



**Submission on Inquiry into Shack Sites in WA
by Wedge Island Protection Association Inc**

**Standing Committee on
Environment and Public Affairs**

**Legislative Council
Parliament of Western Australia**

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Table of Contents

	Preface	i
	Executive Summary	ii
	Summary of Recommendations	iii
1	Introduction	1
2	Development of Policy	2
2.1	New Policy Option	5
2.2	Amend Existing Policy Option	6
2.3	Recommendations:	8
3	Regulation of Shack Sites	10
3.1	Recommendations:	12
4	Use of Public Land in WA	13
4.1	Recommendations	15
5	Site Specific Management Model	16
5.1	Proposed Settlement Structure	18
5.2	Benefits to the State	20
6	Other Relevant Matters	23
6.1	Wedge & Grey Task Force	23
6.2	Impact of Indian Ocean Road on Wedge and Grey	23
6.3	Inquiry into the Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in WA by the Economics and Industry Standing Committee	26
6.4	Economic & Social Impact Studies	27
6.4.1	Recommendation:	28
6.5	Heritage Values and Related Studies	28
6.5.1	Recommendation	30
6.6	Quinlan Legal Opinion	31
6.7	Lancelin Defence Training Area	31
6.8	CALM Expression of Interest 243/EOI/2001	32
7	References	33
7.1	References	33
7.2	Attachments	35

Appendices

Appendix 1

Tasmanian Crown Lands (Shack Sites) Act 1997

Attachments

Attachment 1

Government Land Policy Manual - Policy Number 12.5.1.1 Illegal Occupation of Coastal Crown Land (Squatters)

Attachment 2

Government Land Policy manual – Policy Number 12.8.1 Professional Fisher Shack Tenure Along the Central Coast of WA

Attachment 3

Quinlan Legal Opinion – September 2004
(Commercial in confidence)

Attachment 4

Peaceful Bay Conservation Development Guidelines – Shire of Manjimup Town Planning Scheme Policy No 35

Attachment 5

Dampier Archipelago Recreational Dwellers Association Licence

Preface

The purpose of this Submission Paper is to inform the Standing Committee on the Environment and Public Affairs on the current state of shack sites in WA and to present recommendations on a way forward to implement management plans for these sites and to integrate them into plans for the provision of upgraded recreation and tourist facilities in regional WA.

This submission outlines the need for policy change regarding shack sites, and how that policy change can be achieved to deal with state wide and site specific issues.

The preparation of the submission is part of an ongoing campaign by Wedge Island Protection Association (WIPA) and the Grey Conservation and Community Association (GCCA) to address the inability of the state government to deal with the complex issue of shack sites in WA.

This Submission presents background information, raises relevant issues and presents solution based options in a format consistent with the Terms of Reference for the Inquiry.

An Executive Summary is provided, presenting a synopsis of the current state of the shack sites management in WA central coast and key recommendations on transition to a management structure for these sites.

A Summary of Recommendations section contains a concise list of all recommendations that are interspersed through-out the submission.

References are listed in a section at the end of the submission, preceding the Appendices.

A list of Attachments is also contained in the References section.

Copies of these Attachments are included with the Submission document in the binder.

Executive Summary

This Inquiry is the first opportunity for the general public to have a voice in affecting policy relating to and regulation of, Shack Sites in WA.

To date, protestations and negotiations to bring about sensible change by the Wedge Island Protection Association Inc (WIPA) and the Grey Conservation and Community Association Inc (GCCA) have been contained at Departmental officer level and inevitably, the outcome has been no change, as current policy requires removal of shacks.

Fortunately for Wedge and Grey, previous political intervention has resulted in temporary lease extensions, but no policy debate has ensued.

The needs being met by Shack Site communities is genuine, legitimate and involves a significant number of WA families and taxpayers.

This submission argues the case that traditional concerns against Shack Site activity can be alleviated through application of constructive resolution of policy, planning and regulatory provisions. It details a two tiered Policy Framework at State level and the need for Site Specific management plans at the local level.

It also highlights the significant benefit retention of Shack Site communities would have to the tourism industry and further creation of privately funded tourism assets.

Shack Sites can simultaneously cater for the needs of current recreational users, facilitate additional tourism servicing and provide appropriate levels of public access. Creative management models will allow the servicing of all categories without the exclusion of one over the other.

