied up, but I won't know the full details on that maybe until the Friday or Monday.

Mr FLETCHER - So you have put a proposition to the minister and/or the agency?

Mr BRITTON - We have.

Mr FLETCHER - That submission has been a verbal submission to date, but you are going to follow it up with a written submission.

Mr BRITTON - We have already put in one written submission to the minister on that, and he has asked us to do further work with the rewriting of that management plan for the Arthur-Pieman. Money has been made available to the Circular Head Council to employ people to have input into that management plan. That's where we are at the present.

Mr FLETCHER - I have an interest in your proposition. My concern is that I don't think your written submission here and, with due respect, what you've said this morning, has clarified it enough and given me enough detail for what I want to consider here. So I am asking have you or will you have in the near future something that documents exactly what it is that you propose that we could study in a bit more detail?

Mr BRITTON - As I said, I hope to have that in about ten days' time.

Mr FLETCHER - Could the committee have a copy of that when it's available?

Mr BRITTON - Yes, there's no problem there. But, as you can appreciate, we've only been going since August and to go through the walls we've hit since this committee's been formed from Hobart has been astronomical - to work through those stacks of paper there. I believe in the last week we have made great inroads and as soon as we get that final submission we'll get you a copy.

Mr BAILEY - Will that be the original submission as well? You've already put a submission in to the minister and he said to come back and give him more detail. It may be of interest to have the original submission and the follow up.

Mr FLETCHER - Can I address my question in regard to the cattlemen's component of the coalition representation because the matter of agistment has been a matter of great debate over a long period of time.

CHAIRPERSON - Before you go any further, Tony, you are aware the Cattlemen's Association are appearing in their own right.

Mr FLETCHER - No, I wasn't.

CHAIRPERSON - Right - so we don't confuse the gentleman and the hats they are wearing at individual times.

Mr FLETCHER - Okay.

CHAIRPERSON - You made a comment in your submission that you'd had some correspondence with the secretary of the Department of Premier and Cabinet in relation to the survey of European traditional values, and so on, and threatened species processes, and there were no funds available prior to transfer for any of this work to be done. Do you have information as to how the Aboriginal sites have been identified, and so on? That work had been done by the Aboriginal community, presumably. Would you see expertise amongst your organisation to document some of the historical areas, the threatened species in the area, even in partnership with perhaps university students who are doing a thesis on an archaeological area, so to speak?

Mr BRITTON - I think we would have. I don't know whether you are aware that we have Bob ... on our committee and Bob's very good at doing that type of thing. It's just a case of, I think, through Bob he could get a lot of that for us and work in with the Aboriginal community on that. I don't think we'd have a problem getting most of that if we could get funds to do it. That's been our biggest problem because all the work that's been done in the Arthur-Pieman area to this date has been wholly and solely funded by the users of the area, whether it be shack owners, horse riders, off-road vehicles, or whatever. They have all contributed a vast amount of money because we couldn't get the money out of the Government to do it, and the locals and users of the area have pitched in to raise money to employ people to do a fair bit of this work for us and we have to commend them on that. If we could get money to do the funding on what you were just speaking about, yes, we could do that very easily.

CHAIRPERSON - So it's fair to say that your proposals for a joint management process does rely very heavily on a continuing government funding of those particular areas that are to be managed. Outside of that, you would see the same ongoing problems that have been proven and predicted within the Aboriginal community that large tracts of land require substantial funding and management, therefore it would create the same sort of problem for your organisation, as some evidence that has

been given, as has been created in the Mount Cameron West area for the Aboriginal community. Is that a fair statement to make?

Mr BRITTON - I think that is a very fair statement to make because even if this land is handed back to the Aboriginal community, their funds are very limited, I believe, after talking to Clyde on this. Where they get the money to manage the areas handed back to them is a major concern to them because they just don't have the money. This is where we believe, with the establishment of maybe an authority management team, we can get money and work both ways.

Mr FLETCHER - I wonder as involvement with APAMAC previously or with your knowledge of land management on that area generally whether you'd make a comment about the land management performance of the Mount Cameron West site pre and post the transfer of land to the Aboriginal community. Has there been an improvement or a detriment, do you think?

Mr BRITTON - That's a \$60 question, Tony, because Mount Cameron West was never in the APAMAC boundaries. I hadn't been to Mount Cameron for quite some time and it is alarming. I know the problems that the Aboriginal community have there through lack of resources and funds and everything else, to control gorse and so on, and the last time I was in there that just seemed to be running wild. Compared to quite a few years ago maybe when Parks were looking after it, it might have been looked after better, but not having had a lot to do with Mount Cameron, I can't really answer that. Maybe Perry or Noel can because they're a bit closer to it.

CHAIRPERSON - Would you like to make a comment?

Mr GREY - I think the management can certainly be improved out there, but as Ross said it is going to cost a lot of money to manage the area and that's what is needed. There probably would be some local people who would go and help with some of the work out there if we can sort out the access issues, and those types of things.

Mr FLETCHER - Have you ever had a gorse problem on any of your properties?

Mr GREY - No.

Mr KING - Yes, I have.

Mr FLETCHER - What is the best management regime for dealing with gorse?

Mr KING - I think spraying it, ultimately, but when it gets up - it probably seems a bit extreme at the time - to run a fire through it or slash it down and get it so as the plants are all coming up nice and fresh and young and then get into a spraying program. Gorse is a pretty resistant bit of stuff, it will stick around for a long time. You can't just go in and spray an area and just walk away; if you don't go back there for three or four years then you'll find a lot of it is back again. It's an ongoing thing.

Mr FLETCHER - If I wanted to retain you as a contractor to clean up the gorse on Mount Cameron West, what sort of money are we talking about?

Mr KING - It would be hard to hazard a guess there because you're not working on a bit of flat ground, you're up in amongst the rocks.

Mr FLETCHER - Is it an impossible problem?

Mr KING - I don't think any problem's impossible, it might seem like it at the start. No, I think it could be done but it would probably take a fair bit of resources to get it going, like manpower. Everything takes money.

Mr FLETCHER - Yes. So is it a \$10 000 problem or a \$50 000 problem or a \$100 000 problem? What do you think? Have a guess!

Mr KING - No.

Mr FLETCHER - You might get a job out of it.

Mr KING - Are you paying me?

Laughter.

Mr FLETCHER - Well, is it a small or medium size or a large problem?

Mr KING - Large. You'd have to have lot of long hoses and people prepared to drag themselves up the side of the mount there and work at it like that.

Mr FLETCHER - Is it then a threat to neighbours or adjoining properties or to the district, the fact that it is virtually uncontrolled?

Mr KING - Yes, it's something that spreads. I have neighbours who have gorse on their places and you'd like to make sure that they keep their eye on it, that's for sure, because otherwise it can very quickly move about. If you get in amongst a lot of gorse on a hot sunny day you'll hear the seed popping away and it spreads itself very easily.

Mr GREY - Birds spread it a bit too, as well.

Mr KING - Actually, an article I read not long ago - it might have been the *Sunday Examiner* - claimed that gorse seed lasts for 40 years.

CHAIRPERSON - Yes, it's a continuing management problem.

Mr KING - Yes, once you start on it. That would be the critical thing: if funds were allocated to make a start on it and there was only enough to get it started and then it was left, then in a very short space of time it would all be back there again. It is something that once started would need to be continued with.

Mr GREY - Probably the biggest cost would be up front to get it controlled, and then to keep it under control the cost possibly wouldn't be all that great.

Mr FLETCHER - Do cattle or animals graze it at all when it's down?

Mr GREY - No - too prickly.

Mr KING - Goats, or something like that might.

Mr GREY - Goats will eat it.

Mr KING - I don't think we want them out there.

Mr GREY - Only add another problem - wild goats.

Mr BAILEY - Was gorse a large problem in 1995?

Mr KING - There was certainly a problem; I don't know how large an area -

Mr GREY - It's a problem that has progressively got worse over quite a few years. Gorse has been there for a long time but it has progressively gotten worse. When it was under the control of Oil Company they did have goats out there to control the problem, and that did help but, as we say, they created another problem.

Mr KING - I think if Parks still had control of that land and they hadn't done anything with it for the last five years, then it would still be a problem. I think it's not entirely correct to say that mismanagement has just come from one group or area, it could have happened whoever was in control of it.

Mr GREY - The mismanagement probably occurred when the plant was brought here originally.

CHAIRPERSON - I think it's an ongoing problem Tasmania-wide. There were some statistics last year, I think, about how much land may be lost to the dairy industry, the cropping industry, and so on, if people didn't take more notice of the damage it could do to particular areas.

Mr KING - I haven't been to the Nut at Stanley for some time, but I understand they have some sort of program in place over there in a similar type area. It certainly would give some good guidelines as to where's the best place to start.

Mrs SILVIA SMITH - In summary, would I be fair to assume that probably the basis of what you as a group are saying to us is that, firstly, we don't hand back any more lands until we have perhaps a good management plan set to go, with a group to manage it, and possibly not transfer it back at all but leave it in crown hands? Would that be a fair summation of what's being said here?

Mr BRITTON - I think that would be a fair comment. It is crown land now or it is Aboriginal reserves now, why can't it stay that way and with the proper management put in place, and all parties work together to maintain that. If through certain systems worked out with the Aboriginal community, what are significant areas and sites, and everything else, and getting in and help them protect those and do whatever work has to be done there. I can't see any problem of it staying as crown land, but if it is handed back, all these other issues have to be resolved. Then I think there has to be covenants put on those properties similar to what are being put on shack sites at present, to be handed back freehold.

CHAIRPERSON - Thank you, gentlemen, for your submission and your appearance here today; it has been appreciated.

THE WITNESSES WITHDREW.

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT
CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.**

Mr PETER BENSON WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS
EXAMINED

CHAIRPERSON (Mrs Sue Smith) - Thank you, Mr Benson. We note that you made a request to make a verbal submission to the committee this morning. The process we use is that you make your submission and then the committee will ask any questions they see relevant. I remind you it is a public hearing, open to the public. If at any stage you wish to make comments you would prefer to make in camera you make that request to the committee before you make the comment.

Mr BENSON - Thank you very much for hearing my submission on such short notice, it's very much appreciated. I would like to talk about the handover of public lands to certain organisations within the Circular Head community and area.

If I can reflect and go back a few years ago to a place called Trefoil Island which was handed back to the Aboriginal Association some years ago for the purpose of mutton-bird harvesting and to create an industry within Circular Head for the Aboriginal community. I believe that the Trefoil Island exercise has been a total disaster. It's got to the stage now where mutton-birding on a commercial basis will not probably exist for this year or the next year. That was the first of the land handovers in Circular Head to the Aboriginal community.

Then followed some years later by the handover, through legislation, of Mount Cameron West to the Aboriginal community. That has been handed back for some five years now and in that five years' time even though it was legislated at the time that certain obligations by the Aboriginal community would be adhered to that has not happened. The general public has been denied access to Mount Cameron since for a total of five years. Even with certain requests by myself and other people of the community to the relevant authorities that we are being denied public access to that certain area nothing has been rectified.

There are signs at Mount Cameron stating 'Private property, trespasses will be prosecuted'. There is actually a gate across a public thoroughfare that has been there for approximately five years with a lock on the gate. You approach the people who are supposedly caretaking Mount Cameron and they deny access on that public track and onto the beach.

For the continuation of the State Government or the ongoing commitment by the State Government to handover further tracks of crown land to the Aboriginal community, as far as I'm concerned, is a leap-frogging effect. I believe that Mount Cameron should be addressed totally. Mount Cameron and Trefoil Island should have been the benchmarks, but they are not the benchmarks, of handing over land to the Aboriginal community. So in regards to that, I fully oppose any handing back of public crown land to any organisation completely on this coast. I think that we've been down a road that has gone nowhere. I believe that handing back of public lands as far as reconciliation is concerned is not the way to go. I don't believe that reconciliation actually means handing back public lands.

If public lands in the future are handed back to any organisation - and I will just take the Aboriginal organisation or community as an example - I can foresee that there is going to be ongoing major problems. These problems are going to be compounded by lack of resources, lack of management, lack of knowledge and a lack of know-how to sustain the ongoing management of these tracks of land. It has been proven at Mount Cameron that it's not working, the problem is going to get more serious as

time goes by and we are reaching the stage now where if something drastic is not done at Mount Cameron that it's just going to be a total eyesore in the Circular Head community for many, many years.

I say this and I will also say that I am part Aboriginal myself - I'm a one-eighth Aboriginal. I have had ongoing discussions with a large number of Aboriginal community members throughout the State of Tasmania and my consensus after talking to those people is that the Aboriginal community as a whole don't want the land back. I agree, they agree and everybody in the community agrees that there are areas of major significance to the Aboriginal population in Tasmania. They are very small areas. We are talking about carvings at Mount Cameron that probably take in a total area of, let's exaggerate here, 50 acres. There was a total of some 1 500 hectares handed back to the Aboriginals at Mount Cameron West. The proposal for Sundown Point, I would say in total area down there, the areas of significance would be probably 10 to 15 acres. There is a proposal to hand back 580 hectares. Why such an enormous amount of area when the points of significance would probably be a fiftieth of the total area?

What I am saying is, okay, let's recognise the areas of major significance. The carvings at Sundown Point for instance, which takes up an area about the size of this room, let that be put on notice that that is an area of significance. Let's have interpretation centres down there not barbed wire fences for starters so when people do come into this area they fully understand the significance of these sites and they can walk up to this place and say 'Right, that is of Aboriginal significance' and appreciate that site. But when you lockup large tracks of land, like thousands of hectares, people wander in and they say 'Where's the Aboriginal significance of this area? Why such a large area?' The mentality seems to be by the Government that reconciliation is giving back the Aboriginal community large tracks of open land. That's it in a nutshell. Like I said, I disagree with handing back large tracks of land and, I think, the feeling in the Circular Head community is the same. I think that Mount Cameron was a mistake and it really should be taken back by the Government and handed back to the people of Circular Head on the understanding that that would be controlled by a governing body like the Circular Head Council in association with the community as a whole.

It is not reconciliation, there has been a wedge driven in this community and that wedge and division is getting greater and greater and greater by the day and I really appreciate the people of Circular Head for having so much tolerance. I didn't think that people in a small community, and it probably reflects back on this community, that they have had the tolerance that they've had, but the fuse is getting smaller and smaller. I say, 'Let's get together and talk about it and not drive that wedge any deeper'. Thank you very much.

Mr FLETCHER - Peter, you suggest that it's legitimate to recognise areas of special significance and we ought to take some action?

Mr BENSON - Most definitely.

Mr FLETCHER - How do you think we should recognise? How can we make judgments about what is an area of special significance?

Mr BENSON - For starters, I don't think that you should be using an archaeologist who has been employed by the Tasmanian Land Council or by the State Government. I think that there should be fully independent valuations by somebody probably totally outside of Australia, I don't know, but not employed by the Government or most certainly not employed by the Tasmanian Land Council.

Mr FLETCHER - So you're saying this class of site or land that is significant to the Aboriginal community but the Aboriginal community shouldn't have any say into its significance? Is that what you're claiming or what you're suggesting?

Mr BENSON - I really don't think that the Tasmanian Aboriginals who are left have enough understanding of Tasmanian Aboriginal culture instilled in them over a period of time to fully comprehend what is significant to them and which is not, because the teaching of Tasmanian Aboriginal heritage hasn't been taught to the people because over the period of generations there's been no assimilation by Tasmanian Aboriginals on a consistent basis to those tracks of land and those points of significance.

Mr FLETCHER - Well, your point that the land has to be significant to somebody, doesn't it have to be significant to those present day Tasmanian Aborigines? If you're saying -

Mr BENSON - I take your point and I think that it is, but if you ask a Tasmanian Aboriginal descendent to interpret what the circles in the rocks are down at Sundown Point I think you'd have them scratching their head for a fortnight because they wouldn't be able to tell you.

Mr FLETCHER - Suppose you had something that you wanted to nominate and I said to you 'No, that's not significant to you' but I'm the independent expert remote and you're claiming that something is very significant to you and I go down and have a quick look around there and do an assessment and use my professional knowledge and I come back and say 'No, Peter, I'm sorry but that's not significant to you', wouldn't you feel aggrieved by that process?

Mr BENSON - No, I wouldn't because I think that visually some areas are of significance straightaway so they go into the top ten category of the most significant parts. Obviously the rock carvings are of some sort of Aboriginal heritage significance. When you get down to the middens or shell scatters then are they less significant or what are they really? A midden in the dictionary is a rubbish dump. Now you ask any Aboriginal the total heritage significance of a midden, what's their rationale for saying that it's a sacred site?

Mr FLETCHER - I'm not trying to put my point of view across to you, I'm simply trying to find out from you how do we make this assessment? What is the process that allows a valid judgment to be made about what is significant and what is not significant unless you let the Aboriginal community themselves do it?

Mr BENSON - I think everybody has to have input, most certainly, but I don't think it has to be biased and one-sided and I think that's the way that it has been in the past, because the archaeologist, he's most certainly going to look after his position because he's probably on \$200 000 a year and if he says it's not an Aboriginal site and there's no sites of significance on the west coast, he's going to be on the dole queue next week because he hasn't got a job. But if he says 'Yes, that's of major Aboriginal significance and every shell scatter and every midden on the west coast of Tasmania is of significance' he's guaranteed himself that he has a job until he retires. To me, that's the way that it goes and a lot of other people in the community have that same feeling - it's been one-sided.

I'm saying I'm calling for an independent review of sites of significance on the west coast and, surely, if the sites on the west coast are of significance then the whole coastline, because Aboriginals access the coast it doesn't matter where they used to be, is of major significance so let's lock it all up. There's no land claims or land handing back at Opossum Bay or Constitution Dock in Hobart which used to be very largely Aboriginal populated. They've got it wrong. Mr Bacon comes out and says 'We're going to hand back land' straight off the cuff, no public consultation, no input and we have come to this ridiculous scenario that the community is being divided because of these very issues.

Mr FLETCHER - In actual fact you seem to be saying that you accept that some land or sites ought to be handed back or ought to be protected, but the question is: how do you draw the line, how do you decide where the line should be or don't you believe anything should be transferred?

Mr BENSON - I think I said before that 580 hectares are on the board over there now to be handed back to the Aboriginals when in actual fact about 10 acres of that 580 hectares would be of any major significance to the Aboriginal people.