Examples exist within WA and Australia of how to achieve workable solutions in WA if the political will is evident for it to be realised. The social values which have been studied and confirmed, but not yet formally measured, would be protected for the benefit of future generations of Western Australians and all visitors to the state.

The collective wisdom of both associations amassed over 40 years should be put to formal use and the experience of the communities being the site custodians for sustainable management of the areas should not be underestimated when alternative commercial management options may be considered.

The Summary of Recommendations listed overleaf represents the views of WIPA and GCCA as to how this Inquiry could move forward to a solution based outcome.

The members of both associations and the many thousands of shack users at Wedge and Grey thank the Committee for the opportunity to have this input.

Summary of Recommendations

1. That a full investigation be conducted of the Tasmanian Crown Land (Shack Sites) Act 1997 and its implementation, as well as NSW and SA models, to identify best practice that could be applied to effect a balanced long term tenure regime for remaining shack sites in WA
2. The Committee direct a review of the current State Government Squatter Policy under a lead agency to enable retention of existing shack site settlements
3. The Committee appoint the Department of Regional Development and Lands as lead agency for the review of policy.
4. Any review of policy relating to shack sites establishes a protocol for future site use and takes into account competing demands including those between government agencies
5. Research is undertaken by the Committee of the management practice of shack sites outside of the Central coast area of WA to identify best practice in the regulation of those sites and its application to other sites
6. The issue of availability of adequate resources to manage shack sites in WA be investigated
7. That DEC be directed to progress development of a co-existence management model at Wedge and Grey which enables long term tenure of shack sites simultaneously with formalised public access facilities
8. That DEC be directed to address the immediate need of an operational management regime at Wedge and Grey that will control the increasing visitor numbers at both sites due to the ease of access via the Indian Ocean Drive
9. In considering what constitutes legitimate use of Public Land the issue of equity is applied equally to shack leaseholders as it is intended to be for current non-users of the sites
10. Shack sites where leases are due to terminate and are subject to the application of the policy review are brought into a standard short term lease extension of 3 years pending finalisation of site specific management plans
11. That an Economic and Social Impact Study be commissioned urgently to verify the projected value of the Wedge and Grey shack sites to the region. WIPA and GCCA have offered to contribute to the cost of such a study to expedite the outcome of this study.
12. The process to formally assess and develop heritage conservation plans for Wedge and Grey be accelerated. Both shack associations, WIPA and GCCA, have indicated preparedness to contribute financially to a timely result.

1. Introduction

The Wedge Island Protection Association Inc. (WIPA) represents the recreational Shack leaseholders at Wedge Island, situated approximately 150 kilometres north of Perth in the Shire of Dandaragan. The closest towns are Lancelin, some 50 km to the south via Indian Ocean Road, and Cervantes, 35 km to the north.

WIPA has been in existence since 1968 and the majority of the 350 shacks at Wedge are reflected in its membership. Members are not only shack owners as the WIPA constitution allows for open participation. Its charter is to act in the best interests of the Wedge environment, the community and to maintain member's access to recreational facilities.

The shacks at Wedge are used by 10,000 individuals annually and at the peak holiday periods support 2,500 people. The settlement has a bed-night capacity greater than the self-contained family accommodation at Rottnest Island.

The Wedge settlement is also home to the crews of four professional rock lobster boats and support staff during the November to June season. Several shacks are occupied permanently by claimants of the Yued Native Title claim and a handful of shacks are periodic home to retirees or disability pensioners.

WIPA has actively undertaken a prominent community role at Wedge, being a forum for shack-owners to facilitate a safe, structured community that allows for the amenity of the area to be maintained, while providing a coordinated body to address local site issues.

WIPA has worked diligently over many years with various Government agencies and our State Universities in areas of Environmental Protection, Heritage and Architectural and Community planning studies, and site management plans.

WIPA has campaigned for formal site management and long-term tenure since the early 1970s, and leads the current campaign to bring about a review of policy to enable a balanced management regime to be implemented in the interests of all stakeholders and the general public.

2. Development of Policy

In WA specific policy relating to the protection of shack sites and the communities that have developed does not exist. However policy relating to the removal of unauthorised structures exists in several forms.

Under the Land Administration Act 1997, management bodies holding a vesting for Crown land can remove unauthorised structures (Sections 270 & 273).

Following a Cabinet decision in July 1989, the State Government Squatter Policy (Attachment 1) was introduced to modify the exercising of this delegation to reflect a more conciliatory process and orderly exit from such land. Whilst the policy was intended to be State wide, it has primarily been applied along the Central coast (Shires of Carnamah, Coorow, Dandaragan and Irwin) resulting in the removal of approximately 600 shacks.

Problems associated with squatter occupation along the WA coast were cited as:

- Environmental impact and environmental health
- Exclusive use and financial advantage
- Demand for public utility services
- Non compliance with Building Code of Australia (BCA) and other regulations.

The focus of the Central Coast shires on justification for removal does not appear to have been a common approach taken by authorities in other parts of the State. To the contrary, other Local Government Authorities (LGA) have recognised the needs being met and worked with these communities to ensure an acceptable level of regulation and public safety.

However, the following comments reflect the current assessment of sites in relation to those concerns.

- **Exclusive use and financial advantage**

Along the central coast, up until the early 1990s, anyone could have built a shack within the existing shack settlements. When formal leases were introduced a prohibition was imposed on new shack construction. The individual shack sites became the responsibility of the lease holder under the lease conditions.

However, other than the shack footprint, the remainder of the site was open to public access and was never the exclusive domain of the shack owners. In addition, the number of people using the shacks was in the order of a multiple of 35. Shacks have regularly changed hands, notwithstanding the inability to transfer leases. The lease fees were determined with regard to the Valuer General assessment and were indexed.

It can be argued that the existence of shack settlements has increased access to these sites by the general public and visitors are supported by the shack owners through provision of breakdown assistance, food and shelter, advice and directions as well as accident emergency services.

- **Environmental impact and environmental health**

Settlements tend to have a positive impact on the environment by providing wind breaks, water run-off and shade. This then generates productive habitats for birds, reptiles and marsupials. Shacks are generally low profile and located in naturally protected sites. Shack owners tend to take pride in their dwellings and by default become the local custodians of the area. The negative aspects are generally associated with anti-social behaviour, lack of management of some campers and other visitors, and lack of certainty of tenure.

If environmental health was a real problem, then public health data would reflect disease outbreaks associated with sewerage and waste disposal. What evidence exists over the last 40 years to substantiate this claim?

The Jurien Marine Park development report states that the bays at Wedge and Grey are pristine, an indication of the health of the waters around these shack sites.

- **Non compliance with BCA and other regulations**

Shacks are unauthorised structures and originated as hard-wall camping to meet the need for short term fishing and recreational purposes. Over time and through evolution, many have become well appointed with compliant services, albeit non-approved. Most shacks would be classified as shed construction so it is not appropriate to consider the standard for a suburban residential home. Structurally, shacks which have withstood the elements for decades are likely to be able to satisfy structural performance assessment in accordance with the normal Engineering procedures for Structural Integrity assessment.

- **Demand for public utility services**

Shack settlements have traditionally chosen to remain 'unsophisticated', without modern conveniences and services. It defeats the purpose of getting away from suburbia. Local communities have generated essential services such as fire fighting equipment, rubbish management, first aid provision and social facilities. These have been created without request for government funds or resources.

However, where the management authority collects fees from shack leaseholders and/or expects other public users of the sites to have access to facilities without charge, it is not unreasonable for the relevant shack association to seek contribution.

From the above it can be concluded that the reasons for generating the policy to halt new shack construction and introduce leases may have been valid then, but it is not valid to use those reasons now to dismantle functioning shack settlements.

It should be noted here that over time poor behaviours and detrimental environmental impact at shack sites is not the exclusive domain of the shack owners. It is easy for authorities to generalise and assign blame to the leaseholders as they are a visible easy target.

At Wedge, for example, the practice of the land manager, DEC, in not exercising on-site control of campers and other visitors for over a decade, has resulted in scant regard for any signage and an

attitude of dismissal by the category of site user intent on 'cutting sick' with vehicles, anti-social behaviour and environmental irresponsibility.

Under the State Government Squatter Policy professional fishers have been given additional concessions in relation to shack removal (refer Attachment 2) that allow a range of options to remain on site.

The question then to be asked is why change a policy to potentially offer long term tenure to remaining shack owners?