I took some people from the Liberal Party out to Mount Cameron here just recently, the people who were on the panel to hand back Mount Cameron, and they said 'This is the first time we've been here and if we had of come out here then this would never ever have happened' because they made the decision in Hobart because they didn't get off their backsides and go out to Mount Cameron and have a look. When the lady in particular asked me where the carvings were and turned towards Mount Cameron I said, 'Three kilometres up the beach' because that's where they are and she said, 'I thought they were at Mount Cameron'. That's an example - that is an example of overkill - total overkill. I also am privy to documents from the TALC where this is only stage 2 of land requisitions and it goes up to stage 5 and it nearly encumbers the whole of the west coast of Tasmania private and public lands. We

are only seeing the thin edge of the wedge just now - let alone 3 kilometres of marine area for the total coastline of Tasmania. I'm sorry, I'm a bit carried away here.

Mr FLETCHER - Okay.

CHAIRPERSON - Any other questions?

Mr BAILEY - Have you been denied access to the beach at Mount Cameron?

Mr BENSON - Mount Cameron West, I most certainly have, time and time and time again.

Mr BAILEY - Is that foot access or vehicular access?

Mr BENSON - The public road goes to on the landward side of the major last sand dunes. The gate is across the road approximately a kilometre and a half or two kilometres up from that area which is a public road. If I put a gate across this public road out here I know where I'd be tomorrow but, because of the indigenous people who are out there, because of what they are and who they are, that gate is still there. I've been denied walking access to Mount Cameron, myself and my family. Now I could go along there and say 'Look, I'm part Aboriginal and you can't stop me' but I wouldn't do that because I'm no different to you. What should a one-eighth Aboriginal or a one-sixth Aboriginal make - why should that make any difference?

Mr BAILEY - Are you a member of any of the Aboriginal organisations?

Mr BENSON - No, I'm not. I have been, I'm sorry. I have been a member of the Circular Head Aboriginal Corporation but I'm not at the moment, no.

CHAIRPERSON - Mr Benson, we've received evidence this morning from an individual that they had gained access, albeit foot access, to particular areas of Mount Cameron West, are you're intimating perhaps that it is selective in permission granting?

Mr BENSON - Most certainly, most definitely and that sticks out. That comes to the front all the time. It's not what you are or where you come from, it's who you are. I might add that the caretaker out at Mount Cameron is not necessarily a Tasmanian Aboriginal. There are actually people from the mainland in that position out there and there has been over the last four or five years.

CHAIRPERSON - You talked about mutton-bird harvesting on Trefoil Island which is another area handed over and you'd be aware that this has erupted over the last fortnight because media reports are saying that because of failure of capacity to meet health regulations that have been imposed, mutton-birding as an industry in total in Tasmania is in severe jeopardy. Do you believe it would be fair that in this particular season anyway that may be one of the reasons why Trefoil is not being harvested of mutton-birds?

Mr BENSON - No, I was referring to the fact that over the last - I'm not quite sure how many years Trefoil Island has been handed back to the Aboriginal community for mutton-birding but it would be more than five probably ten years - but prior to that the mutton-bird industry on Trefoil Island was very large. It was one of the largest gathering areas of mutton-birds commercially in Tasmania but now it has deteriorated to such an extent that the birds are dying and the rookeries are deteriorating. It's got nothing to do with the health, it's just the management of the island by the Aboriginal people. I don't know whether it's through lack of resources, lack of knowledge or what, so that industry on that island, which was supposed to be a benchmark for the Aboriginal community in Tasmania to make some money and become independent, has failed. That was probably the first example in this area of failure.

CHAIRPERSON - You talk, Mr Benson, about reconciliation is not about land transfer, would you like to give the committee your interpretation of what reconciliation should mean to the Australian people?

Mr BENSON - Yes. I'm saying if two people have differences - and if I can just go back a little bit - when Australia was first discovered and started to be settled, especially Tasmania by the English, most

of the bad things that happened to the Tasmanian Aboriginals happened before Federation. It wasn't even Australia then, it was part of Great Britain and governed by that and there was no government in Australia of the day, so reconciliation, as far as I'm concerned, and the Aboriginal problem should be part of Great Britain's Parliament problem because they were the people who totally annihilated the Tasmanian Aboriginals, not the Tasmanian Government or the Tasmanian people. So if there's any sorry's to be said it should certainly come from Britain for starters.

Getting back to your question, I'm sorry - reconciliation, to me, is that two people who have differences should be able to stand up and air those differences either in private or public, shake hands and get on with the job.

CHAIRPERSON - Thank you very much. Any other questions of Mr Benson? Thank you, Mr Benson, for your time this morning.

THE WITNESS WITHDREW.

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT
CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.**

DONALD BRITTON WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIRPERSON (Mrs Sue Smith) - Good morning, Mr Britton. We note your request to make a verbal submission for and on behalf of the Bluff Hill shack owners. The process we use is we ask you to make your submission and then the committee will ask any questions they feel are relevant.

Mr BRITTON - I would also like it noted that I also represent Britton Brothers Sawmilling Company which does have land east of Temma that is not directly affected by this land transfer but there are issues pertaining to this that do affect us that we feel, hopefully, can be addressed as part of this inquiry.

As stated, I'm a shack owner at Bluff Hill Point. I have been representative for the Bluff Hill Point shack owners on the Arthur-Pieman Coalition and I also surf in the area. I use an off-road vehicle, do occasionally recreational fish, walk and run up and down in the area and I've had my shack there for seven years. The shack, to my understanding, has been there for about 50 years. I think Silvia's parents owned the shack.

Mrs SILVIA SMITH - You've got my dad's shack?

Mr BRITTON - Yes. The shack has been there for quite some time.

Mrs SILVIA SMITH - 1936, I believe.

Mr BRITTON - Right, so it has got quite a history there. I suppose part of that with the shack sites, especially at Bluff Hill Point, there are quite a lot of Aboriginal sites in that area - as in midden sites, et cetera - and the shacks are located around those sites. We have had to go through an extensive investigative process to finally enable us to get freehold title there. There will be covenants put on our shack sites with limitations in regard to the Relics Act, et cetera - conditions that we will have to abide by and generally shack owners think that's reasonable and won't have a problem with that. That involvement has been going on over the last seven years and it had been going on three or four years before that and most people were pretty shocked when the Premier made his announcement that the proposed land transfers at West Point and Sundown Point were going to go ahead without any similar consultation or consultative process and investigative process.

Firstly Bluff Hill were concerned about that and the people who I associate with in the community - workers at our mill, et cetera - it really, instead of being a reconciliation process, to me it seemed to be a divisive process. This is also on top of the events that happened at Mount Cameron with access. So, being a surfer, I was concerned of the letters in the press threatening surfers lack of access because they purportedly didn't attend an accident on the road - and this was when access was supposed to have been guaranteed. We've had meetings with the Premier's Department on the proposed transfer and part of that was that Mount Cameron would be sorted out before this happened - well, to my knowledge, I went up to Mount Cameron a few weeks ago, there's signs everywhere - I'd imagine you've been there - saying 'Trespasses Prosecuted' et cetera. My understanding at present is that they're not legally binding, in fact you have got access to walk all over that property until the amendment bill goes through. So that further gets the local people offside, therefore threatening the reconciliation process.

It does concern me that the proposal is that there will be no walking access to the top of Mount Cameron and I think that's one of the few places on the west coast where you can take visitors to get a good overview of the area. As I say, as a surfer, the fact that you can't drive a vehicle to the Carvings Beach on the northern point of the Mount Cameron site is very difficult because it's a long walk and with families, et cetera, it virtually puts it out of access.

Also I understand that the land transfer decision is a political decision; there's no legal requirement under a Wik or Mabo-style land claim for this to take place. I would just like to point out that, as is happening in a lot of Australia, the grassroots rural community are further angered by this and it does enhance more radical extreme groups to come into existence, which I don't think is a good thing. My understanding is that over the last 150 years there's been little or minimal Aboriginal association with the area - I mean, that's changed in the last ten years.

As far as West Point goes from the Bluff Hill shack owners, I know myself ever since I've been there I've quite often taken my four-wheel bike or walked through to West Point either just for the pleasure of doing it or for surfing. There's a lot of sites just south of the actual Lighthouse Beach that you can surf on and it gives you that diversity of surfing locations and the proposal on the transfer is for that to be down to low-water mark and that would preclude any access along that unless special dispensation was given by the Aboriginal community and that would be totally out of the Government's hands or whatever. So unless that was enhanced with the shack sites we'd have to be above high-water mark and ideally 30 metres, maybe 15 metres. There's no problem with specific sites being, if need be, down to low-water mark but to have whole beach areas that have no significance at all, to be totally denied access, to me, is just not on.

I feel personally that the Arthur-Pieman is an area in total, that the proposed areas that are going to be transferred would be much better managed as a total body. Areas of significance that would have great significance to the Aboriginal community would, I imagine, be given them the responsibility or greatest input into managing those areas then it would, rather than funding for the Aboriginal group on their own, the funding would be for the whole area as far as fire management, access, significant site management, all the infrastructure problems that do and will exist in the area. If it was done as a total rather than have separate blocks in there - which, to be honest, I don't think with the best will in the world the Aboriginal people can fully manage those. It's just too vast an area and too difficult. My understanding also is that the local Aboriginal people have not had much ownership or input into the proposed management of these areas.

As far as Britton Brothers go - and I refer to our block at Temma - it raises the issue of the Aboriginal Relics Act 1975. We've had a lot of problems with our property and also just in general on the significance of sites. I'm not sure how well you know the Relics Act but basically any object or site that has an association with the Aboriginal people is classed as a site and there's no degree of significance on that - a little stone flake scattered has the same significance as a stone carving or petroglyph. With our property at Temma we have been precluded from logging probably half of the harvestable timber on that. There is a significant lot of our property stopped from logging, the other half we would have liked to put back into plantation but because in putting trees in you have to disturb the soil and once a flake is exposed, that's a site, you cannot disturb, so it's no go. So at the moment we are negotiating this with the Government - this has been going on for fifteen years - for some sort of compensation or land swap deal on that, so it has been very frustrating for us. To me, a broken shell or a stone scatter just does not have the significance of a settlement site or a stone carving so we feel that a lot of these problems wouldn't be anywhere near as great if that Relics Act was reviewed and some degree of significance given to those sites.

I have heard the coalition saying about the European and the other cultural assessments at West Point and Sundown Point haven't been done. I also agree that the reconciliation process, to me, implies reconciliation with two parties not just one party and this, I feel, could be achieved through the creation of a conversation management trust which would involve the local council, it would involve the Aboriginal people, environmental interests, shack owners and all the recreational users of the area and also the relevant department of the Government to be the, I suppose, overviewer as far as the Government is concerned.

Also in our association in the forest industry, we have seen how the Greens operate as far as reservation of forested areas. There has been numerous inquiries on the forest industry whereas if one particular section of forest was identified as being significant and worthy of reservation that would be enough and then two years later it snowballed and then it was all linked up, to me it seems that this is happening on the west coast with the Aboriginal sites. My understanding was that Mount Cameron was the only area of major interest to be transferred to freehold title for the Aboriginal movement, then West Point and Sundown Point were put up. There are significant sites at Bluff Hill and other areas on the west coast. My concern is that these will then be in a few years' time considered significant and transferred over and then the linkage of these sites will result in, not a lock-up but a real restriction on the usage of the west coast for a significant part of the local and Tasmanian and interstate community. There's a hell of a lot of people who use that area for recreational use and it needs to be fully and properly managed by a representative of all interests and not just a particular user group.

Mrs SILVIA SMITH - Don, just for my information, if I could, just ask a simple question.

CHAIRPERSON - You're not going to get sentimental here, are we, over a shack?

Laughter.

Mrs SILVIA SMITH - No, I'll talk to him about that later. The northern boundary that the Arthur-Pieman group cover, could you tell me where that comes to, please?

Mr BRITTON - You could probably answer that one, Ross.

Mrs SILVIA SMITH - I forgot to ask them before but I thought you might know as a member of that group.

Mr ROSS BRITTON - That's the northern boundary of the Arthur-Pieman area.

Mrs SILVIA SMITH - Is it the Arthur River?

Mr ROSS BRITTON - No, you come through to Marrawah. It's north of the Arthur River.

Mrs SILVIA SMITH - I just want to get a picture that all of these areas that we are talking about are within that group.

Mr BRITTON - Yes, it would be all the crown land south of Marrawah basically.

Mr FLETCHER - I accept the argument with regard to the Aboriginal Relics Act. I've tried to take an action in regard to that before and it seems to me that you're suggesting that there are important places and sites and they do need to be identified and nominated by the Aboriginal community and then assessed by someone with expert knowledge who can make a judgment against the common good, if you like, against the total demand within the State - I think that's what you're saying.

Mr BRITTON - Our company has deliberately stayed away from the sensitive areas but the more we have done that the worse it's got for us in effect, so probably ten or twelve years we could have gone in and logged a significant area of that and got out of it but we still wouldn't be able to do anything with that land. Forestry Tasmania are having exactly the same problems because it's just not our block, there's a whole strip through there, so really it's a case of how much is enough for significant sites, but when you're talking little stone flakes the size of your little finger nail are classed as a site, to me that is overkill. I don't know anywhere else in the world where there's that degree of restriction and it's all tied up in the Forest Practices Act as well and we have to abide by that act. The significant sites, yes, and the same around the shack areas there are broken shells there scattered everywhere and everyone of those is a relic and the whole Bluff Hill area is a site as such but, technically, I'm not allowed to touch or do anything with one of those shells. It's just a nonsense to me that it's to that degree but if it was a hut depression or an area I don't have a problem with that.

Mr FLETCHER - Do you accept that individually they mightn't be of significance but collectively, as part of a cultural landscape because of the size of the total scatter, they might take on a significance for

perhaps all of the west coast, as opposed to the individual item?

Mr BRITTON - Well, how far do you go with it? I can't speak for the Aboriginal community. I can understand as part of a midden group and a hut depression - a village site, for want of a better term - if that was all part of that, yes, but outside that area just a few scattered shell or flakes and a lot of these flakes are just flakes. I mean, I could go to the quarries now and pull off pieces, it just the way that the rock shatters. Now I'd defy anyone to say whether they'd been worked or not. And if I could have brought one along here today, because it wouldn't have been a relic it would have been straight off the natural rock, but if I had that in my possession somebody could argue that it was a relic and I could be fined \$5 000. They are not arrowheads; some have been worked a bit, but most of the ones that I've seen on our property are just that, just flakes. Whether they've dropped or a naturally occurring part of it, it's very subjective. Nobody can argue either way on that.

Mr FLETCHER - So you'd say to the committee that these chips or artefacts or whatever are generally spread over the whole of the west coast area, perhaps much of Tasmania generally?

Mr BRITTON - Well, the stone flakes in the Temma area are spread over that area because that is the natural outcropping of it, the rest would have been transported there - I mean, they'd be part of their midden and carving set up. But the ones that are scattered over -and there are hundreds of thousands of hectares in the Temma area where they are scattered - now whether they are natural or have been dropped on the way to the coast, I couldn't tell you. But, to me, to reserve all that area because of that - the quarry sites and the surrounds of that - I don't have a problem with that, but not just isolated scatters.

Mr BAILEY - As a shack owner, are you concerned that the access to your shack sites might be prohibited in the same manner as the access to the beach at Mount Cameron West has?

Mr BRITTON - Hopefully not at this stage. It's been quite an exhaustive process, as I said, but from my understanding there has been surveys done; it's been out for consultation, the road access in there, but where my shack is there's a track to the east that does go through a sand dune that has shell scatters in it. That will be blocked off and that will preclude me going through to the beach that way - well, I'll accept that - that will be reconstituted and covered and closed off. My understanding is that permission to cover a lot of it will be sought from the minister as far as roading and hardening of surfaces goes so vehicles around our shack site will have to stick to the hardened surfaces and then when they get to the beach it comes under the auspice of the Arthur-Pieman conservation area and then whatever the management plan for that states, we'll have to abide by that. So I don't have a problem with that.

Mr BAILEY - So there will be a hardened road or access to the various shacks?

Mr BRITTON - Yes. If there is something there that needed covering or whatever and then grassed over, there again, I think all shack owners would accept that - I mean, it's part of the terms, the same as other requirements. Within reason, we don't want to be doing extensive works there. It then does keep the trail bikes from going round and round your shack and it does stop blow-outs and cut-outs and sand blowing everywhere so the more it can be covered and just stuck to the defined tracks and then, say, once you get outside the shack area it comes under the whole plan of the Arthur-Pieman conservation area.

Mrs SILVIA SMITH - Just briefly, considering your real concerns about what is of special significance and what is a special site, et cetera, not only looking at what's happened so far, what's about to happen in looking at the future, would you think that at this point of time it would be a good time to have a full, independent assessment done of the whole of the west coast area, with this regard to what is and what isn't significant?

Mr BRITTON - Yes, I do and I think it would become part of the Arthur-Pieman Management Authority to do that and then I suppose it's the prescriptive elements or whatever of it that would set up management regimes for those sites because that's going to impact on the future use of that area. It's all going to have to be covered in that - off-road usage and all that sort of thing - and there are going to have to be concessions made either way - I mean, people aren't going to be able to travel where they previously have been but there might be concessions that to get to a beach they have to go over a

headland that does have some shell scatters on it and provided that's hardened and people stick to that track when they stay on the beach it shouldn't be a problem but that's what part of that management plan will cover, I'd imagine.

Mrs SILVIA SMITH - Because traditionally in the past would you agree that the majority of owners of shacks, et cetera, if they have had knowledge of these particular middens, et cetera, have taken great care of them. They haven't gone out to destroy them in any way, have they?

Mr BRITTON - No, because there's always that - and I don't know what percentage you would put on it, whether it's 5 to 10 per cent - that are not responsible and I don't know how you control that. I mean, there has to be penalties for that because it puts everyone in a bad light. The same as around my shack, people go past and 90 per cent of those go past slowly but there will always be someone on a big bike go ripping past there at any hour of the day and that really annoys me and they're the people who generally get in and rip up the sand dunes or into middens or wherever and they've got to be controlled somehow.

Mrs SILVIA SMITH - And the conservation management trust you mention, is that basically the same as various other people have spoken to us about this morning -

Mr BRITTON - I'd imagine it would be the same as what the coalition -

Mrs SILVIA SMITH - to look at protecting and looking after the area.

Mr BRITTON - Yes, that brings all user groups and, as I say, the local Aboriginals, the environment movement and local council importantly has one of the major roles in that.

Mrs SILVIA SMITH - Parks and Wildlife?

Mr BRITTON - Parks and Wildlife as well would have to be there as the Government representative on that. To me, it just makes perfect sense.

Mrs SILVIA SMITH - Yes. It just gave it a slightly variation in the name and I just wanted to be assured that you were talking about the same thing.

CHAIRPERSON - Thank you very much, Mr Britton, for your submission here this morning, it has been appreciated.

THE WITNESS WITHDREW.

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT
CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.**

ROSS BRITTON WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIRPERSON (Mrs Sue Smith) - Good morning, Ross. Thank you for your submission to the committee. I will commence by putting an apology in for Mr Jim Wilkinson who is a member of the committee but had to return to Hobart yesterday evening.

The concept we have used here is that we ask you to speak to your submission, to enlarge on it, to add any information that you wish to add and the committee shall then use any time they feel necessary to ask you any questions or to look for any clarification of points you have made. We will pass over to you and will be interested in your comments.

Mr BRITTON - Thanks, Sue, and thanks to the committee for allowing me to speak here this morning. As you know, I've already put in a written submission but do you want me to read that right through or just go through a couple of points?

CHAIRPERSON - No, the committee have it in front of them, just pull out any relevant points you wish to enlarge on.

Mr BRITTON - As far as I'm concerned, as a shack owner down there and not too far away from one of the proposed hand back sites, I'm against the handing over of land to the Aboriginal community. The reason for this is because a few years ago I sat in on a meeting here with some members of Parliament and the Aboriginal community regarding Mount Cameron and at that meeting we were told that Mount Cameron would be free for everybody to use, as they have used it in the past, with due respect to the Aboriginal heritage in the area. Since that time we have had lock-outs, we've had intimidating signs put up there and generally there's a lot of issues in that area that people are very concerned about.

I believe that this is a political move by Premier Bacon to hand back this land to the Aboriginal community and in doing so I think he's got it completely wrong. The reasons that he's got it wrong is that this Mount Cameron business hasn't been sorted out, there are a hell of a lot of issues that have got to be sorted out before any further land is handed back to the Aboriginal community.

One of the other major concerns in the area, I believe, is that a lot of the land being handed back to the Aboriginal community is being all run from Hobart from TALC and ALCT and I strongly believe that there has to be further involvement of local Aboriginal communities. By saying this, with Mount Cameron down there, that the local Aboriginal communities have not had any input into that at all. Speaking to some of the people with aboriginality in them, they are very concerned about that because they believe that some of their ancestors were down here and they have a great love for the area and they should have further involvement in that - to date that hasn't happened. The other issues of surfers and other people who use the area down there, they've all got to be resolved before there can be any consideration of handing land back to these other two areas back to the Aboriginal community.

I believe that these two areas now are Aboriginal reserves and that the reserves, the way they are now, I think with the further involvement of local community input through a management authority set up by using probably our local council here and community groups and local Aboriginal groups down here and the department, that something could be worked out and that could work very well.

In the hand back that has been handed out there has been no consideration for European heritage in the area in any shape or form. At Sundown Point, where I am, it's been used as stock route for 150 years and there have been stockmen's huts on that Aboriginal reserve. This hasn't been taken into consideration, I don't believe, and I think that even West Point where the old lighthouse was that that is part of the European heritage of the area. I guess if we went right through the whole deal that somewhere along the line that there are more than just those two or three I've mentioned of European heritage in the area. People have been using that area since basically white man settled in Tasmania and I think we should have some input into what happens down there also.

Speaking to a lot of people, they are upset about the way the Mount Cameron issue hasn't been resolved and what's happened down there has just happened through the Aboriginal people in Hobart and no local community input at all. I think this has got to be resolved and all those issues resolved before we can actually consider handing back more land - these other two parcels of land back in Circular Head.

Mr FLETCHER - Ross, I note that you're going to appear with the Arthur-Pieman Coalition later and I want to ask questions about the management regime that you've mentioned in your paper here, so rather than ask that twice I will save it for the coalition.

Mr BRITTON - Yes, that will be fine.

Mr FLETCHER - So you're appearing here, I guess, as a private citizen and shack owner of the area.

Mr BRITTON - Yes.

Mr FLETCHER - From what you have said, can I conclude that if the access matter was guaranteed, if the Mount Cameron West access issues and related issues to other things were guaranteed and if the local Aboriginal corporation members were involved in the management process, then you wouldn't have any real opposition to further land transfers?

Mr BRITTON - Well, at this stage I still would, Tony, because I think the Mount Cameron one has to be sorted out properly first and really nailed down and then I think these other two parcels of land, the access and everything else there, there is just more than access to the other two areas that need to be addressed and put in writing and really concrete so it can't be played around with like the Mount Cameron issue has been.

Mr FLETCHER - Well, suppose the access issue was made secure and over five years there was a record of general public access and good cooperation between both the land owners, land managers and people of the local community and the local Aboriginal corporation members were involved in the process, would that change your attitude at all towards further land transfers?

Mr BRITTON - I think it possibly could, Tony, because it's something I would consider in the future but until the rest of the issues are resolved I'm not prepared to even consider it, but once they're resolved and if they are to our satisfaction and if the local Aboriginal community can have a further input and if a management authority is put in place down there to help manage the whole area. Talking to Clyde Mansell here a few weeks ago, the whole area needs a proper management plan put in place and I think if it's done with the Aboriginal community and the white community that maybe something could work out to a satisfactory result in the end. But there's got to be a lot of work put into that because I think just handing it back like the Mount Cameron issue is that that's not reconciliation as far as I'm concerned, because all it is is driving the wedge further and further and dividing the community, dividing both parties and this is not the way we want to work. We want to work with the Aboriginal community and the people who use the area down there have a long affiliation with the area and probably more so than the present-day Aboriginal community. I think with proper management put in place that we could really get something set up there and make the whole thing work - as I said, with a management authority with the Aboriginal communities involved and the European people that we could eventually really get something going and make this work. But until the Mount Cameron one is sorted out that's the biggest problem.

Mr FLETCHER - You mention in your submission that little work had been done on the assessment of European cultural heritage in that general area, the west coast area. Have you individually or as a group ever tried to get some work done in that area? Have you considered that proposition?

Mr BRITTON - We haven't done. We have spoken about it in the last three or four months but to date we haven't been able to do that. We asked the department what work they'd done on it and they said they hadn't done any work at all because of the cost involved in doing that is astronomical - well, this is going to the coalition now. Since the coalition has been formed we have spoken about trying to get the European heritage in the area documented and all put down but, as you know, that's going to take quite some time to do and it won't be done overnight, it could take quite a few years trying to get around the old people who've used the area and go back through the records to find this out. But I think that's got to be done and done as soon as we can get it.

Mr FLETCHER - Is the fact that it hasn't been done largely a matter of desire or largely a matter of no money to do it?

Mr BRITTON - Largely a matter of no money to do it.

Mr FLETCHER - Okay.

CHAIRPERSON - Mr Britton, could you give the committee some information as to your opinion at the time when the 1995 transfers happened in this area and other areas?

Mr BRITTON - Yes. At the time I was chairman of APAMAC (?) and myself and Neville Wells were called into a meeting here and we went through the whole deal - and Mr Fletcher was chairman at the time. We sat down and spoke to all the people concerned here and one of the things which was raised, and I raised it, was once the Aboriginal community got Mount Cameron, what would they require after that? The answer was: once they had Mount Cameron, because of the significance of the sites and everything around Mount Cameron, that was basically the only land they would require in Circular Head. Since then we've found out differently and also with the access to surfers and people going onto the beaches and going through Mount Cameron West, access would not be denied to anyone and people could still continue to use that area as they'd used it for the last 100-odd years.

We went through it and once we were given the assurance that that was basically the only land they would require in Circular Head, or in the Arthur-Pieman area because that's all that we were dealing with at that time, and that access would be granted and there would be no lock-outs or anything like that, we were quite prepared to say, 'Okay, yes, we didn't have a problem with Mount Cameron being handed back' but since then all the problems that have arisen out of that that it's just created one big headache and it's dividing this community wider and wider apart.

CHAIRPERSON - Is it perhaps fair to say that if the access problems of Mount Cameron hadn't arisen over the past five years there may have been a different attitude by the users to further transfers?

Mr BRITTON - Probably, because Mount Cameron was basically a different issue from West Point and Sundown Point with the agistment areas down there and fishing and surfing and off-road vehicles and that type of thing. I think if the Mount Cameron thing had worked like it should have done, I don't think there might have been the opposition to handing back that land now that there is today.

Mr FLETCHER - We were given evidence under oath on Tuesday that the Marawah Surf Riders Association or Surf Boarders Association have now reached agreement with ALCT with regard to access not only for themselves but access for the public as well to Mount Cameron West and, further, the Kelp Harvesters Association gave evidence under oath that they had entered into satisfactory agreement for access with ALCT and then we were told anecdotally yesterday that both those agreements were subject to signing off by the Circular Head Council and that the Circular Head Council were going to discuss the issue at a meeting, I think, tonight - Thursday night - and may well change their position in regard to the matter. If the council change its position in regard to the matter of access, would that change your position?

Mr BRITTON - I have some concerns here because I was at the meeting with the kelpers and ALCT. They will give a two-year lease on those areas but it will be reviewed after two years and I said, 'Well okay, after two years what does happen then? Are ALC prepared to extend that to five years or something like that?' but no, they say two years and my great concern is that after two years if there's a change of directioning out that they could say, 'Righto, I'm sorry, two years is up, that's the end of your contract or agreement, that we can stop everything completely after that' so I have fears on that side of it.

Mrs SILVIA SMITH - Can I just pick up there on the issue of access. We're hearing a lot about the limited access available at Mount Cameron West. I wonder, from your point of view, could you explain to the committee what reason is needed for access to not only Mount Cameron West - what sort of access have you had in the past years and for what reasons - but also for West Point and Sundown Point? What is the access that you people, as a group, need? We've heard it from the Kelpers Association, we've heard from the surfing people so we know what they're about, what's your need and what has been your use, I guess I'm asking, too?

Mr BRITTON - Well, there's high-water mark and low-water mark, as you can see on the maps there. I don't have a problem with low-water marks around significant sites - that is, the carvings at Sundown Point. I think that's a good thing that it is to low-water mark there but there's a big area also in the Sundown Point there which is to low-water mark and that low-water mark is up the face of very high rocks and for people to try to get around there to go fishing or retrieve gear or something like that it's basically impossible. The same applies at West Point from people who have been previously travelling from Bluff Hill through to West Point along the beaches to go surfing there - on those maps in places the high-water mark is to one area and then it all comes down to low-water mark and basically, unless there's an agreement put in place, that those people be stopped from going through there and they've been doing that for a long time. The main access from the Arthur River through to, say, Couta Rocks or to the main road at Sundown Point has been through the beach, up past where the rock carvings are and we would want basically guaranteed access there. And there's the camping issue, the cattle agistment in the area because cattle have been using that area for many, many years

CHAIRPERSON - It's progress, don't complain.

Laughter.

Mr BRITTON - Just recently there's been more walkers using the area on those beaches and only this year with push bikes and mountain bikes coming through from Queenstown through the *Western Explorer*, in through Sundown Point and riding up the beach and then back out and through to Burnie and back to Devonport to the boat that way, talking to these people they are people from Japan, Scandinavia and they just think it great that they are able to do that. We said, 'Well, maybe in future you mightn't be able to do that' and they were horrified because they thought that was really one of the highlights of their trip.

Mrs SILVIA SMITH - Having viewed the area yesterday and having prior knowledge of the area, I'm aware of the beauty of the area and what we might be able to do with that, particularly in the tourism industry. Just looking at the three areas yesterday, are boats launched from any of those areas many times a year? Is there a need for boats to be actually launched from there or is the need for people to come in with their boats and just access the land at low or high-water mark?

Mr BRITTON - On the Sundown Point one, people have and some of the commercial fishermen have at times because the way the sea changes down there they can launch in front of where that shack is excised out of the area down there - and I believe the same at West Point. The other problem at West Point is all the shacks in that area that have been excised out, they have been using those beaches there for 50, 60, 70 or 80 years - I don't know how long - but where the shack sites are excised out they have not got access to their beaches.

CHAIRPERSON - Mr Britton, you mentioned you were at the meeting with the kelpers and the boarders, were you there as Arthur-Pieman Coalition?

Mr BRITTON - Yes.

CHAIRPERSON - Right, well I'll leave that particular line of questioning until that particular time. Any other questions from the committee of Mr Britton?

Mr BAILEY - Yes, just one small matter. You mentioned that there were intimidatory signs in relation to the entry to Mount Cameron West. We were out there yesterday and I don't recall seeing any intimidatory signs. What sort of signs were you referring to?

Mr BRITTON - Well, I haven't been out there for some time but yes, the signs you probably saw yesterday I don't know when they were erected but there were signs there previous - twelve months ago that 'No access is granted to this area' and that type of sign that I've been led to believe were put up and they've been removed since then.

Mr BAILEY - Right.

CHAIRPERSON - We saw a formal sign at the gate explaining the process. It was a white board with some black documentation on it that was a very formal sign. We also, I believe, on the left-hand side going in saw a 'Trespasses Prosecuted' sign - a normal sign one might see on a farmer's sideline fence, et cetera. You are stating there were other signage out there incidental to that?

Mr BRITTON - Previous to that there was, yes.

CHAIRPERSON - Any other questions?

Mr BAILEY - I was going to touch on the kelpers but I didn't quite hear -

CHAIRPERSON - That's why I asked the question because there is a cross-over and Mr Britton was there as Arthur-Pieman Coalition we probably don't need to dabble into that area twice.

Mr BAILEY - No, that's fine.

CHAIRPERSON - Mr Britton, thank you for your personal submission.

THE WITNESS WITHDREW.

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT
CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.**

Miss KELLY GREY WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIRPERSON (Mrs Sue Smith) - Kelly, I note that you have asked to make a verbal submission. We ask you to make the submission then the committee will ask any questions, if they feel the necessity, to just clarify any of your points.

Miss GREY - My name is Kelly, I am 20 years of age and I have lived in Marrawah all my life. My family and I have used the coastline around Marrawah all our lives. We use it for cattle agistment, four-wheel driving, swimming, camping and walking. We own a shack in the Arthur-Pieman area and previously we have used Mount Cameron for the same activities.

I believe that a current land hand back concerning Aboriginal lands is causing great disharmony in our community at the moment. The locals have safely used the Arthur-Pieman for years but now are being denied access and we are very concerned about the future access to other certain areas.

What's happening at the moment I feel is doing nothing for reconciliation but setting it back a long way. I feel that Premier Bacon has treated our people very disrespectfully and created anger in our community. If these hand backs go ahead the problem will worsen.

Last year I wrote a letter to the Circular Head *Chronicle* concerning Mount Cameron. The area was a disgrace about January last year, even though a caretaker was there permanently. There was a shabby looking hut with rubbish scattered around everywhere, a heap of dead trees piled over not just the vehicle track but the walking track as well, and litter on the beach everywhere. The general landscape I felt was an eyesore. Before it was handed back, I'd never seen, in all my visits to Mount Cameron, it looking that bad.

We have been denied access to areas that have been illegally blocked and this issue is still ongoing and it's cost a lot of money and time. These things are not acceptable to our community and are doing nothing to improve it. Nobody is denying that these areas have special significance. We all believe they should be nurtured and looked after but there has to be a level ground in management. Why not combine local Aboriginal community and the council to manage the land? That way people who know the best way to manage it and know how it runs would be managing it and it would be looked after in the best possible way. People sitting in an office in Hobart really have no idea how our coastline works or our community works.

Locals are fearing more hand backs and will simply not accept being locked out of these areas that shape our lives - the reason they live at Marrawah. If Mr Bacon really wants to help reconciliation then he should rethink his ideas on land hand backs and promote ideas that combine black and white together. Thank you.

CHAIRPERSON - Thank you very much. Any questions from the committee?

Mrs SILVIA SMITH - It's very refreshing to hear a young person's point of view and I do thank you for that because you are a very young person but you also sound as if you have an affinity to the area for all of your life and I understand the affinity that your parents have had.

You mentioned a local total community to manage this area and we have heard this time and time again since we have been here, so I just want to go at it a little bit differently with you and ask you, in reality is there a need for a local management group - and you've told us who - but why, because I'm looking at the past where there was no local management group and I agree with you, knowing the area as I do, that there has been no need. Now suddenly we are hearing the need for this group, could you give me your version of why you think that group is needed now whereas we haven't had it in the past and perhaps what you see them as doing?

Miss GREY - Well in the past, Parks and Wildlife have managed the land and I think there's been a few problems there with things like fire management and just the general looking after of the place. The locals know the best things for the land and how it works and if they had some input into what happened down there, I think it would be better off. I think, in the past, there's been a fair few problems. Locals, council and local Aboriginals could manage it together with some guidance from Parks and Wildlife and I think it would be much better managed.

Mrs SILVIA SMITH - Do you envisage that sort of management group as the way for the future now?

Miss GREY - Yes. I think there's been problems in the past but I think if everyone has an input it can be managed a lot better than what it is.

Mrs SILVIA SMITH - And you are including all other local users, like campers, trail bike riders, surf boarders and kelpers and all those people, anyone that can -

Miss GREY - Including everyone taking everyone's interest into account, yes.

Mrs SILVIA SMITH - Okay, thanks.

CHAIRPERSON - You spoke, Kelly, about you had used the Mount Cameron area for years. Can you give us some indications for what purposes that area had been used?

Miss GREY - Our family have always gone out there just driving along the beach, parking somewhere for barbeques, swimming, beachcombing or whatever, walking up the mountain. We quite often used to go out there on weekends just for leisure or whatever.

CHAIRPERSON - And you spoke about how the area was then and then you made some comment on the last time you were there, even though access is denied to a major degree, there was litter on the beach, et cetera. How do you believe the litter on the beach appears if there's such denial of access to the area?

Miss GREY - A lot of litter actually washes up on the shore. My understanding is that if there's someone there taking care of the area then they would look after and pick up that rubbish.

CHAIRPERSON - And that happened in the past, in the years where it was used -

Miss GREY - Probably not so much but there was no permanent caretaker. I just assume when there's a caretaker they would take care of the whole area and keep it looking nice.

Mrs SILVIA SMITH - If we could just pick up with regard to that rubbish, unless you are aware, I have been coming to the coast - my father was a shack owner down here - about that issue of rubbish, would you agree with my assessment that in the past generally shack owners and visitors to shack owners who walked along the beach collected up a lot of that rubbish and actually took it away?

Miss GREY - Yes, and I think a lot of people do and -

Mrs SILVIA SMITH - I know I used to.

Miss GREY - Yes, I know the walking club as well. Certain members of the walking club often go walking along the beaches and pick up quite a bit of rubbish.

Mrs SILVIA SMITH - And your concern is that if it's locked up that's not going to happen or it's not looking like it's happening?