- Shacks sites satisfy a range of needs and service a particular market over and above mainstream tourism or recreational markets
- They are a unique community experience and each site has a unique sense of place
- This uniqueness is a point of difference for tourists and therefore becomes a tourism asset. Once gone it cannot be replaced. This uniqueness is explored further in the Other Relevant Matters section
- The critical mass of shack community resources creates additional accommodation facilities that can ease stress on existing tourist destinations and facilitate access to a wider range of tourist experiences than would otherwise be the case
- Shack sites are recognised as heritage places of cultural significance; this heritage aspect is addressed further in the Other Relevant Matters section
- Shack owners become de facto environmental custodians in the absence of on-site ranger services
- The removal of shacks during the 1990s, in itself, is not justification for removal of the surviving communities. Community values change, and there is a much greater push at many levels to preserve and protect our heritage and culture.

Tourism WA, in a submission to the Public Affairs Standing Committee inquiry into Recreational Activities within Public Drinking Water Sources Areas in December 2009, said in part;

"...with the continued growth of the Perth metropolitan area and increasing demand for nature-based experiences, it is imperative that nearby settings for outdoor recreation are provided and maintained. Involvement in outdoor recreation and tourism activities can provide personal satisfaction and enjoyment and contribute to physical and mental health. People seek places for participation in and enjoyment of physical activity, relaxation and restoration, social interaction, cultural connection and enrichment, to have contact with nature, and to escape from busy urban environments."

Shack sites satisfy all these statements for a significant number of people.

So if the argument is accepted and shack sites are to be retained in some form and offered long term tenure, then two policy directions would appear to be realistic options;

1. Develop or apply new policy, or
2. Amend existing provisions.

2.1 New Policy Option

In NSW, SA and Tasmania the respective governments have introduced provisions that have resulted in shack communities being retained and long term tenure negotiated. Tasmania for example, developed new policy, the Crown Lands (Shack Sites) Act 1997 to accelerate the transition.

The first shacks appeared in 1944 and by 1997 over 1300 shacks were either on an annual licence or short term lease at 39 Crown Land locations around Tasmania.

With increased occupancy rates, environmental concerns grew but capital investment to resolve these was hampered by lack of long term tenure. Following years of lobbying, three major issues were identified to be addressed before certainty of tenure could be implemented:

- Environmental problems
- A formal assessment process, and
- Special legislation to accommodate planning difficulties

In 1997 the state government put forward legislation under which each shack site would be individually assessed for suitability of long term tenure against Model Conversion Criteria which addressed environmental, Aboriginal and social issues.

The three possible outcomes of the assessment process were freehold (sale to the existing shack owner), leasehold (up to 30 years) or relocation/removal.

The process of implementation was in three stages:

- Determination of tenure for each shack
- Design and installation of infrastructure
- Valuations, sale and transfer of title.

According to a Ministerial report April 2007, 1160 shacks had been assessed, with 1019 to be freehold, 88 to be leased and 53 to be removed.

On 25th June 2010, Ms Julie Avery of Crown Land Services in Hobart Tasmania advised that the Shack Site Project finished in early 2009. The remaining few issues are being handled within Crown Land Services.

A summary of this project and related recommendations is at Appendix 1.

This legislation provides relevant provisions and processes that could be applied to WA and is recommended for further investigation.

It is understood a Shack Sites Bill was drafted in 2008 for WA based on the Tasmanian legislation. Mr Murray Cowper MLA, Member for Murray-Wellington, could provide further information on this draft legislation.

Amend Existing Policy Option

This second option, a minimalist approach, is to review and amend existing policy.

The existing WA State Government Squatter Policy, whilst allowing a six year sunset lease “for reasonable usage of existing investment”, is focussed on the removal of physical structures and does not allow any consideration of social structures or other values worthy of retention. The policy was introduced without any consultation with the target users adversely affected by it and leases were offered on a ‘take it or leave it’ basis with no discussion or negotiation possible.

This policy served its purpose during the 1990s in halting construction of new dwellings and facilitating the removal of random and unsustainable shacks. It also resulted in the extinguishment of vibrant communities in some sites that have subsequently become little more than car parks.