Miss GREY - No, it hasn't been happening.

Mrs SILVIA SMITH - You went down onto the beach and you saw -

Miss GREY - Yes, we walked down on the beach.

Mrs SILVIA SMITH - So you were allowed access to get to the beach?

Miss GREY - Yes. It's quite a long walk, though.

Mr FLETCHER - Some of the evidence supporting the locking up of the area is based on the fact that four-wheel motor bikes and four-wheel drive vehicles have been used to run the sand dunes or generally access the property, that people haven't respected the area or couldn't respect the area and stay on the road and stay on the beach. Has that been your experience? Do your family like to get on the bikes and have a bit of a run across the sand dunes?

Miss GREY - No, generally not. We have motor bikes but no, we don't go gallivanting off around on them very often. I think there is a problem there with bikes and four-wheel drives but if it's managed properly people are aware of the Aboriginal significance in the area. I think it can be handled a lot better, and I think by locking it up it's not going to stop it any way. It's such a big area it can't be policed all the time and it's just going to be a waste of fences or wire or whatever that's going to be blocking people out.

Mr FLETCHER - Do your family generally use the one track to access the beach north of Mount Cameron?

Miss GREY - Yes.

Mr FLETCHER - That necessitated you going across the sand dunes, the primary dunes at some stage.

Miss GREY - Yes, but they were all covered in -

Mr FLETCHER - Was there ever evidence of a sand blow there or further degradation to the sand dunes because you were using that track?

Miss GREY - No, I don't feel that's right - just nothing more than what nature would cause the sand to move anyway. It's all fairly firm down onto the beach, it's all marram.

CHAIRPERSON - Any other questions? Thank you, Kelly, for taking the time to come and make your presentation to the committee. It has been appreciated that, as I say, you took the time and you made your presentation so eloquently. Thank you, we do appreciate that.

Miss GREY - Thank you.

THE WITNESS WITHDREW.

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT
CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.**

KEVIN HERES WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIRPERSON (Mrs Sue Smith) - Thank you, Mr Heres, and welcome to the committee's hearings this morning. We note that you don't have a written submission but you did make a request to appear before the committee and give some verbal evidence. The process we will use will allow you to speak and bring forward the issues you so wish and then the committee will ask any questions they believe are relevant at the end of the process. I remind you that it is a public hearing, it is taped. At any stage if, for some reason, you wish to go in camera, that is an option that can be taken. That would mean if you have information for the committee you wish to be kept private, we clear the public arena to allow you that option. I am explaining that to you because you may not have received the relevant paperwork that other people did who actually made contact with the secretary through Hobart. If you would like to commence your submission, we are in your hands.

Mr HERES - I am a farmer from Marrawah, I've lived on the one property all my life. I have been very concerned about the way things are going in regard to this whole land transfer, and so on. I think the most worrying thing to me is that we are seeing a huge division amongst our people that didn't exist before; I think that is my greatest concern. While I believe every person within our country has equal rights, I believe we should all be prepared to make a contribution and live by one set of rules, and unless we're prepared to do that we are going to go further and further away from reconciliation. In the last few years there has been so much talk of reconciliation that we find now there is a greater division than there's ever been before.

In regard to the care of the land, I believe we all have a responsibility to respect our land and to care for it. I think that is an equal thing. In regard to the land that is in question in the Circular Head area, I have a clear memory of that for over 60 years and I would have to say that most areas are in much better shape now than they were 60 years ago. I think the local Parks and Wildlife people have been caring for it and I think they need to be commended on the way they look after it. One of the disturbing things is that the land that has been handed back in the Mount Cameron reserve is in much worse shape now than it was even ten years ago. I don't know who is supposed to be looking after it, I know a lot of money has been spent there one way and another. The whole area is just growing up and becoming a real mess. If the Aboriginal Land Council are supposed to be caring for the land that has been handed back, I dread to think what might happen if there is more of it handed back.

The other complaint I have at this point is that while we have lived in that area all our lives, just over the last six or eight months my son has had three different lots of visitors from Victoria and he's taken them out to Mount Cameron. He has done the right thing, he introduced himself and requested to just walk up on top of the mount and that has been refused each time. Then about a month ago I took a couple of my grandchildren out and I went to the caretakers at the cabin there and spoke with him and asked permission to walk up on the mount. He said, 'No, you're only allowed to drive down to the turning place where there's a locked gate. You're allowed to go down there and turn, and that's it. You're not allowed to walk up on the mount, but if you go down to the turning area you can walk down to the coast but you're not allowed to walk up on the mount'. That was my main concern.

The other big concern is the total lack of unity amongst the various Aboriginal groups. They seem to be so divided that I think we're going to have total chaos. I don't know what needs to be done to convince these people that we do care about them and we do believe that they have equal rights, but it's far from equal if you have to continually make provision to keep one section going and they are not making any

contribution as such to their own living and a contribution to the community in general. I just wonder if the Government believes that we need to give back a lot of land, I wonder if at this point in time when there are so many small businesses and so many farmers that are finding it very difficult to survive, I wonder whether it shouldn't be looked at about the Government buying up these various farms and small businesses and giving the people, say, 70 per cent or 75 per cent equity and say, 'Okay, that is a way of showing you that we want to do something for you, but you manage it from thereon and manage it by the same set of rules that apply to the rest of the people in our community or our country'. I think that's about all I need to say, thanks.

CHAIRPERSON - Thank you, Mr Heres. On your last proposal, I don't know whether you're aware of it, but there is an organisation called the Indigenous Land Council that has a \$50 million budget each year under the Federal system that allows them to purchase property and to transfer it to Aboriginal organisations. In that process there is a management theme put into it. There has been a property purchased on Flinders Island under that particular scheme that will be, when it is transferred, presumably managed by Aboriginal community and training young Aboriginal people in the art of farming, fencing, and so on, if they so wish to be involved. So there is a capacity amongst the Federal financial scene of that process Australiawide for the particular proposal you've put forward, to actually happen where private freehold is purchased if local Aboriginal communities put forward a feasible and reasonable proposition to the Federal corporation. So that is for your information from that particular angle.

Mr HERES - That's good, I didn't fully understand that. I would be supportive of that, whereas I'm totally opposed to just handing areas of land back for people to go there and live as a community if they cannot be productive enough to support themselves. Then, if we have to rely on Parks and Wildlife people, that is more cost again to the Government to try to keep these areas a bit respectable.

CHAIRPERSON - Mr Heres, you talked about going to Mount Cameron and asking permission to walk up the mountain. Do you believe people would be prepared to pay a contribution, as they do to national parks, for a permit to enter the walking track, for instance, at Mount Cameron to look at the view, and so on?

Mr HERES - I don't really believe we should have to do that, I believe are part of the whole thing. Maybe there is a grounds for that if the place was being maintained in top condition, but not too far down the track it will be impossible to walk up there because it's all grown up with gorse and thistles, and so on. I don't think there'd be too many people willing to pay if it's such an eyesore. If you wanted to develop it as a tourist thing, there would have to be an enormous amount of money spent there to make it attractive for people to be willing to pay for the privilege of going up there. It seems to my mind that while you continually try to satisfy all these demands, we continue to get this great division. I'm totally supportive of areas being signposted and saying what they're about, just like we have our war memorials, or whatever. I think that's excellent. It's excellent from a tourist point of view, but I just cannot see the point in locking areas up and basically having it policed and yet at the same time it's all just growing up and becoming a total mess.

CHAIRPERSON - Mr Heres, considering your knowledge of the area - I have asked this question of several people who have appeared before the committee - certainly after yesterday's expedition there and seeing how it's such a wide area, I think we all acknowledge that there are particular Aboriginal sites of significance that should be protected. If there is no transfer of land, can you assist the committee in some manner in which we could protect those particular sites for the Aboriginal community and for the wider community, to understand the interpretation of what those sites mean to the Aboriginal community? How can we protect an area that is so distant, so far away from community, from some of the problems that we see if the land isn't transferred and 'locked up', as you particularly call it? Do you have some suggestions?

Mr HERES - I believe the Government put quite a bit of money and effort into - I can't think of the name of it now - projects like Highfield. What do you call that?

Mrs SILVIA SMITH - Our historical heritage.

Mr HERES - Yes. I believe it's possible to put things in place, but my concern is who is going to care for those things when they're put there. I believe that's the duty of the people who live in the area to make sure, as much as they possibly can, that they're not vandalised, and so on. As far as some of the Aboriginal sites that I know exist down there, I have never ever seen any damage done to any of those sites in my lifetime. Back about 30 years ago there was a team of people from one of the universities in Sydney who went down to West Point and actually cut a track through one of the bigger middens or mounds. That area has been fenced off, but prior to them doing that no-one had ever interfered with the area. The native grasses and little bits of bush are grown all over and it's only because we've lived in the area and we've grown up and known where the areas are. Basically, if anyone had driven in there who didn't have any of that information wouldn't have recognised them as middens. There are various areas that have been exposed where there have been sand drifts, and so on, but the ones that I've seen have been much smaller areas.

I actually went down and had a look when these people from Sydney cut the track through and they sieved all the soil they took out. It was no problem to see that it had been used for the purpose that they used it, you could see where the fireplaces were and the different layers over the years. But they covered that all back in and no-one's interfered with it since. Now the fence around it, because of the salt air, and so on, is all corroded away. The last time I took any particular notice of it, cattle would have been able to walk in there, but what a lot of people don't realise is the fact that although I'm not a user of the crown land area, I make provision for our own stock. I don't use any crown land agistment; I did 40 years ago but haven't done since.

Really, the way the land is being managed has been an improvement. It has protected it against fires and when the cattle go in and graze the better areas out, younger native grasses grow up and where they have the light burns, and so on, it makes an ideal environment for the native animals and so they do much better. The areas that haven't been used so much for cattle and haven't had the early spring burns that were done years ago have just grown up and they wouldn't provide any feed for the native animals at all because just nothing grows there.

Mr FLETCHER - I know of Kevin's point of view and I've had discussions with him previously on the issue. I think the last point he was making has been made by others that for decades people have been generally or specifically aware of the sites, and there's never been a threat to them. The only threat seems to have emerged in the last few years and the threat to the sites has, I think, increased as the tensions in the community have increased. In normal times there wouldn't be that threat there at all, perhaps..

Mr HERES - I can never remember anyone doing any damage to the site - or the cattle. You are going to get the natural erosion from the type of weather we get and the seasons we get, and that is another one of the big concerns and this could uncover some of these sites. There hasn't been any work that I can remember for a number of years now where there has been anything done to prevent sand drifts. I know it takes a bit of work, but it's 100 per cent successful in planting the marram grass, and unless that issue is addressed and we go back to that type of management, some of these sites could be uncovered and damaged. I think if that issue was addressed, not only in our area but in a number of areas around the State; unless somebody decides to go back and use the marram grass again, because once that is established you've stopped that erosion which is a pretty serious thing, really.

Mr FLETCHER - I guess the major blows at the moment are north on the Woolnorth property, but aren't there other major blows or major evidence of shifting sands on other parts of the coast?

Mr HERES - A lot probably on the northern end of the Arthur-Pieman area, but as you go more south there's a lot more of that happening. The only reason why the northern end is so good is because of the work that was done 30 or 40 years ago - 60 years ago. Each winter they used to have about six weeks program of planting areas, and all the young chaps from around the district would go down there in the winter months and work on those projects. Between Green Point and Mount Cameron, more than half of that coastline there was, back 50 years ago, really bad with sand drifts. Then it was sold and the people who bought it planted the areas that were coming in on the land pretty well, and now there isn't any sand drift along that coastline at all.

Mr FLETCHER - There has been no other land and management technique developed that replaces the marram; if there's no marram there's blow, isn't there?

Mr HERES - Exactly.

Mr FLETCHER - Some will say where there is a blow that's because there are cattle on that area and they've disturbed the sensitive top grasses, or whatever, and allowed the blow to commence.

Mr HERES - A lot of the Woolnorth area where there are really bad blows there now, there are no cattle on those areas.

Mr FLETCHER - And never been cattle?

Mr HERES - And the cattle are not going to go there, anyway, there's nothing there for them.

Mr FLETCHER - No. And they can start from badgers, or anything that disturbed the ground.

Mr HERES - Yes, exactly. I've seen just a little patch under a bank, and within a couple of years it's probably got two or three acres. That's the land that's been bought privately and they just went in and put the marram on it and that's fine.

CHAIRPERSON - Thank you very much, Mr Heres, for your presentation before the committee this morning.

THE WITNESS WITHDREW.

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT
CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.**

Mr ALAN WOLF WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIRPERSON (Mrs Sue Smith) - Good morning, Mr Wolf. I will commence this morning's proceedings at nine o'clock by recording an apology from Mr Jim Wilkinson, who is a member of the committee, who had to return to Hobart last evening. The process we have used through the hearings here in Circular Head and in other places is that we ask that people speak to their written submissions to the committee after which time the committee will ask any questions that are relevant.

I also point out that we are here to look at the transfer of Aboriginal lands that are proposed by the State Government and anything that relates to those transfers. Whilst I do note in your submission you wish to move back into some of the areas of the origins of the TAC, et cetera, I would remind you that you must keep it specific to land transfers because that is the role of this particular committee. It is not to investigate the workings of TAC, TALC or anybody else unless it relates to the proposed management of any land that has been transferred or will be transferred. So I have made myself clear on that process and will pass over to you to address the committee.

Mr WOLF - First of all, I would like to say thanks for inviting me in here to let me do this. I have never done this before. I was working on the fishing boats when I was twelve, so if you would bear with me.

CHAIRPERSON - I can assure you I think most of the people who gave evidence on Tuesday would say we don't bite, we are very calm and rational people at this stage, so please feel comfortable.

Mr WOLF - Thank you. I did write to you about the origins of the Tasmanian Aboriginal Centre and these people who started, more or less, this Aboriginal movement in Tasmania. I have proof here that some of those people are of non-Aboriginal descent and the reason I have this is because I wanted to show you people that we have people of non-Aboriginal descent trying to govern our local land. Would I be able to show you people -

CHAIRPERSON - Yes, on the issue of the test of aboriginality we are happy to accept evidence. If you have some written documentation there perhaps the best way is for it to be photocopied and returned to you and then the committee will have that in their process.

Mr WOLF - Yes, all right I've got that, but I can explain to the committee or show the committee exactly how these things started, if I could do that. It would probably take five minutes of your time showing you a family tree if I can put it over there and get the committee there and show you. Would I be able to do that?

CHAIRPERSON - Fine, yes.

Mr WOLF - I think we'd all have to get around this table here.

CHAIRPERSON - Do you understand that the tape won't work there, so to record evidence it will create a problem. Perhaps if you used that table there.

Mr WOLF - Can we do it here then, would that be okay?

CHAIRPERSON - Yes, that's fine.

Mr WOLF - Thank you. What started this whole thing off was a letter to a person, an Anne White born 1828, and the letter reads: 'Dear Mr ... Your application has been granted on a provisional basis only' - this is for confirmation of aboriginality. 'This means that we have not sighted sufficient evidence into your Aboriginal ancestry to confirm your application without conditions. The documents you have provided did not specify Aboriginal ancestry and the birthplace of your ancestor, Anne White born 1828, has been whited out. We are therefore unable to see how you seek to establish your Aboriginal ancestry. Nevertheless we consider you to be eligible at this time on the basis that members of your extended family have been receiving Aboriginal services for almost 20 years. Further information may be required to establish your continuing eligibility. In the meantime, you are required to forward to us three confirmation of aboriginality forms signed by recognised Aboriginal community members. The forms are enclosed'.

Now Anne White born 1828 - this is an extract from the Tasmanian ancestry - 'Anne White was the daughter of Stephen White from England and Peggy Vass, a Portuguese Indian. Stephen White was on a ship called the Blendon Hall Indian which wrecked on an island called, I think, Tristan dea Tuna in the South Atlantic where he met Peggy, married her and they had two children on the island. He then took her back to England where they had a further children'.

As it goes: 'They left England in 1832 on a ship called the Rubicon and arrived in Tasmania and lived at Sorell. The children of the marriage are as follows: Stephen was born at Tristan dea Tuna, Margaret was born in England, Sarah was born in England and Anne White, born 1828, was born in Kent, England. Anne White married' - as it goes - 'Stephen White, Peggy Vass and she married Charlie Tatnell on 23 December 1843 in Sorell'.

On it goes to the Roy Nicholls genealogy: 'Charles Tatnell was a runaway convict. He was a cork cutter from England and he married Anne White. Marianne White, their daughter, then married George Nicholls on 16 May 1866. Their first child was a male Alma Francis or Alfred. He married Agnes Jager. Alma Francis Nicholls married Agnes Jager and their third child was Edmond John or Roy Nicholls'.

Then you have the Sculthorpes. The Sculthorpe genealogy - that's an extract from the Mollison book which I have here and this is an extract from it. This is from the Archives in Hobart - official government records. You have the Sculthorpe children - all the dates are the same on this, okay.

Patricia Jean Brennan was the mother and Raymond Percy Sculthorpe was the father. They are the parents of these people. We go back one - Raymond Percy Sculthorpe married Patricia Brennan, born 4 October 1920. His parents were Gladys Smith and Percy Hobart Sculthorpe - this is the extract from the Mollison - Gladys Smith and Percy Hobart Sculthorpe - can you see that? Okay.

Then we go back to Gladys Smith, supposedly the daughter of Frederick James Smith and was the daughter of Joanne Dillon and Frederick James Smith, which is the same in there, Frederick James Smith but they put a 'Henry' in there and Joanne Dillon Gladys.

Then we go back to Frederick James Smith - I am going to wrong way, yes - Frederick James Smith born 23 February 1868 married Joanne Dillon at Port Cygnet on 25 March 1894, I think. But Frederick's parents were Jenny Cochran and William Smith, not Fanny Cochran and William Smith.

Now Frederick was born 23 February 1868, a male with the name and surname of the father William Smith, name and surname of the mother Jenny Smith formerly Cochran.

Mr FLETCHER - Alan, if I could just interpose here. I'm doing my own family tree and I find it very interesting and I am interested in what you are saying there but I wonder what relevance it has to this situation. I'm not sure I, as an individual, or the committee generally wants to get into a witch-hunt unless there is some material reason for doing so. How does this affect what we are doing here now?

Mr WOLF - I want to show you how the Mollison book started, how the genealogy started and I want to show you that these people are still trying to rule out our aboriginality and to take over our local land.

Mr FLETCHER - The case you're putting at the moment is that there might be one person in question and, as far as I'm concerned, the jury is out on it, I'd need to do a lot more work on what you're saying to me here now, but even if there is one person whose aboriginality is doubtful - that you raise a doubt about - what difference does that make to what we are doing now?

Mr WOLF - Because these people and their families - the non-Aboriginal people and their families - Heather Sculthorpe is the administrator of the Tasmanian Aboriginal Centre now plus I have letters here where she said I'm not Aboriginal. I have one here, Tony, let's have a look. You have one of the Sculthorpes who is in Canberra, high up in ATSIC; you have another one on the regional council - if I could just find it, I've got a letter here -

CHAIRPERSON - So your argument is some with doubtful genealogy have been accepted into the test of aboriginality and others with genealogy that you believe is proven have not been accepted? Is that the crux of your argument?

Mr WOLF - Yes.

CHAIRPERSON - So it's the test of aboriginality?

Mr WOLF - And these people now are trying to take over our land here. Even after the - this is the State committee meeting Saturday, 9 May 1998 in Launceston - this was after Justice Merkel was handing down in the Federal Court the TRAC aboriginality challenge. TRAC is the Tasmanian Regional Aboriginal Council. The administrator, that is Heather Sculthorpe, and later the legal manager, that's Michael, reported on the outcome and the possibility of appealing against the decision. The outcome - that's on the aboriginality - is not binding on TAC policy and procedures and the case was about ATSIC election rules and not aboriginality generally. Our QC's advice is that no appeal is possible and the chances of having the decision reviewed in the High Court are remote and extremely expensive. The committee had to accept that we could lose all our legal aid money if we lost a further challenge through the decision and hence, the best way of dealing with the matter was to seek legislative change rather than a court remedy. That's in there. So what they're trying to do is say we are not Aboriginal, we're not capable of looking after this land.

I've got confirmations even from Luke Maynard, the commissioner, who did my mother's aboriginality but later on the Sculthorpes challenged it because we're a vast family. We're a big family. It's not just this family. The fact of the matter is they're trying to take over the whole bloomin show.

I've got a letter here, an ATSIC letter: 'Dear Mrs Sculthorpe' - Heather Sculthorpe, Administrator, Tasmanian Aboriginal Centre - 'Some time ago we sent you copies of a report of the aboriginality consultancy. We are considering introducing at least some of these recommendations and I am seeking Aboriginal community comment on the report and the recommendations prior to implementing any changes. I would like to encourage you to discuss the recommendations of the report at community meetings and to forward any comments to me on the outcome of the discussion or of your own individual consideration of the report'.

On that steering committee there's June Sculthorpe - this is the minutes of the Steering Committee on Consultancy on aboriginality 29 July 1996. 'June Sculthorpe, ATSIC; Rodney Gibbins; Joe James; Commissioner, Luke Maynard; Chairperson, Grant Maynard and apology Heather Sculthorpe'.

This goes on to say: 'It was pointed out that with large family groups where you would only have half the family who have tried to establish their aboriginality, if a line of descent was established you would then have the other half of the family group coming forward to claim aboriginality'. Large families - to me, they don't want large families in there.

I have other stuff here - I don't know where to start now - a letter on Land Council elections - we're not allowed to vote in the Land Council elections yet I'm a regional councillor.

CHAIRPERSON - The committee is aware of the differences between the acceptance under ATSIC rules at a Federal level and acceptance under Tasmanian regulations for voting in the ALCT elections. We are aware of the inequities in that particular process.

Mr WOLF - Yes, and also really the last Tasmanian, the educational guide has got there: 'While she plucks and cleans mutton birds, Annette Mansell declares she is a descendant. 'I'm not an Aboriginal, I'm only a descendant of one'. At the time of filming Annette was President of the Cape Barren Island community. She contends "There's a helluva difference between the way of living of the descendants and the old Aboriginals that were here. There are no Aboriginals now" says Annette. "There's not much in any of us. There's no tradition in Tasmania with the Aboriginals". She claims nothing survives of the Tasmanian Aboriginal language. Annette Mansell's views were endorsed by Melvin Everett, the boss of the mutton birding group. "No, I don't really class myself as an Aboriginal" he says. These people explain the descendants know nothing about the old Aboriginal traditions, "It is only history that we've learnt, as you've learnt".'

The half-castes of the Furneaux groups - this is from the records of the Queen Victoria Museum in Launceston: 'Tom Mansell from Sydney, and on that account usually styled Sydney Tom, married Judy, a pure blooded Tasmanian Aboriginal of the Oyster Bay tribe, but there was no issue. By a later union with a Negress he had a son from whom the all many Mansells of today are descendants'.

It goes on to Everett. 'Another of Everett's wives, by whom there were several children, was Betty the daughter of Maddy, a pure blood Maori'.

The *Aborigines of Tasmania* by H. Lingroth goes on to say, on page 176: 'Edward Stephens, the Superintendent on Cape Barren Island states: "The present inhabitants are not descendants of those Aborigines who were deported from the mainland of Tasmania in 1835".'

Mr FLETCHER - Alan, is what you are trying to prove here is that there are no Tasmanian Aborigines, is that the proposition?

Mr WOLF - No, Tony, what I'm trying to say is that the people who are saying that they're Aboriginal before they start kicking us off our land should put their trees up. They should put their stuff up and let the community know that they are Aboriginal. There's division within the TAC on aboriginalities.

Mr FLETCHER - I understand that.

Mr WOLF - There is division all around the place on aboriginality but I can't see why those people can come here and take our land. This belongs to the people of Circular Head - we've lived in harmony with the non-Aboriginal community. We are experts at reconciliation on this and they shouldn't be allowed to take our land. We've got the State Government and the local council that have joined a body that is working well together and I believe - actually it's been suggested to me, too, by a leading member of the community - that the local Aboriginal people and the non-Aboriginal people get together, we form a committee and we can look after those sites ourselves.

We have people who have numerous land management awards that are very - I'll leave this with you - very capable of teaching and showing us also, and actually one of these people, Jeanette Morse who is an Aboriginal person that is involved with the Aboriginal community - we have people to look after this ourselves.

CHAIRPERSON - If I might, looking at the comment you made here, are you supporting the transfer of land to the Aboriginal community but with local management or are you supporting no transfer of land but some local management of specific areas by local community people, local council, et cetera, to ensure the Aboriginal sites of significance, et cetera, are protected? Now which one?

Mr WOLF - The second one.

CHAIRPERSON - The second one.

Mr WOLF - Yes. I'm totally against people who don't even live here coming out and controlling this land. I mean, I asked a leading person on the Land Council a question 'Would the local Aboriginal community have any input if these sites were handed to the Land Council?' and she said 'No, there's none'. I believe we're very capable of looking after it ourselves as I am totally against what's going on -

totally against it - because they're outside people. If they take that over and we want to go there, as Aboriginal people or non-Aboriginal people, we're not allowed to and we live here.

Plus, in the constitution of the Circular Head Aboriginal Corporation, page 3: 'The objects: To govern the area of membership of the association with regard to Aboriginal affairs' - and that's in their constitution for CHAC - the Circular Head Aboriginal Corporation. I know there are many, many people who are very upset about this in the Aboriginal community here. It's causing division not only with Aboriginal people but with non-Aboriginal people in Circular Head, and we weren't like that before this happened. None of us were. Everybody got along just fine.

When it comes to the sites on the west coast yes, if it needs it, we want cameras, we don't want fences because that's what's going to happen. It's to exclude access to actual rock art sites. At Preminghana/Mount Cameron West all access to the site will be restricted to pedestrian access only along a coastal strip 15 metres wide above the high-water mark. This will effectively clarify that access to the Preminghana beach is to exclude vehicular access. The amendment to the act will also specifically exclude access to an area which contains art sites and we want tourists up here. If it's all blocked off they can't see it.

I think if we form a committee here with council, with members of the non-Aboriginal community, that we can work these things out ourselves. We don't need other people kicking us off it and locking it up on us. Like I said before, the local council and the Government have formed a body and they're working well together and I think that's the way to go and I think that we can do the same, the Aboriginal and the non-Aboriginal people, because there are a lot of them here - I believe well over a thousand Aboriginal people in Circular Head alone.

I can't think of much more to say really, but I really ask you to consider this because I believe that what's going to happen is that the Government is going to give Aboriginal land to non-Aboriginal people because these genealogies, this truth is coming out about these things.

Mr BAILEY - Can I just ask, is it your proposition that the lands in question in this area should be left in crown ownership but managed by a local community comprising Aboriginal people, members of the council and perhaps the Department of Parks and Wildlife to then manage that area and protect it?

Mr WOLF - I wouldn't like to see the Department of Parks and Wildlife there because there's a lot of trouble -

Mr BAILEY - No, you hadn't mentioned that, I threw that one in.

Mr WOLF - Yes.

Mr BAILEY - So just the local community group you're advocating?

Mr WOLF - Yes.

CHAIRPERSON - If I might extend on that a little bit, would you not believe it fair and reasonable that if it remains crown land, and that is the responsibility of the State Government, you should have some representation from a State Government representative process in some way and in that particular instance is National Parks and Wildlife?

Mr WOLF - No, I don't want National Parks and Wildlife in on it, because there's conflict with -

CHAIRPERSON - So where's your relationship to the owner of the land if it remains in the ownership of the State Government?

Mr WOLF - I'd like to see it in the council's hands - I mean, they've formed a body already. In the local council's hands, that's what I'd like to see.

CHAIRPERSON - Again, you would then pass the financial responsibility to the local community as well, do you believe that this Circular Head community would accept responsibility for the financial

management in total of that entire area as ratepayers rather than a taxpayer responsibility of the entire Tasmanian community?

Mr WOLF - I've never thought about it that way - maybe if it stayed with the Government but is the Government going to bring the Parks and Wildlife in?

CHAIRPERSON - Well, there would have to be an expectation, one would presume.

Mr WOLF - If it stayed crown land, maybe. The reason we want it is we want to clean it up, do it up and get the tourists down there - bring tourists to Circular Head. If it would be good - I haven't talked about this with any members of the community, you see, so I don't really know. But if it did stay in the State Government's hands and we had control of it up here to take care of it and everything, yes that might be fine. But there are many people out there now who want to get in - Aboriginal and non-Aboriginal people want to get in and clean this up and take care of it and get tourists there, et cetera. That's the main thing. I haven't talked about that but could I write you a letter on that later if I talk about it with the community?

CHAIRPERSON - You certainly can, yes. You can give us further evidence as long as you do it smartly, I might say -

Mr WOLF - Yes, I'll do it smartly.

CHAIRPERSON - as to how you would - transfer of title means transfer of financial responsibility - if there is no transfer of title the balance between being accepted by the local ratepayer cash cow as against the Tasmanian taxpayer cash cow, for the want of a better way of putting it.

Mr WOLF - Yes.

CHAIRPERSON - In a submission from the State Government looking at the particular issues the concerns that have been raised by the community and the Government response, the Government on the issue of local management responded that the Government agrees with the principle of local management and the Premier has written to ALCT encouraging them to implement local involvement in the management of the sites. Has, to your knowledge, there been any involvement in any discussions between any local area people, be they Aboriginal or otherwise, with ALCT?

Mr WOLF - Not to my knowledge. I don't know. I'll get back to the committee. I have got a meeting on Monday night actually with the Circular Head Aboriginal Corporation - I believe there's a helluva lot of people fronting up to it, too. Will that be too late if I do my response after that?

CHAIRPERSON - No, that's fine. If I might relate back, you have a role as ATSIC regional councillor and I understand you are not speaking as a member of ATSIC -

Mr WOLF - No.

CHAIRPERSON - you are speaking as an individual, but as an individual, would you like to make some comment on some issues that have shown in some areas that there is a belief that ATSIC certainly have access to Commonwealth funding and, on the other hand, we have ALCT, who are a statutory body that have title to Aboriginal lands in the State and yet no financial capacity to manage those lands, and the committee looks at the issue where one has the cash and the other has the title and it appears never the twain shall meet. Do you have some comments on that?

Mr WOLF - Well, as far as TALC go and ALCT go - and this is only hearsay too, but I'm up there to hear it too - is that there's quite a bit of division between those two now and I don't know for sure but I think that either one is regional council funded - I think, I'm not saying that for sure - but it goes back to the question of determining the aboriginalities. Now if the Land Council or ALCT get to determine aboriginalities we've got people of non-Aboriginal descent telling us we're not Aboriginal and therefore we've got no say on that land.

CHAIRPERSON - At a Commonwealth level, surely ATSIC are recognising in their financial contributions to some of these organisations they are accepting and recognising some aboriginality by virtue of the fact of them funding one or the other, as you intimated earlier?

Mr WOLF - Yes, that's a hard one to answer actually, Sue. The regional council, we're there under ATSIC law and under ATSIC law is an Aboriginal person's - I think, I haven't got the act with me - is an Aboriginal person of the Australian race or whatever. That's in the ATSIC law so under that also that's our role too.

CHAIRPERSON - In your personal opinion, if the rules of ATSIC on recognition of aboriginality were accepted by the different Aboriginal organisations in Tasmania, would that solve some of the divisions that appear to be there between local communities, organisations, et cetera?

Mr WOLF - Most definitely, because it's Australia-wide. That's what everybody wants is for the local community to determine aboriginalities. We've got elderly Aboriginal people in the community - Alf Beaton and I could go on with other names. These people know who's Aboriginal and who isn't and as time goes on - okay, there are many families now coming forward claiming aboriginality because they've never been allowed to in the past - and a lot of these elders know, especially in the community, who's Aboriginal and who isn't Aboriginal.

With the corporation, I believe - and I know I was talking to a member of the elders in Launceston yesterday and we were talking about this very thing and I told her yesterday that I believe, especially in Circular Head, we get this corporation running properly, the elders have the final decision on Aboriginal matters but the elders from here meet with the elders from MALAC (?) in Devonport and the elders from Launceston and get together and they know who's Aboriginal and who isn't - I mean, genealogy now is a pretty easy task with microfiche, you can run through anything and work it out for yourself from history who is and who isn't. There's no doubt there's people trying to sneak in but they're mainly being blocked - most of them are being blocked.

Mr FLETCHER - Could I just condense my thinking. Alan, you are a regional councillor?

Mr WOLF - Yes.

Mr FLETCHER - You've had your aboriginality tested in the court?

Mr WOLF - The Federal Court of Australia.

Mr FLETCHER - That was the Merkel judgment?

Mr WOLF - Yes.

Mr FLETCHER - And the Merkel judgment came down on the side of your aboriginality of you being able to claim your aboriginality?

Mr WOLF - Yes.

Mr FLETCHER - Okay. Have you ever applied for enrolment to vote at an Aboriginal Land Council of Tasmania election?

Mr WOLF - Yes, I've got that here.

Mr FLETCHER - You've applied for that? Have you voted at an Aboriginal Land Council of Tasmania election?

Mr WOLF - No, they wouldn't accept me.

Mr FLETCHER - Who wouldn't accept you?

Mr WOLF - The Land Council plus -

Mr FLETCHER - It's not a matter of the Land Council, as I understand, it's a matter of -

Mr WOLF - The Electoral Office: 'The Aboriginal Land Council of Tasmania 1997 Election - Objection to your enrolment. This letter is further to my letter on 29 November 1996 where I advised you that I had received an objection to the inclusion of your name on the electoral roll on the grounds of aboriginality. On the basis of the information available to me in connection with the objection to your enrolment including any submissions made on your behalf, I have decided to accept the objections'. Do you want me to go on reading this?

Mr FLETCHER - I wonder could you table that or we could get a photocopy of that?

Mr WOLF - Yes, okay. But it's got all the ones here to - what date was this, January 1997, August 1996 - I'm going back to front here, mate.

CHAIRPERSON - Perhaps as we have time lines to keep to, Mr Wolf, if you could go through your paperwork and table the particular pieces of paper you believe relevant to your submission and we shall call on the good graces, again, of the Circular Head Council to photocopy it so we can return your originals to you.

Mr WOLF - I've got these copied for you.

CHAIRPERSON - Thank you very much.

Mr WOLF - I have letters here from the Tasmanian Aboriginal Education Council also. 'I am writing in regards to the forthcoming Tasmanian Aboriginal Education Council elections. As per our request to you earlier, you provided us with some information in regards to your aboriginality'. I provided them with the whole family tree plus other members of our family provided them with the same family tree. 'Although the information that you forwarded to us was fine what we really need is a family tree or documentation along this line. Unfortunately, the material you sent us was not enough to meet our guidelines'.

Now that goes out to everybody that they don't want there - just about everybody they don't want to vote in that has got it. So what we're doing we've been pushed out the door all the time. We're not allowed to take part in any of these elections, but that's not only us, that's other people also. And what's happening now, I believe, because the people are not accepted into the main or their main grassroots or whatever they would call themselves, Aboriginal body, that they are setting up these other groups. They want to do their culture, they want to be Aboriginal and therefore that's why they're setting these other groups up.

CHAIRPERSON - Thank you. Does the committee have any other questions of Mr Wolf.

Mr BAILEY - From Tony's question, it was determined that you were of Aboriginal descent by a Federal Court case, is that correct?

Mr WOLF - Yes.

Mr BAILEY - What was the date of that judgment?

Mr WOLF - Well, I'm not sure. Actually I was going to bring it with me this morning but I didn't think I'd need it.

Mrs SILVIA SMITH - That was the Merkel judgment, wasn't it?

Mr WOLF - Yes, the Justice Merkel judgment in the Federal Court.

Mr BAILEY - Is that the one of 1998, just recently?

Mr WOLF - Yes, that would be it.

Mr BAILEY - I didn't see your - there's a Charles Wolf -

Mr WOLF - Charles Wolf is my brother, my youngest brother.

Mr BAILEY - Were you a party to those proceedings in the Federal Court?

Mr WOLF - No, at that time I wasn't because I didn't not sit for the ATSIC elections. I didn't sit for the regional council elections so I wasn't challenged, you see.

Mr BAILEY - So it's on the basis that your brother was recognised that you would claim that the court would also recognise you because the same principles would apply?

Mr WOLF - Well, Justice Merkel, in his handing down, said that you had to be Aboriginal - whatever it was as Aboriginal - to qualify to be on the regional council and I think page 74 of his report said that Charles Wolf and so many people qualified. That was the handing down to be on that - I think two people missed out on it.

Mr BAILEY - Two missed out?

Mr WOLF - Yes.

Mr BAILEY - And so on that basis you would say that you would meet the same criteria as your brother in relation to a test for aboriginality under the law as determined by the judge?

Mr WOLF - Yes, definitely, because we're on the same family tree.

Mr BAILEY - And yet the Electoral Office has said that you don't meet -

CHAIRPERSON - That's pre-1998.