The now dismantled Shack Community of Billy Goat Bay is an example of how this Policy has been utilised to a point in which it has outlived its original purpose. The Shacks within this once vibrant community in the Shire of Coorow were removed and subsequent “rehabilitation” resulted in the development of a gravel car park, a long drop toilet and a sign. Recreational use of the area ceased and is now only visited infrequently by passing traffic for the purpose of driver rest stops.

As mentioned earlier the existing policy allows concessions for professional fishers based on a ‘legitimate’ argument linked to their WA Fishing license.

If other ‘legitimate’ argument categories were included, then a pathway would be created for those assessments to be made. Such categories could include:

- Formal heritage assessment
- Remote community recreation need
- Tourism servicing.

The existing policy would therefore not be scrapped but amended and the remaining shack sites would be required to:

- Justify consideration for retention under one or more of the ‘legitimate’ argument categories
- Comply with any conformance requirements
- Demonstrate benefit to the public.

Existing shack sites have not evolved by accident. Some have been utilised for 80 years. It is inevitable that future use of such sites will have competing demands, even between government agencies. One example would be the high yield/high-end tourism market versus the family caravan/camping holiday experience.

This issue is highlighted in findings and recommendations contained within Report No 2 Part 1 tabled by the Economics and Industry Standing Committee in October 2009 which inquired into the Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in WA. The Other Relevant Matters section contains more information on this inquiry's outcomes.

Any review mechanism into policy needs to recognise this fact and establish a process to deal with this eventuality.

This is a whole-of-government issue and not just limited to the existing public land management agency. Therefore the key portfolio areas of Environment, Planning, Heritage & Local Government, Lands, Tourism and Indigenous Affairs should be involved and a lead agency nominated to drive the review.

It is suggested the Department of Regional Development and Lands coordinates the review as it is the authority responsible for Crown land and the current policy resides within the Government Land Policy Manual.

The resultant State wide relevant policy would then provide the first tier of an over-arching framework to allow for site-specific management plans to evolve.

It is unrealistic to expect that a single management model could be developed to cater for every shack site across the state. However, the state policy should also include general parameters for site specific standards that will prevent unworkable or inadequate regulations being adopted or applied to a shack site.

The structures in a shack community are equivalent to shed construction, which is entirely appropriate for the almost wilderness in which they are located. It is not appropriate to apply the same standards to shacks as those relevant for houses in a town, such as Jurien, used for permanent residence.

In addition, an example to illustrate the type of state policy need for second tier shack standards is the Caravan & Camping Inquiry Recommendation # 38 which states;

“The Department of Planning interprets the State Coastal Planning Policy in a more flexible manner so as to allow caravan parks, and particularly overflow facilities, to be developed in areas that would ordinarily be excluded by the rigid application of the policy”.

The context in which this recommendation was made relates to removing the coastal strip from pastoral leases and handing over to a Government Agency, presumably DEC, for public uses as well as relaxing the strict requirements of the Act as being a significant barrier to the development of Camping and Caravan parks and other tourism infrastructure by prospective proponents.

However, the Inquiry stated that the practice of Ningaloo area pastoral lessees providing appropriate services for nature-based tourists and caravanners is supported and was recommended to be allowed to continue.

This recommendation supports the proposed approach for state wide site-specific standards.

The second tier of the State policy for shack sites then becomes guidelines for this operational management level plan that is specific to each site.

Further explanation of these factors is contained in the Site-Specific Management Model section.

2.3 Recommendations:

1. That a full investigation be conducted of the Tasmanian Crown Land (Shack Sites) Act 1997, including its implementation as well as NSW and SA models, to identify best practice that could be applied to effect a balanced long term tenure regime for remaining shack sites in WA
2. The Committee direct a review of the current State Government Squatter Policy under a lead agency to enable retention of existing shack site settlements
3. The Committee appoint Department of Regional Development and Lands as lead agency for the review of policy
4. Any review of policy relating to shack sites establishes a protocol for future site use and takes into account competing demands including those between government agencies.

3. Regulation of Shack Sites

Shack sites in WA have been in existence since prior to the Second World War. In the late 1940s and 50s coastal sites re-established and during the 1960s and 70s some sites began to become more formalised. During the 1980s with an expansion of sites being occupied along the central coast, the State Government Squatter Policy imposed regulation requirements on crown land managers from 1989.