Mr WOLF - That would be before that but that was after we were accepted by the Tasmanian Aboriginal Centre. The Tasmanian Aboriginal Centre represented me and many in my family. Luke Maynard, the Commissioner for ATSIC, did my mother's aboriginality, confirmed it - he was the Commissioner for ATSIC at the time. They also did my brother's and other brothers to confirm the family tree, but when a bit of an argument started with the TAC we weren't wanted. They didn't want us - 'We want more information'.

CHAIRPERSON - Any other questions, Mr Bailey?

Mr BAILEY - Yes. Since the handing back of Mount Cameron West have you visited that site?

Mr WOLF - No.

Mr BAILEY - Have you attempted to visit that site?

Mr WOLF - No.

Mr BAILEY - Thank you.

Mr FLETCHER - Just in light of the subsequent questions, I asked Alan a question which he responded under oath a certain answer which is now, I think, not a correct answer. You might just want to clarify that that I did ask: were you the subject of the Merkel case, was your aboriginality challenged in the court? And you said 'Yes' when in fact it wasn't, your brother's was challenged. Perhaps you just need to clarify that for correctness.

Mr WOLF - Yes, I beg your pardon. I'm sorry, Tony. I mistook that as more or less family tree or we call that our aboriginality.

CHAIRPERSON - Any other questions? Thank you very much, Mr Wolf. If you would like to pass those papers to our staff.

THE WITNESS WITHDREW.

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT
CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.**

BRADLEY COX WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIRPERSON (Mrs Sue Smith) - Mr Cox, the process we use is that we ask you to make a verbal submission and if the committee have any questions at the end of that they will put them to you.

Mr COX - I don't know what's actually gone on here this week and what questions you've fired at the persons in my position.

CHAIRPERSON - We've usually looked to people to explain their interest in this particular issue and then from your interest in the land transfer, your position and the from comments you make then the committee may or may not have some questions. So if you'd like to explain, you live at Marrawah I gather, your interest, your involvement and we'll take it from there?

Mr COX - I've lived in Circular Head all my life, apart from a few stints up in the Territory. I'm a fisherman, a surfer, a diver, a kelp artist and I'm a marine farmer as well out here on the islands. I live all around the coast of Circular Head. I access virtually every inch of it, including all the islands. I'm very, very aware of the environment as far as having an impact on it, even though I am a commercial operator.

I've been a bit concerned about what's been going on with this land transfer, on who is an Aboriginal and who isn't and where do you draw the line. Do you have to have 25 per cent or 50 per cent or where do you draw the line? Does someone say that they're an Aboriginal because they've got 5 per cent blood in them? They don't recognise the 95 per cent of their other bloods which could be from all sorts. I've got Aboriginal blood but it doesn't make me an Aboriginal, I'm just me. I've got Italian blood, a bit of English and a bit of Irish but that means nothing. I'm born here - born in Smithton - and I'm just me. I'm a Tasmanian and I'm an Australian. I utilise all these places that they're talking about of the land handover and I probably use them as much or more than anybody. In the last few years I've been denied going to these spots that I've been going to all my life even though I had permission, through Aboriginal elders, to access a lot of these places - I actually did that, I went out of my way compared to other people. A lot of other people just went but I actually saw elders and asked if they minded and I was given the full go ahead.

The whole lifestyle and living there and utilising all of these places and being against the irresponsible yobbos that we occasionally get down there that have been known to damage some of the sites, we're dead against them because it's our backyard too and we don't want anything to be touched in a way that we're going to get comeback from in that we're going to get blamed for. Yes, we're very against these so-called drop-kick types that come down there roaring around with no care for anyone or anything. We police it a bit ourselves.

As far as they talk about mutton-birding and all of that, every Tasmanian or Australian can go mutton-birding when the season is open and get their 25 birds a day. It is there for everyone and always has been. Some areas are closed but the licensing system is in place and yet I know many, many people with bits of Aboriginal blood that go and get their mutton-birds every year and they are pulled up by Parks and Wildlife and they just say, 'I'm Aboriginal, I'm right' and no licence and that's been done for as long as I can remember. Circular Head has a fairly high percentage of people with Aboriginal blood and it's been used for years - the same with rock lobster and abalone and all of that. All the laws are

there - the sizes, the seasons, the possession limits - it's there for everybody and it shouldn't matter where you come from or what you do. The laws are there and it's plain and simple.

CHAIRPERSON - You live at Marrawah, Mr Cox?

Mr COX - Yes, but I access the whole of Circular Head, though. I have other depots around the district.

CHAIRPERSON - Can you give us any indication, you say you're a commercial operator, how non-access to Mount Cameron West or the close of the boat ramp at West Point has impacted your business in any way?

Mr COX - Well, out of any Tasmanian I was probably the most frequent person at West Point, as an amateur fisherman launching my boat, as a professional fisherman launching my boat, as a kelp harvester - the little corner, the south-west corner of west point, which is the actual fenced-off piece where the protests and that were held - that access track which they said goes over middens and stuff and it damaged them, which it hadn't, that was my access track to where I collected all my kelp. That's where I got 100 per cent of my kelp out of the two - a kelp gutter is a rocky gutter where the kelp comes up on to a cobbly beach and that's where it's held. There's not that many of them on the whole coast. There's kelp everywhere on the beaches and up on the rocks but it's hard to access and when the kelp gets sand through it it's very poor quality, it nearly has to be washed to get it good. I collected all my kelp out of there, with permission from elders, as I recognised that was, back in the mid-1970s, as an Aboriginal site, and I had permission and everything to go in there so I've been denied that and I'm in there surfing - yes, in my four-wheel drive, on my dirt bike, whatever - but I don't go rip-rearing up middens or anything like that. I only stick to the tracks. I have a lot of interests but I don't tear about everywhere.

CHAIRPERSON - It was put to us, Mr Cox, that there was a burial site on the track to the boat access at West Point -

Mr COX - A burial site?

CHAIRPERSON - It was West Point we went to first - yes - and as such that is proven. I mean, a burial site does have a different interpretation to anybody. I think we all understand that, regardless of our culture, where we may not understand middens. Can you identify any other way into that boat ramp other than over that particular track or any other sites that may make a better boat ramp facility?

Mr COX - Well, that's the gulfs - that's why the boat ramp was put there because it's the only really protected part of West Point. It's a natural little gulch that runs through there. That's why the ramp has been there for a long, long time. I knew nothing of a burial site or anything like that. It is only a hard compacted track, apart from where in the wet years there's these little depressions where the water will lie and that's where we have had, over the years, a couple of these idiots just tearing through the water holes in the wintertime and bogging it up. We're against that too, but apart from that I had no idea that there was a burial site there. I actually know where there's a lot of other Aboriginal stuff, which I won't show any of the other Aboriginal communities because of the distrust in what's happened in the past with Mount Cameron and the other things. I know where there's very good paintings and carvings on walls of caves and where there's actually six skeletons but they're covered by sand and they expose very slightly now and again. But there's no way I'd take anyone there because of the stir; it's better off left as it is, that no-one know about it.

Mr FLETCHER - Brad, if you could be guaranteed a secure access and had confidence that you had secure access to the sites for your commercial or recreational activities, would that change your position with regard to the transfer of land?

Mr COX - Not really because in this day and age we're all just people, it's not really Aboriginals because there's no 100 per cent pure bloods left and even out of the Aboriginal community, the so-called Aboriginal community here in Tasmania, I don't know any of them who lived their traditional way absolutely. They're still utilising all Europeans' ways, they use the schools, the hospitals, our roads, our cars, money - a lot of the nature part of Tasmania is still there if you wanted to go and live

that lifestyle. It's there. If I wanted to walk down the west coast and live in that south-west coast like a traditional Aboriginal, there's nothing stopping me doing that tomorrow; I could just walk down there and live and disappear. Provided I could gather food and keep warm I could probably survive. There's no-one doing that in Tasmania. The ones that we have left here, they're just human beings with Aboriginal blood - some Aboriginal blood - it doesn't make them actually Aboriginal. Like me, I'm just a normal white fellow but I have got a little bit of blood and it shouldn't matter -

Mr FLETCHER - Don't you think it reasonable or just that as you classify yourself as 'just a normal white fellow' that another person who feels strongly enough could classify themselves as 'just another Aborigine'?

Mr COX - They may do but if they're not 100 per cent - I've lived in the Northern Territory, I've lived in Arnhem Land with Aboriginals and I know how they live and how they feel about their land and their traditional ways and I've got no problem with that or the Mabo decision or anything like that because that's 100 per cent people living on a piece of land that they've lived on for generations and generations and beyond, like Mabo's island, that's his without a doubt. That is their land, it's no-one else's, but that here does not exist any more and even though people may class themselves as an Aboriginal they are not recognising their European heritage in any way. I see it a lot as just people jumping on a bandwagon, even though I know people can go to a certain area and actually feel the vibes of a place, like I do everywhere I go. I get out into the islands here in remote places and just being there, it's a different atmosphere, it's a buzz; you can feel it like there is something there and I feel that wherever I go, from Sandy Cape to Rocky Cape. I'm all over the place and I don't know whether I feel that because I'm just me or because of the little bit of Aboriginal blood but I know many other people who feel the same thing.

Mr FLETCHER - I don't think we can deny people that feeling.

Mr COX - That's why a lot of people love remote places. It could be the top of a mountain, it could be a big headland, it could be you're the only one on a beach on a beautiful morning or an evening - I suppose it's one of those little moments in life.

Mr FLETCHER - Brad, the Kelp Harvesters Association and the Marrawah Surf Board Riders or Surf Riders or Surf Association both gave evidence under oath at an earlier time that they'd reached agreement with the Aboriginal Land Council -

Mr COX - Well, they'd had talks.

Mr FLETCHER - that they were now supportive of the transfer of the land. Does that change your position at all?

Mr COX - Since we had a meeting early in January and they told me that - because I'm part of both - I virtually just said, 'Well, you're treading very dangerously'. I just think going down that road is a dangerous road. Who knows where it can lead? I have no faith in Parks and Wildlife either but when they told me that they'd be willing to jump in bed with the Aboriginal community on just about anything to get access I said, 'We should be treading a little bit more carefully than that'. Even though, at the end of the day, what I would love to see - they talk about reconciliation - if the Aboriginal community had come into Marrawah four or five years ago with open arms they would have found a lot of open arms but with all the spite and lies in the media and stories that were made up about - it wasn't us that did some of the things down there, it wasn't us at all - they shot themselves in the foot to a point because they lost support of a lot of local people who were actually a little bit supportive towards them. It was a lot of the rubbish that went on in the media and the lies that actually turned people away and it's made people very wary, and what's happened up at Mount Cameron. We were told originally we would have access yet I know people who have been actually kicked off there in the last few months for actually walking there.

Yes, the whole process has been mixed up a bit and it's a shame because they would have found a lot more of open arms there if they'd gone about it the right way. I know that's within their own ranks to sort that stuff out - what's said in the media and how they go about that - but they've got to remember that a lot of people were hurt by a lot of that stuff that was put in the papers and what was said on

public radio, on 7NT, that every single person at Marrawah and Smithton and Circular Head is a racist red neck. Well, that's absolutely not true.

Mrs SILVIA SMITH - I was actually going to ask about the affinity to the land and did you feel the same feeling that we were told earlier people feel, but you answered that because you're right, we all feel an affinity with certain patches of land for whatever reason and not necessarily just because we're Aboriginal or just because we're English or just because we're Tasmanian.

Mr COX - That's exactly right.

Mrs SILVIA SMITH - I just get the feeling then and am I right in saying that you don't believe that the process we're going through now considering sending back new tracts of land is the right way to go?

Mr COX - Well, the past and the traditional Aboriginal and the continuous use and everything of that land and the continuous lifestyle hasn't been for over 100 years in this part of the world. All these people who are actually trying to get this land up here, most of them live in cities, they live their lives exactly the same as all of us here in this room basically, it's just that they're using their blood lines to try to get land that they don't even know. They don't even know the land, they've never used it, they know nothing about it. If they'd been connected with that land you'd think for the last 40 or 50 years that they would have been camping there and living there and fishing there and actually occupying the sites but they haven't. They haven't been near the place. I just don't think it's right in any way that people can come from out of the district and try to lay claim to land that they have never really been connected to or know nothing about or really care about a lot of the time.

Mrs SILVIA SMITH - We've heard over the last couple of days, and I just want to know whether if you've heard and your opinion on it, that if land is to come back to the Aboriginal people or be set aside for the cultural use for Aboriginal people, that there should be a local management group in there looking after the land as opposed to an Aboriginal group and this local group to be comprised of people, like yourself, plus all other types of users of the land, with the council as an overriding body and Lands and Parks as the Government arm sort of thing? Would that be a better way to go? Do you think that's an option?

Mr COX - A joint venture - if it came to that, where there actually was a land transfer and there was a board of managers made up of locals of various backgrounds and it was a united body of so-called Aboriginal people and locals, that would probably be the ideal way because there shouldn't be division - it shouldn't be like us and them, that just shouldn't be. That's a division and if you've got a division you've got problems.

Mrs SILVIA SMITH - So that everyone that can use and enjoy the land and be part of looking after it as well?

Mr COX - Well, that's basically how it's always been. That land down there has been for every Tasmanian, regardless of who you are, and the so-called Aboriginal community could have been using it all this time, just the same as we've used it. We go down there, you have a surf, have a dive, catch a fish and you go home. That's been there for them too.

Mrs SILVIA SMITH - And abide by the laws that are governing it.

Mr COX - Exactly, and it's there for every Tasmanian, every Australian and every visitor to this country - you are allowed your five crays a day and your ten abalone a day and your fish according to the sizes, it's all there. Why now these people have to actually try to lay claim to it whereas if they'd just come up here and been a part of it all always, yes, they'd just be like locals - no divisions, not us and them, which is what it's actually come down to.

Mrs SILVIA SMITH - That's your main concern, isn't it?

Mr COX - Well, it shouldn't have been that and it wasn't like that but it is now and that's a shame in a way. Yes, a joint venture would be all right but I just can't see why it really has to change that much -

maybe managed a bit better in general the whole area down there.

Mrs SILVIA SMITH - Leave it under Crown with better management.

Mr COX - It's there for everybody, regardless of who you are or where you're from or what you do, it's there for everybody. With respect to the sites that are there, the ones that are absolutely ridgy-didge - a lot of these middens have a big question mark on them, are they formed by the sea or are they formed by -

Mrs SILVIA SMITH - We'd have to go through a process of archaeological study to verify some of that.

Mr COX - Yes, some are ridgy-didge and some aren't. The ones where they probably find the layers and the tools and a lot of the other stuff, yes they are dinkum middens, and then there are others that are just minor shell deposits and, who knows, it could have been from old sea levels - that's anyone's guess. The so-called experts, I suppose, would tell us that.

CHAIRPERSON - Thank you very much for your submission this afternoon.

THE WITNESS WITHDREW.

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT
CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.**

Mr BEN VINCENT WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIRPERSON (Mrs Sue Smith) - Thank you, Mr Vincent, for your submission that requests permission to address the committee. The process that we have used this morning is that we ask the person to present their submission to the committee and then if the committee feels there are any questions or clarification they need, they will ask those particular questions of you. I can assure you we don't bite, contrary to what some of your friends have said in this room, so just feel comfortable to make your presentation as you wish.

Mr VINCENT - I had these other four copies drawn up just in case you wanted to - will I give them to you?

CHAIRPERSON - Yes, thank you.

Mr VINCENT - The newspaper articles at the back, because I'm not a politically minded person and don't know all about policies and things, there are a few things written in there by Mr Lister that probably he can cover better than I on the fishing industry. This one here - I could only get one copy of each map - but it's relevant to things I am going to say. As I've written on the top here, I would like to thank the committee for the opportunity to present my case which involves the access to the boat ramp at West Point which was closed to vehicle access in January 1999.

As you already know, my name is Ben Vincent and I am married with two young children and live at Redpa, which is about five minutes from Marrawah. At the moment, I'm a deckhand on an abalone boat and have been involved in the fishing industry on the west coast on and off for the past 26 years. I also hold a commercial fishing scalefish licence and operate a small vessel between Stubborn Bay and Bluff Hill Point. I also enjoy recreational fishing with my family in this area. My family history states I'm a fourth generation Tasmanian and the closure of the ramp at West Point affects both my professional and amateur fishing. I believe it's time to stand up for myself and for my children and families like mine who have spent years and years enjoying a part of the coast before more of our Tasmania is made inaccessible to us.

I have some points here why the channel ramp should be open. Accessibility - the ramp at West Point is the only safe public deep-water launching facility between Montagu on the north coast and a beach launch at Bluff Hill Point, which is shown on map 1, which covers something up to 40 miles of coastline, the only public boat ramp or place to launch a boat. It is safe at both high and low tides which is important.

Another aspect is the safety aspect. The best fishing conditions in the West Point area usually occur towards the end of a high pressure system when the swell has dropped out and the wind has gone from a southerly direction to an east or north-easterly direction, which means it is blowing directly off-shore or slightly from the north. At this stage of a high pressure system, the wind usually exceeds 20 to 25 knots making it impossible to launch or return to Green Point or Bluff Hill Point due to wind slop build-up.

The weather conditions on the west coast can, at times, be unpredictable with the swell and wind conditions changing in the space of up to fifteen minutes and without close access fishing becomes

very unsafe very quickly. Reefs, water depth and tide all contribute to where it is safe and unsafe to launch in this area, and anyone who has fished there knows once the swells rise they can do so rapidly. The channel facility at West Point is by far the safest return from the open sea. In my opinion, the beach to the north of the channel, marked in orange on map 2, is the next safest beach to launch but it is only properly accessed at high tide and in small to medium swells.

My main concerns are for the people who will still try and fish these waters, as they have for years and years, and they only have to judge the conditions wrongly or just try to get there without proper thought and find themselves in trouble, losing their boats or even their lives which brings me to the next point, rescue. A fishing boat might be in distress or sink; a surfer, wave sailer or swimmer could be swept out to sea in the strong tides or rips which are common on the west coast and it could take hours for any rescue vessel to arrive whereas a small craft could be contacted at Marrawah and be on the open sea in under an hour.

Apart from the information on map 3, which shows the original blocks thrown open to run block selection in 1880 when West Point was all taken up down up to the coast, I haven't learnt much about the area until post-war days when local stockman Jack Rolston camped there and fished from the ramp. Other locals - old fellows now, John and Eric Nichols, Stephen Spratgrey, Harry Wells, Lloyd Wigg and probably they don't mean anything to you but in the district we live they are well known people - all fished the channel on a regular basis.

In these early days a track went southward where the lighthouse stood to the boat ramp. The track is marked in pink on map 2. This track did not go over the midden which is the reason access was withdrawn with the current track to the ramp. Many others have used the area since for beachcombing, fishing, bird-watching or just simply relaxing. I've never considered myself to be prejudiced, I try to understand the groups of people closing down many of the areas along our coastline, but even if the midden in question at West Point contains Aboriginal relics there are certain laws that make it possible for it to be concealed and saved forever. This would protect it from human destruction and also from strong erosion elements.

In January 1999, Kelly Graauw of Marrawah made people aware of a fence and gate being erected at the site. Many people gathered to protest this action. Mr Max Kitchell, Service Director for Parks and Wildlife, said he wished the group had chosen to discuss the issue rather than to resort to protest action. The protest action actually stopped the worker from erecting the fence but if it hadn't the fence and gate would have been up and locked. This makes me wonder when Mr Kitchell would have discussed the issue obviously because there was no consultation with the locals or other users before this day the action rather than discussion was Mr Kitchell's intention.

As a ratepayer and fisherman, I pay thousands of dollars in taxes and licence fees each year and I'm deeply concerned that the current problems connected to land takeovers, access denials and fishing restrictions might not stop here and soon I might be told that I can't even fish the waters I have fished for most of my life to support my family. I can only ask that you consider not handing over any more land to minority groups until those that have been given are properly managed and maintained. It's obvious that recent land handovers and the management of those lands doesn't satisfy the majority and one can't help but feel discriminated against.

CHAIRPERSON - Thank you very much, Mr Vincent.

Mr VINCENT - I'm sorry I had to read it.

CHAIRPERSON - That's quite all right. That's no problem at all.

Mr Vincent, the State Government made a submission to the committee and they listed the issues, the concerns of the residents and the Government's response to those issues. One of the issues you have related to was the boat launching area at West Point Aboriginal site and the Government's position quite clearly is that - and I'll read it so there's no misinterpretation - 'access to the boat launching area is not currently permitted within West Point and this will continue to be the case after the transfer. An alternative to this boat launching area was considered but it was not a feasible alternative and the reason for the restriction was the need to protect the midden', et cetera.

I put it to you that the Government's position is regardless of who the owner of the land is whether it is transferred or not, they still have a position of no access to boat launching areas in the area, as is the position at the moment, I believe. Would you accept that that's the position at the moment - there is no access?

Mr VINCENT - No, there is no access.

CHAIRPERSON - You don't see the transfer of any land as making any difference one way or the other to that particular issue because it is the State Government, through National Parks, that have actually denied access to that particular area? Do you agree with that?

Mr VINCENT - I agree with what you're saying that if the State Government said we're not going to be able to do it no matter who owns the land, then it's not going to happen, is it? We're not going to have access.

CHAIRPERSON - Tuesday we had some evidence from some fishermen that because they can't access the area at this particular site they actually have to launch at Marrawah.

Mr VINCENT - Which are both privately owned ramps and sometimes we are refused permission due to wetness or whatever of the land - you have to drive over paddocks to get there.

CHAIRPERSON - So you're actually accessing through there yourself at the moment?

Mr VINCENT - Yes, I access the private ramp at Marrawah.

CHAIRPERSON - How much time does that take you in deference to fishing because you can't launch where you would wish to?

Mr VINCENT - The point I tried to make was that the coastline is vast but the weather conditions make it impossible if it is easterly weather or north-easterly weather you can't launch a small craft at Bluff Hill Point or Marrawah, which are both sides of West Point, and gain access to those fishing grounds safely because of the wind direction. You can't go out of Green Point in an easterly or north-easterly wind. You can't launch a boat from those private boat ramps in those conditions.

CHAIRPERSON - Is your major concern from a safety aspect if there are vessels in trouble or just a general usage aspect?

Mr VINCENT - Well because I am a professional fisherman general usage is strong in my mind, but also a small vessel, which I'm talking about fishing out of or for rescue, can't be launched at these other two places to get out to save anybody if they're in that actual area mainly due to the prevailing wind.

CHAIRPERSON - Do you see alternatives, in your opinion, where the ramp can still be used but the midden that is classified as important can be protected?

Mr VINCENT - Yes. I've stated in those notes that - well I've heard of a concealment law which could have it taken care of but also on one of the maps, it's not an exact drawing of an old track that used to go from where the lighthouse stood at West Point to the boat ramp which didn't go near the midden or didn't go over the midden. I'm not saying it doesn't go near it, but it doesn't go over it like the existing track does now.

Mr FLETCHER - When you launch on that flat rock into the channel, Ben, do you go south and around or go north and out into the -

Mr VINCENT - You more or less go straight westerly towards the sea. There's an island just out off the ramp - that's the safety aspect of it - probably to the south, south-west and the channel actually runs east-west and takes your straight to the open sea. If you keep going west you go straight into deep water.

Mr BAILEY - How many times a year would you launch a boat at that point?

Mr VINCENT - I would launch my boat there probably once a month.

Mr BAILEY - On average twelve times a year?

Mr VINCENT - Yes.

CHAIRPERSON - So you're now launching that once a month on the private property at Marrawah?

Mr VINCENT - Because of the wind conditions and how it has to be to fish that area you have to judge it fairly finely to be able to even go to that area and fish in the right conditions because you might not be able to get back. So, in actual fact since it was closed, I've only fished that area probably two or three times since January 1999.

Mrs SILVIA SMITH - That's when the road was closed?

Mr VINCENT - Yes.

Mrs SILVIA SMITH - That's the question I wanted to ask. What other choices for launching do you have if Bluff and Marrawah are closed?

Mr VINCENT - They're not closed, they're just unsafe.

Mrs SILVIA SMITH - Sorry, Bluff and Marrawah, if you are unable to get out because of the weather conditions what do you do then? Don't go?

Mr VINCENT - Well, I can't fish.

Mrs SILVIA SMITH - There's nowhere else?

Mr VINCENT - No. It might seem extreme but the vastness of coastline that is the only place to fish that part in - the only launching facility that's safe.

Mr FLETCHER - So you're a small craft scalefish fisherman?

Mr VINCENT - Yes.

Mr FLETCHER - How far would you take your activity? How far out from shore or north and south from your point of launch?

Mr VINCENT - Never very far from the shore, at the most a kilometre - probably a kilometre and a half - but I have travelled from Green Point to Stubborn Bay and as far down as Bluff Hill Point to fish that area. Sometimes I will fish the north coast, but that's totally different.

Mr FLETCHER - In an emergency couldn't you run up on a beach?

Mr VINCENT - In an emergency coming in you could run up on a beach, yes depending on the conditions. It's hard to explain conditions on the west coast because today or now it might be as flat as that carpet but if the weather changes, like I said, in quarter of an hour there could be a 4 metre swell with a 6 foot wind slop on the top and then it just makes it impossible really to go anywhere. So you come in, you look for a safe place - like you say, on a beach or behind a bully or something and you run up on the beach - that's fair but then there's still the expense of retrieving your gear again after that or getting permission to go on tracks or to go somewhere.

Mr FLETCHER - But your main concern is access?

Mr VINCENT - Yes.

Mr FLETCHER - If access could be guaranteed in some way so that you felt secure about your rights to use that particular launch site, would you then have opposition to the transfer of land?

Mr VINCENT - Yes, I think I would mainly because of seeing the management of other land that has been transferred. It's hard for me to say this because I have never been racially prejudiced in any way, but I don't think that Mount Cameron, as I call it - Preminghana as others do - I don't think that many people are satisfied, not that the transfer took place, but the management of it since.

Mr FLETCHER - Okay.

Mr BAILEY - How many other people would use that ramp to your knowledge?

Mr VINCENT - As far as professional fishermen go in my situation, there are only three at Marrawah but on an amateur basis probably up to 50 or 60 from the Circular Head area who would use that ramp over a year - probably more than once - but that would be how many dinghies or separate vessels that would launch -

Mr BAILEY - May access that.

Mr VINCENT - May access that.

CHAIRPERSON - No other questions?

Mrs SILVIA SMITH - I just wonder if Ben knows any statistics on how many emergency situations have arisen that have needed some help and haven't been able to get it in those areas since it was closed?

Mr VINCENT - None that I know of.

Mrs SILVIA SMITH - That is fine, but it does arise.

Mr VINCENT - Yes, that's right. It's not a matter of how many, it's a matter of when it does arise. With the waters down there at the most four hours would be as long as you could stay in the water - a swimmer, a surfer, anybody out of a boat. It might be possible to get a bigger vessel out of the bluff or somebody might be already fishing on the coast and you wouldn't have to worry about it, but there's always the possibility and I just wouldn't like to see anybody to be drowned under those circumstances.

CHAIRPERSON - Any more questions?

Mr BAILEY - Just one more. In relation to the entry, I presume you would only be going out if the conditions were right, but if that sudden wind came up and you were caught out there, would it still be safe to come in around the rocks and into the position from which you had launched your boat?

Mr VINCENT - Yes. I've been caught before where I've gone to Stubborn Bay from Marrawah boat ramp and I've come back but the swell and wind were that strong that I had to keep going and I went right down past Green Point to West Point and on the outside - I can just show you, this is on the same map - this is the boat ramp in here so you can come right out wide, even though the swell might be big and crashing in all the way, you can still come south enough to line up with these rocks which have big breaks on them. There's another big break out here but you can still go in there if you follow the right path and get back into there safely.

Mr BAILEY - Right.

CHAIRPERSON - No other questions? Thank you, Mr Vincent, for taking the time to respond to the committee's invitation to make a submission. We thank you for the time you have given today.

Mr VINCENT - Thanks very much.

THE WITNESS WITHDREW.

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT
CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.**

Mr PERRY KING AND Mr NOEL GREY, NORTH-WEST CATTLEMAN'S ASSOCIATION WERE
RECALLED CALLED AND EXAMINED.

CHAIRPERSON (Mrs Sue Smith) - Welcome gentlemen. I acknowledge that you are still under oath - I remind you that for your benefit - and I acknowledge that you are representing the North-West Cattleman's Association.

Mr KING - Yes, we are. I suppose our submission has been sort of put in in two parts. One how we feel that the area should be run; the other part dealing with what will happen if the land is transferred back. I think that is part of our problem in some ways with approaching the issues is knowing where this whole process is heading. From a cattle agistment point of view, I suppose, we have been given some assurances by the minister that there will be cattle running in the Arthur-Pieman. The Arthur-Pieman surrounds West Point and Sundown Point reserves so cattle do go into those areas and I suppose part of the reason that we would like to see it all managed as one complete area is to get away from going in one area, into another area.

From an Aboriginal point of view we see the cultural heritage as a whole area. We think that there are as many, or more sites, outside West Point and Sundown Point reserves and as cattlemen we would certainly like to see those sites preserved. I suppose we might differ with the community in that we would promote the concept of significance of sites where we would like to see important sites picked out and preserved and being farmers we would say the best way to do that would be to put a fence around it and that has already happened in the area in some instances.

We have had in the past made some approaches to the Aboriginal community, we have had some talks with TALC, we have had some with ALCT. Because we are promoting local area management of some sort for ourselves, we think that it would be contradiction in terms if we didn't promote that from a local Aboriginal group as well. To that end, I have spoken to Joy Gillies, who I think is recognised as an Aboriginal elder in this area, and offered to meet with her. That meeting never happened, I haven't followed up on that. So at this point in time I suppose we do, to a certain extent, recognise that the Government sees ALCT or TALC as the managers of Aboriginal issues in this area, so we would go with the Government on that one, I think.

You have our written submissions, so I suppose we should just let ourselves be over to you.

CHAIRPERSON - Thank you very much, Mr King. You talked about you recognise there are particular sites and that they should be preserved and you have come up with the concept of a fence. Yesterday on our tour, we saw a particular site that had been fenced and the gate was knocked off. Now there is a process for National Parks to have to go through before they can reconstitute the fence in that particular position.

Considering the massive area that is there to be policed, for the want of a better word, how do you see we protecting these sites? If they are fenced off, one would say most people respect a fence and acknowledge that a fence usually means stay out, but in wide areas like that, how do you ensure that similar sorts of things don't happen, where the wire cutters are brought in, the fence is knocked down for some reason -

Mr KING - I think that is where we need to have a co-operative approach to the whole thing. You go into the Arthur-Pieman area - you wouldn't have got down as far as Big Hill Creek the other day, I suppose, but when you get down that way you will find initiatives there by, say, Braddon Four-Wheel Drive Club where they have fenced areas to regenerate tracks. There have never been any trouble with those fences. I think it comes down to how the public views these things and if you fence an Aboriginal site, I would say that it would need to be sign-posted to say what its significance was and it would need to be done in conjunction with users of the area.

CHAIRPERSON - So you would advocate the users actually physically assist in fencing some of these sites and then thus they understand why they are fenced and thus respect the fact - besides they've put their own blood sweat and tears into it, so they are hardly going to break the thing down?

Mr KING - Yes. I think our argument with the current management plan that has been written is that if it is written with full public consultation, then we have an investment in the area, we then become, in part, custodians of that landscape ourselves. So that if a four-wheel driver is down there and they see someone doing the wrong thing, they can say, 'We worked pretty hard to get this right, we'd rather you didn't do that'.

I suppose from a cattle point of view there are a lot of areas down there in the winter time that have very, very little human impact. There is probably only the stockmen going through there that are in a lot of those areas and if we feel that we have had a part to play in the whole process, then we're going to look out for things but if it goes down the line of Parks and Wildlife dictating to us how things are going to be done, then we would probably just turn our backs on it.

CHAIRPERSON - And you muster after winter, is that correct? What month of the year usually -

Mr KING - The agistment run is open from March until September. Last year there would have been a little under 3 000 head of cattle in there, not all at the same time. It goes through - well, the dairy farmers are there for what, six to eight weeks, whereas beef farmers like myself are there for six months.

CHAIRPERSON - I note you say your muster is done by off-road vehicles and horses. So it's necessary to go off formed roads and that's understandable.

Mr KING - Yes.

CHAIRPERSON - One can presume, particularly in this area, if you are looking at September that it can still be wet, quite boggy et cetera and so forth, so again we would make a presumption that at times there has to be some physical damage done to the area the mustering is happening over.

In your experience, when that damage does happen in a wet season, how long does it take to rehabilitate? Does it naturally rehabilitate or has there had to be the expense of Parks and Wildlife funding to rehabilitate some of those areas?

Mr GREY - To my knowledge I don't think there has been any Parks and Wildlife funding to rehabilitate the areas. With cattle agistment, if the cattle come off in September and probably three weeks after you will see a few dry cow pats, that's about all you'll see of evidence of where the cattle have been in most of the areas.

CHAIRPERSON - I suppose I am acknowledging that cattle perhaps in particular with four feet do not create the same sort of damage that perhaps a vehicle may do if it gets bogged while it's mustering. I am just looking to see whether it rehabilitates itself in your opinion or whether the damage is there long-term.

Mr GREY - I think there is a commonsense approach now. Most people that use the area - and it's an education thing - most people, if they know they were going to damage an area with a vehicle, would not take the vehicle into the area.

As we have said with some of the four-wheel drive clubs, they have adopted a one-track policy in the area now, off their own initiatives, to block off tracks where there was damage being done, they have rehabilitated those tracks and with their own money and some assistance from Parks and Wildlife, have hardened wet places of the track down there so that the impact is lessened on the whole area. I believe it is an education thing, if you educate people about the area and to respect the area, they will. That's where it has to start from, it's no good fencing off an area but don't tell people why it's fenced. Say it's fenced because it is of significance to the Aboriginal people and why it is done and people will respect that.

CHAIRPERSON - You also make the comment and point to cattle being driven south from the Arthur River follow the traditional stock route used since the 1880's that goes through Sundown Reserve. Would you believe that as it is a traditional stock route that has had over 100 years of usage, that perhaps it could be classified in the same vein as something of a European historical heritage value?

Mr GREY - I believe it has heritage value.

CHAIRPERSON - And thus a designated area that is designated as a traditional stock route. We had some evidence earlier of a surfing reserve in a particular area of the west coast recognising a particular usage there. I am looking to see whether you believe there is any potential to lay claim to a traditional stock route being something of historical value to the Cattleman's Association?

Mr GREY - I believe that the area is of heritage value because of the trail there, it was of great significance to the State. The cattle were driven from Montagu through that area to the west coast and they were then - the abattoir was at Granville Harbour and they were slaughtered there for the mining towns of Zeehan and Queenstown on the west coast. That was how the area where we live was settled, by people driving the cattle through that area and through the agistment of that area.

Mr KING - I think things like the stock route - a lot of things that are important from an historical point of view for cattlemen either aren't clearly defined, like a stock route, or aren't there any more, like old stock yards and old stockmen's huts. You might find a few diaries around that have good reports on how stock was managed in that area over the generations but I think - well, for Noel and myself especially, we're probably fourth generation - putting stock in that area and for us the historical significance of it is we are letting that historical aspect of that because it's not clearly defined in set sites and things like that.

Mr GREY - It is part of our lifestyle.

CHAIRPERSON - Part of the culture of your lifestyle.

Mr KING - We go there for the economic benefits -

Mr GREY - Our culture can only be 200 years old, that's the time we've been here, but it's definitely part of our culture.

CHAIRPERSON - So you would accept that there is a recognition historically of Aboriginal culture as well and that we all should reconcile ourselves to the concept of some significant Aboriginal sites being protected and some significant cultural pursuits of the Cattlemen's Association and the like being protected in the same vein?

Mr GREY - Yes.

Mr KING - Yes, we would certainly recognise that. I suppose it's how the process contributes to reconciliation that we would question whether land transfer does do that but, as I have said, we've had some discussions with the Aboriginal community and I certainly hope - well we've got to drive that to a certain extent, I suppose, that we will get back and sit down and talk to them about cattle issues and such like things. But one of the reasons that that has not gone on in the last few months is we are uncertain as to how this process works: do the Aboriginal community come to you and we come to you and then do you go away and make a decision on it or do we need to be talking to them about it?

CHAIRPERSON - Out of this particular process, this committee is a committee of the Legislative Council who is inquiring into the proposed land transfers and at the end of the day, after our public hearings, the committee will make a recommendation back to the Legislative Council in the way of a report. Where it goes from there, nobody can guarantee.

Mr KING - Right.

CHAIRPERSON - But we are not the body to negotiate rights between one another.

Mr KING - No, these are some of the things we need to understand. We don't -

CHAIRPERSON - This merely is a short-term select committee to look into this particular issue because the Legislative Council felt it was necessary and it was a unanimous vote of the Council to do that and at the end of the day, we will present our report and that will be the end of our particular work on this particular area.