Due to the lag of specific policy following the expansion of shack site utilisation, a complicated set of factors has resulted in what currently exists in WA.

Existing shack sites are “managed” generally by either the local government authority or DEC, depending on the nature of surrounding lands or intended future use of the site. The level of operational management varies significantly, ranging from notional compliance monitoring of lease conditions, to active provision of services and in some cases to stewardship of shack site management plan development.

Our understanding of key characteristics of major sites is shown below:

- **Wedge & Grey (within Shire of Dandaragan)**
 - Specific reserves were created at each site for the purpose of 'Parkland, Recreation and the Letting of Cottages thereon as at 14th January 1995' and vested with CALM, rather than remaining with the Shire of Dandaragan
 - 500 Leases issued under Section 33(2) of the CALM Act from July 1995, originally 6 years, then 2 x 5 year extensions till June 2011
 - The Wedge & Grey Master Plan 2000, prepared by CALM, proposed annexing both reserves into the Nambung National Park and developing tourist facilities at both sites. However an EOI in 2001 failed to formalise any such development.
 - Whilst the Wedge & Grey Master Plan 2000 is now obsolete by its own definition, the authority to implement a management plan on the reserves does not reside within the CALM Act as it is not CALM (DEC) land.
 - Refer the Quinlan Legal Opinion in the Other Relevant Matters section and Attachment 3.
 - No effective DEC operational management is current even with the opening of the Indian Ocean Road access to both sites as early as October 2010
- **Donnelly River (within Shires of Manjimup and Nannup)**
 - Located in the D'Entrecasteaux National Park (DNP)
 - DEC propose to issue a 6 year terminating lease to the 43 shacks as part of the DNP management plan
 - DEC propose to hand over the shacks at lease termination to a commercial manager and not require the shacks to be removed

- **Naval Base (within City of Cockburn)**
 - An A class reserve controlled by DEC but administered by City of Cockburn
 - The area is listed on the City's Municipal Register of Heritage Places
 - 178 Leases reviewed annually
 - Site is serviced by the City
- **Blowholes (within Shire of Carnarvon)**
 - Specific recreational reserve created in 1969/70 due to the sale of Quobba Station to overseas interests to establish Texada Salt Mines
 - 43 shack leases administered by the Shire
 - Shire facilitated a formal integrated Management Plan to retain shack community with a 21 year leasehold period pending. Camping and caravan sites included
- **Peaceful Bay (within Shire of Denmark)**
 - Leasehold area is "A" class reserve managed by the Shire since 60s and is designated a Heritage Precinct within the Shires Town Planning Scheme
 - Refer Attachment 4
 - New 21yr lease negotiated for the 200+ lots to commence July 2010
 - Leaseholders will be required to connect to potable water, sewerage & power infrastructure if it becomes available
- **Dampier Archipelago (within Shire of Roebourne)**
 - License issued by DEC to Dampier Archipelago Recreational Dwellers Association Inc to operate the 32 shacks on three island reserves
 - Three year license renewal periods
 - Occupancy, environmental and operational conditions contained within the license
 - Refer Attachment 5
- **Windy Harbour (within Shire of Manjimup)**
 - An "A" Class Crown reserve vested with the Shire for 'Recreation, camping, caravan park and holiday cottages'
 - 220 shacks with leasehold tenure, originally 12 months (since late50s) now 20 years. Maximum occupancy 6 months per rental year
 - Current management plan 2007-2017 includes maintaining unique character of the community holiday settlement plus some additional tourist facilities. Some shack owners are permitted to rent out their shacks on a voluntary basis
 - To access the Windy Harbour Management Plan 2007-2017 visit the Shire of Manjimup website
 - www.manjimup.wa.gov.au/policies_and_documents/Documents
 - Shire provides reticulated potable water (now DEC bores), refuse area, full time paid caretaker, but no power or sewerage. Telephone service available but limited mobile coverage

The above list demonstrates government agencies have created a variety of approaches to regulate and manage remaining shack sites, comprising:

- Local Government authorities have either turned a blind eye to relevant policy and responded to shack sites by attempting to bring the communities under some formal control or played a more passive role with the expectation the State would resolve the issues.
- DEC controlled sites are characterised by a different model for each geographic region
 - In Karratha, DEC issue a 3 year license to the Dampier Archipelago Recreational Dwellers Association for shacks on the islands
 - At Wedge & Grey individual leases are issued and shacks are to be demolished at the end of the Squatter Policy lease period.
 - At Donnelly River, DEC propose to introduce individual 6 year leases then retain the shacks for a commercial manager to take over
 - At Naval Base the leases for shacks on the A Class reserve are reviewed annually by the City of Cockburn.