Mr KING - Right. Well, I suppose we would say we recognise the cultural significance of the area. If West Point and Sundown Point held all of the cultural and historic things of Aboriginal importance in the area I think it would be a different response but because there are as many sites outside those areas, I think taking a whole view of the area would be something that we would like to see but we'll be governed by your decisions, I suppose.

CHAIRPERSON - Okay, any other questions of the committee?

Mrs SILVIA SMITH - Just along that line, the fact that you've used that and it is a historic stock route and something ought to be done about that in the future I would suggest, to your knowledge - using that stock route and in more recent times after horses, using off-road vehicles - has there been any damage done to any areas of significance to the Aboriginal people? To your knowledge.

Mr GREY - No, not to my knowledge there hasn't been, no.

Mr KING - I think we feel that the experts out there are classing that the Aboriginal sites there are world class. We've been in there for 150-odd years and they are still being classed as world class so -

CHAIRPERSON - A very good point.

Mrs SILVIA SMITH - You also mentioned, if I might say, some fencing around some sites in the reserves and that the stock route still goes past, et cetera. Who maintains that fencing at this point, do you know? Is it Parks and Wildlife?

Mr KING - As far as I know Parks and Wildlife put those fences up. There are four that I can think of but I know that at Ordnance Point, I spoke to some of the Parks people that worked on that fence and said to them, 'Why don't you put a sign up and say it's an Aboriginal midden?' They said that they thought that was what was going to happen but when they followed it up they were told that they could put up signs saying, 'Dune regeneration'. That was it, so the educational component of all of this - I mean I can understand that the Aboriginal community might not want to identify sites for fear of them being damaged but somewhere along the way we need to be able to resolve that and I think if we are all down there working on it, that can be done.

Mr BAILEY - In relation to the grazing of stock in that area during the winter months, do you pay a fee to the Crown for that right?

Mr KING - Yes, we do.

Mr GREY - Yes we do.

Mr BAILEY - What is that?

Mr KING - It varies from 95 cents a head a week back to about 75 cents a head a week. My understanding, and I haven't followed this up as yet, but my understanding is that when the agistment

fees go in at the end of each year, the staff at Arthur River base make an assessment on what it has cost them to administer cattle in the area - and basically all they do is count them on and count them off again - they put in some sort of a request to a higher office and their expenses are returned to them. So, say, for argument sake, two years ago there was some \$30 000-odd raised from cattle agistment, I think it probably would have been between \$25-000 and \$30 000 last year or, say, the administration costs - and I'm only guessing here - were half that. That is all they would get back, the rest of it is gone, it goes into consolidated revenue or wherever so -

Mr BAILEY - So it doesn't come back to the park?

Mr GREY - No, it doesn't come back to that area.

Mr KING - No, and we would be asking that all of that sort of money comes back into the area. If there was \$10 000, \$12 000 a year came back there and that all got spent on fencing Aboriginal sites, we would be more than happy to see that done but how we follow up and find out what those figures are, I'm not sure because -

Mr FLETCHER - But fencing sites is not the answer, is it? Surely there has to be - I am putting my position to you rather than asking you but the point you are making about teaching respect and interpreting the site to enhance that respect, surely is the way. To build a fence in a remote area and expect that to provide protection, I think, is a nonsense, always has been a nonsense and will continue to be so.

Mr KING - Well, we've had over the last twelve months - I think we've had three meetings with TALC now that were supposed to go down the line of putting signs up and putting out educational material and that type of thing.

Mr BAILEY - Am I right in assuming that the cattle which will agist on the west coast will roam onto - if this land is granted - Aboriginal land and crown land and therefore if there is going to be an agistment fee paid, how will that be determined whether the cattle have been on one or the other land in ownership?

Mr KING - In West Point the cattle that are in there essentially stay in that area. In Sundown Point the cattle are in and out of there all of the time. How you would -

Mr BAILEY - So they would be going from -

Mr GREY - One area to the other.

Mr BAILEY - Aboriginal land to crown land.

Mr KING - Yes.

Mr BAILEY - But not at West Point?

Mr KING - No. West Point the way it works for the cattle there, the cattle that go in there tend to be in that area and they tend to stay in it whereas at Sundown Point, no, there are quite a few cattle that go in and out. I suppose that is part of our reasons for -

Mr FLETCHER - I think it might be just interesting to put on the record briefly perhaps just the nature of the beast - if they do stick to favourite spots or native grasses or certain areas, they don't wander generally over the entire area, do they?

Mr KING - Yes, that's right.

Mr GREY - They use a very small percentage of the area, the actual cattle.

Mr KING - Some of the dairy herds that go down - when Noel goes down there are four or five families that go together and might take 500 or 600 head of cattle. You went to Sundown yesterday, did you?

Mr FLETCHER - Yes.

Mr KING - Right. Those cattle would go as far as the Sundown. When they go to muster them, those half a dozen blokes can go down, they can muster those cattle, have them home, sorted out and back in their paddocks all in a day because their cattle live in their specific -

Mr GREY - Into Peter's pub by dark, usually.

Laughter.

Mr BAILEY - So the herds don't mix with one another, they tend to stay -

Mr KING - They do mix with one another but if you put them in the one area often enough over a number of years, you tend to be able to say, 'Well that's where Noel's cattle are or that's where' -

Mr GREY - There are separate runs for dairy and beef herds for part of the year.

Mr KING - Yes, there are four agistment areas.

Mr GREY - And we have over the years to lessen, I suppose, the impact on it we try to - that's why we go down in a group and come off in a group because the cattle are only being driven around for that one day, not several days and that type of thing. So we have tried to bring our own management into the area by doing that.

CHAIRPERSON - Okay, any other questions?

Mrs SILVIA SMITH - I just wonder if I ought to explore your view, I suppose, on how the cattle impact on the area? We heard some, I would suggest probably conflicting, views on how they eat the marram grass, eat it down and then it regenerates and others say, 'Well, you know that's not the way to control the marram grass'. Could you explain how the cattle impact on the marram grass and on the general environment?

Mr GREY - Well, the easiest way to kill marram grass is to leave it alone, do nothing with it, it will just grow up and die out. The two things that promote growth of marram grass are fire and cattle grazing, there's no doubt about that.

I think actually the fire management of the whole area is something that is also of great concern to us. I think traditionally the old stockmen coming off there would have burnt in the spring while the ground is still wet and fires don't travel that far. Over the last ten or a dozen years, I suppose, there has been a tremendous build up of growth in some parts of the area and the potential -

Mrs SILVIA SMITH - Is that because you are restricted to firing and burning off?

Mr GREY - Yes, there are areas there that would have been grazed fifteen or twenty years ago that you couldn't ride a horse into now because it has grown up and that becomes a potential fire hazard. The burning-off program, that's something that seems to have been a practice of the Aboriginal community that was there and that's probably where the old stockmen have got it from. Spring burns, the cattle are gone, that first pick of growth there is there then for the game. You talk to people that have hunted in the area over a number of years, areas where they used to burn they could go and shoot 50 wallabies in a weekend, you might see five there now, they say. Yes, we would certainly like to see a decent fire management plan got going. Apparently there's one out there. Parks and Wildlife have one that was written in 1996, I think, but it just never seems to get implemented.

Mrs SILVIA SMITH - I just have a bit of a query there, I have conflicting ideas running around in head. You say that fire and cattle rejuvenate the marram grass?

Mr GREY - Yes.

Mrs SILVIA SMITH - And yet you suggested, I believe, that if you leave it alone it will die off?

Mr GREY - Yes.

Mrs SILVIA SMITH - Well, in these areas that are no good any more, what's happening there, is the marram grass still producing and covering the area so it's no good for cattle agistment and will it eventually die off?

Mr KING - No, I think - because marram only goes right on that dune area, a lot of the build up in growth is behind the dunes and that sort of thing - but I think in some cases what marram grass has done it has stabilised the areas and it has allowed other plants to come in.

Mr GREY - Native plants do grow.

Mr KING - Some of those would be manuka and coastal wattle that grow quite large and don't allow any under-growth. So what happens with those types of bushes is they might grow as high as this room and in an area as big around as this. Well, if a fire goes through eventually and burns that, it kills that plant and then you are back to bare sand again. So I think keeping areas grazed or burnt on a regular basis does promote things a lot better.

Mr GREY - I think we must point out that marram grass was never ever planted as the cattle food, it was planted as a sand dune stabilisation program and the fact that the cattle eat it is a bonus.

Mr KING - You have a look at where you drove along the beach to the Sundown the other day, you would have noticed probably on the dunes there marram grass so high. If you go back there in three or four months time it will be like that, go back there another month after the cattle have gone off and it will be like that. The root structure of it must be fairly substantial.

Mr FLETCHER - I suppose the grazing spreads the route structure out and makes it survive; to survive it has to go broader to regenerate itself.

Mr GREY - It's like a grass paddock, if you don't graze it or do something with it, eventually it dies out, if you don't do something with it.

CHAIRPERSON - Thank you again gentlemen for your submission on behalf of the North-West Cattlemen's Association. Your submission and your time today has been appreciated by the committee.

THE WITNESSES WITHDREW.

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ABORIGINAL LANDS MET AT
CIRCULAR HEAD COUNCIL CHAMBERS, SMITHTON ON THURSDAY 16 MARCH 2000.**

IAN NIELSEN WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

Mr NIELSEN - Thank you for having this opportunity to talk to you for a few minutes. I did not get a chance to put the submission in because I wrote away to Hobart and I got the requirements of the submission back on the day it was due to come in.

I have been using the south-west south of Arthur River for the last 40-plus years. I am a shack owner down there also. I am a little bit concerned as to what is going on about the place down there. In all the years we've been there - and I've been down there before the bridge went in and the roads were there - there used to be an old punt that used to go across there and we used to get across the best way we could. I have a shack site there and over the years we have maintained the track to that particular shack site from the Arthur River down to the best of our ability because of the natural terrain that is there. We've gone to a lot of trouble and keep the place clean via rubbish and any stuff that is dropped by people who travel down there.

This last few years I've been really hamstrung that I can't do anything to my shack; it is falling down around my ears; I can't make alterations, I can't do anything. A group of people came down there and they walked around my shack and they said, 'Oh, you've got your shack built on a midden'. And I said, 'For goodness sake, what makes you think that I built my shack on a midden?' and they said, 'You've got all these shells around there that's part of our middens'. And I said, 'Well, for your interest, those shells and all the shell grit there comes just north of Brooks Creek' - and the only known place where shell grit washes up onto the beach. Over the many years that I've been there people who have built shacks used this particular shell grit for cementing works and things like that because it was very hazardous carting gravel down there. The shell grit washes up there annually. The shell grit around where I was, around my shack, is particularly this stuff. There's really no sand there at all.

I've also had people down there who use their Aboriginal descent. They have told me, 'This is a midden. This is where we eat our shell grits'. And I said, 'How long have you been eating your shells there?' and they said, 'Oh, for years and years - thousands of years'. 'Well, over thousands of years you'd have a lot of shells there'. 'Yes, look at the big heap'. 'Come with me'. I have taken them up there and dug down with my hands - pure sand. So I said, 'Let's go down as deep as you like' - pure sand. I said, 'If you look at the roaring winds that come in across the sea, I can't really accept your story that this is an Aboriginal meal site or whatever you like to call it'. I said, 'They just wash up and the wind puts them in' - I'm talking about Ordnance Point. But I said, 'I accept what you do there. What are you going to do about it?' This is the point that concerned me very much, they said, 'Well, we're not happy until we have from Darwin to Maatsuyker Island. The whole west coast of Australia'. I have met a lot - and while I have no qualms about who, what and where people are or what colour, nationality and race they are - if you look at Australia it's very multinational. If you look back on times when the real Aboriginal was there to today, there's been a lot of intermingling with different bloods and that so there could be Chinese, Irish, German, Scandinavians or anything. I used to say, 'Let's try to be fair and reasonable'. I could never get a fair and reasonable answer from them just, 'We want'. And I am not anti them at all. I am really for that particular area not to be shut up or blocked off, as Mount Cameron is at the moment, but to be there for the population as a whole, be it their international tourists or tourists from the mainland or whatever.

Since 1990 I've kept a book in my shack of all the people who come down and come through my shack - and I've had them from all over the world. I've asked them if they realise the significance of the area in relation to the Aboriginal community. A few of them have heard and a lot haven't. I've taken them down and shown them the rocks there at Greens Creek. They've said, 'Well, they're only rings in the

rock'. And I don't know how they got there nor do I ever want to be in an argument. If they say they're Aboriginal carvings, then so be it.

But the whole area, there is a great diverse range of people out there from all over the world who come into that particular area. I'm very concerned that if we lock up sections of it or whole lots of it then you won't get the people. You'll just divide the community on it. That's really my main concern about it. If there are Aboriginal sites there of significance then they should be preserved - I don't have an argument about that - be they fenced or something erected, designated that particular area, people will look after them. But as it is at the moment it is too dogmatic - 'we will; you won't; we're going to'. It is really not conducive to good thinking in the community and we've a lot of people who are getting very irate about it and you'd understand this. I honestly believe it's unfair to the community in general, mainly the people who are non-Aboriginal descent who are being victimised by a few - when you look at their aboriginality, I just wonder how much percentage would really be in them. The way it is to me - and I'll be quite frank about this - it's a land grab and it's a money grab. If there are people out there who should have a right to something and they can prove conclusively what it is and they're not 1 per cent, I think they should be with the population as a whole and not that 1 per cent because that is discrimination against the population as a whole.

As I say, I have been in that area for 40-plus years and I know the area very well. One of the things I do is maintain the track to the best of my ability. On maintaining the track I took a bobcat and a truck down there - there are a few nasty potholes - I got the gravel out that is all heaped up there and I fill up the potholes. The ranger came down - a young lady - and she sailed into me, 'Who are you? What are you doing? Is that your vehicle? What are you doing taking that gravel out of there?' I said, 'Hang on. First off, what is your name?' - and she told me her name. The second question I asked her, 'How long have you been down here?' 'Three days'. 'Well, I've been here 40-plus years looking after this and I've never seen you or heard anything before, why the bombastic approach?' She took off and brought back the ranger and the ranger, Chris Arthur, was going to throw the book at me and he really got stuck into me. I said, 'Hang on a bit. How long have you been down here? What do you know about this area? You're just bombastic, egotistical and you're a standover merchant. It's not going to work with me, clobber; you sit down and talk or I'm having nothing to do with you. I've been looking after this track for 30 to 40 years. I've dug the drains out, I've put your fence up, I clean up all your rubbish that people leave. You've got no right to come in and stand all over me, wherever you're from'. I was quite frank with him. Anyway, he backed his cart right off and he didn't report me; he didn't put me in at all because I would've had a real go at him about how he approached me. There was no, 'Hey, mate, what are you doing here? We're the rangers and my name is such-and-such and do you know it's illegal to shift anything like this'. If he had, I would have been very cooperative and listened to him but he just blasted me. I have found that has been the approach with a lot of these people and, to be quite frank, I get my back up with these people - to the extent I said, 'Well, look, Mr Ranger, if you're so pig-headed about things, as of this moment you pick your own rubbish up, you fix your own fence, you pothole the thing and do the lot yourself'. I said, 'I found a battery on the road the other day, I'll leave all that stuff there if you're going to have that approach with me'. That is what I'm against. I'm against being there for everybody and not people coming in and standing over people. I said, 'I've been there for 40 years and you've only been here for three days. I don't think you've got any rights to tell me anything - not in the way you are doing, anyway'.

CHAIRPERSON - Thank you, Mr Nielsen.

Mr FLETCHER - I find Mr Nielsen's proposition interesting with regard the Brooks Creek gravel pit. You are saying that you and others have in the past used the shell there as aggregate for your cement mix - so you mix cement and sand and put the shell in for the guts.

Mr NIELSEN - Yes.

Mr FLETCHER - Right.

Mr NIELSEN - I don't now.

Mr FLETCHER - No, you don't do that anymore. So your argument is that where others are looking at your shack site and seeing the shell around it and saying this is the sign of an Aboriginal presence or

the sign of a midden, you're saying, 'Oh no, that's shell that I carted here from Brooks Creek some years ago'.

Mr NIELSEN - Yes, because where we are, at Jacksmiths Gulch - and that is a big sand dune that has got tea-tree and stuff on it - a few rabbits down there start digging a hole and the wind comes in from the south-west, eddies, and in no time you've got a big sand blow so we put shell grit and it stops it. The wind can't pick the shell grit out and it sits there and you don't get the big eddy and the big blow and you don't get that big bull hole there. With wombats there now I'm sticking rocks and bits of wood in there and stopping the blows.

Mr BAILEY - The tenure of your landholding, have you just got a licence there or have you got a freehold title?

Mr NIELSEN - A licence.

Mr BAILEY - Has an order been made under the Relics Act by the minister declaring the shells on which it is alleged your shack is built, have you received an order from the minister declaring that to be a relic?

Mr NIELSEN - The shack site or the material?

Mr BAILEY - The shack site.

Mr NIELSEN - No.

Mr BAILEY - So although there was a threat that it was a midden, nothing has ever been done?

Mr NIELSEN - No. I don't know who these people are. They've just come around with a little magnifying glass and sticks and picks and were digging this and said, 'That's a spear head' - or whatever it was.

CHAIRPERSON - So they didn't introduce themselves to you and Parks and Wildlife didn't either?

Mr NIELSEN - No. Parks and Wildlife certainly didn't introduce themselves. When I came onto him he introduced himself.

Mr BAILEY - Has the local council refused your extensions or alterations or what is the reason for them refusing -

Mr NIELSEN - I got a letter from the Parks and Wildlife - or the people who look after that area - and it said there will be no alterations or anything done to your shack.

Mr FLETCHER - There was a moratorium placed on all the shacks about four or five years ago now, I suppose.

Mr NIELSEN - It's a few years ago.

CHAIRPERSON - That's in place until the shack sites categorisation process is completed, is that correct?

Mr NIELSEN - Yes, I understand that. I have talked to people. I need to do maintenance work on the shack because I've got a window blown out because the putty is going and, according to them, you're not allowed to do anything. But they said I can but -

CHAIRPERSON - I think you could put the window back in, Mr Nielsen. I don't think you can build a room on but I think you could maintain for comfort and stability.

Mr NIELSEN - Yes, I understand that.

CHAIRPERSON - Thank you, Mr Nielsen, for your very succinct and forthright submission this morning. It has been greatly appreciated. We are pleased that you came in and made your approach to the committee.

Mr NIELSEN - Thank you.

THE WITNESS WITHDREW.