The National Trust of WA (NTWA) has identified that it, being a government agency, could be authorised by Management Order to become the manager of the Wedge and Grey reserves. Both sites have been assessed by the NTWA and found to be of cultural heritage value and recommended for development of a conservation management plan.

If formal heritage protection was realised, the NTWA has indicated it would be prepared to assume the management function of the sites, a role which falls within its charter.

With the public announcement by the Minister for the Environment in March 2010 that shack leases at Wedge and Grey will not cease until a compromise solution has been made, DEC conducted an initial meeting with both shack associations. However, to date, no further action has occurred.

These observations also support the point made in the policy section that site-specific management plans are appropriate rather than a unilateral model to apply to all shack sites.

However, there is a need for the development of consistent shack specific guidelines relating to shack standards. It is not appropriate to simply transpose private residential standards on shack sites. The definition of standards for shacks should aim to meet public health and safety requirements for short term occupancy patterns.

In this way, BCA regulations are not relevant to Shack Architecture and in these circumstances it is appropriate that only the “Qualitative or Performance Standard” rather than the “Quantitative Standard” of the code is required to be satisfied.

For example, there is no reason for a Shack to be internally lined, however should, for what-ever reason or another it was decided to do so, the lining on those walls should be constructed to an equivalent level to that considered the standard or norm in a metropolitan environment.

Conversely, BCA regulations relating to Slab Thickness would not be relevant, and some judgement on dimensions and material standard would be appropriate.

Resourcing the on site management needs of shack sites has been an increasing concern for two reasons.

- Agencies have limited staff to carry out their role and traditionally DEC, for example, has regarded shack sites as low priority, irrespective of lease fee revenue
- With increased ease of public access to such sites, e.g. new road into Wedge and Grey, anti-social behaviour is on the increase and security becomes a greater priority. This does not only impact shack owners, but affects the general public who access the sites and professional fishers who leave their property unattended for several months per year.

Additional resources either need to be funded from increased revenue (directly to the agency or via a commercial partner) or provided from the community pool through a partnership arrangement for management of the site.

At Windy Harbour, shack owners pay a lease fee, intended to be used for site-specific matters, plus a general rate levy to the Shire. Even with this revenue base, the Shire has indicated it has difficulty funding management of the site as the staffing cost (full time caretaker plus shire officers monitoring visits) is significant.

Conversely, if short term shack community leases expire or are terminated, lease revenue ceases and the resourcing pressures on the relevant management agency increase as the sites will still require a management function. Revenue from camping and caravan site fees will not generate sufficient total income per annum and the seasonal visitation patterns produce cash flow spikes at best.

The commercialisation of recreational shack sites is problematic, as the findings of the Economic and Industry Standing Committee inquiry support, due to the move to higher yield uses and away from traditional family holiday camping by existing operators.

3.1 Recommendations:

5. Research is undertaken by the Committee of the management practice of shack sites outside of the Central coast area of WA to identify best practice in the regulation of those sites and its application to other sites
6. The issue of availability of adequate resources to manage shack sites in WA be investigated
7. That DEC be directed to progress development of a co-existence management model at Wedge and Grey which enables long term tenure of shack sites simultaneously with formalised public access facilities
8. That DEC be directed to address the urgent need of an operational management regime at Wedge and Grey that will control the increasing visitor numbers at both sites due to the ease of access via the Indian Ocean Drive.

4. Use of Public Land in WA

Occupation of coastal Crown land in WA has tended to happen in advance of the regulation of access to such land. The reasons to access these areas have generally been associated with commercial or recreational fishing activity.

Small shack settlements evolved, and then expanded as recreational time increased and availability of 4WD vehicles became more affordable.

There are many examples of current coastal towns originating this way so the practice became a way of life for many generations. Lancelin, Jurien, Cervantes and other towns along the Central Coast had their beginnings as recreational reserves and fishing villages with squatter shacks

The current shack site communities represent legitimate use of public land but the process to formalise and regulate that use has not caught up with the activity. In some cases specific purpose reserves have been created to allow leases to be issued to validate occupation of the site and receipt of lease fees by the managing authority (usually an LGA or DEC). The problem is the structures are not authorised, hence they are only on short term tenure and this exacerbates the cyclic issue of compliance cost versus long term use.

In the case of Wedge and Grey, the use of the site is completely consistent with the “purpose of the reservation itself” (refer Quinlan Legal Opinion) and management of the reserve should be guided by that reservation. One of the recommendations of the Inquiry into the Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in WA last year was that DEC take a lead role in identifying and making available land on its estate that could be used for nature-based purposes to address the loss of traditional commercial sites. Shack sites represent a whole other dimension to the recreational need that is not met by existing formalised facilities.

Findings and Recommendation on the above mentioned Inquiry are contained within the Other Relevant Matters section.

An issue that has been raised in the broader context of public land and shack communities is equity. This issue has been broached in discussions and communications with the Office of the Minister for the Environment, DEC and Shire of Dandaragan.

There are four aspects to the issue of equity to be answered:

- How does the General Public gain access to and use of the facilities at Wedge and Grey?
- Is it fair and equitable that a shack owner at Wedge and Grey is offered long term tenure, an offer not available to the General Public?
- Is it fair and equitable that other shack owners in Central Coast shires have had their shacks demolished under the same State policy when consideration is being given to allow long term tenure at Wedge and Grey?

- Is it fair and equitable that shack owners at Wedge and Grey face removal of their shack communities when shack owners at Peaceful Bay, Windy Harbour and other WA sites were recently granted extended long term tenure?

These four questions are discussed here.

1) General Public access to and use of facilities at Wedge and Grey

The Sale of Shacks has been by Private Treaty and based on natural market forces of supply and demand. There has been an ongoing change of ownership of Shacks throughout all Shack Settlements in WA with new families coming into each Community.

This is evidence of a market that exists today and that Shacks are made available to the General Public for Sale. This is a natural, open and accountable Process of Sale, and it is expected that this process would be incorporated into the management plan for each site specific Settlement Model.

Other than the shack footprint, public access has been open to both sites and is used probably by a greater number of non-shack owners and their families.

The management models proposed allow access to upgraded shacks by the general public.

2) Offer of long term tenure for Wedge and Grey shack owners not available to the General Public

There was no hurdle or question of equity when owners of shacks and houses in settlements at Lancelin, Cervantes and Jurien were offered freehold at the time these towns were formed, and no offer to the General Public.

And there was no question of equity when shack owners at Peaceful Bay and Windy Harbour were recently offered extended long term leases, when again there was no offer to the General Public.

It is then difficult to establish that there would be an equity issue with any offer to Wedge and Grey shack owners that was not made to the General Public.

3) Other Central Coast shack owners having had their shacks removed under the same policy

Wedge and Grey shack sites were handed over to CALM in 1995 and leases were issued under the CALM Act 1984. All other shack leases were issued under the Land Administration Act through the local shire. Those shires, Carnamah, Coorow Dandaragan and Irwin had the choice to extend leases, as other shires in WA had done, or terminate the leases at the expiry date and require shacks to be removed.

Some of those affected shack communities protested and challenged the removal but failed to change the outcome. The right of the managing authority not to extend leases is not a legal issue, but it was a social issue and those shires chose to enforce the letter of the law as defined in the lease documents.

However, the democratic system to date has worked in favour of the Wedge and Grey shack communities and political change of direction is an accepted reality.

4) Wedge and Grey shack owners facing removal of their shack communities

The recent granting of long term lease extensions to shack owners at other shack sites in WA, including Peaceful Bay and Windy Harbour, was effected while the current State Government Squatter Shack policy was still current.

There was no suggestion or plan that these shacks be removed, as per the legislation.

Based on the situation where the requirement for shack removal was not enforced at these sites in the South-West, it would not be fair or reasonable that shack owners at Wedge and Grey are not offered long term leases.

4.1 Recommendations

9. In considering what constitutes legitimate use of Public Land the issue of equity is applied equally to shack leaseholders as it is intended to be for current non-users of the sites
10. Shack sites where leases are due to terminate and are subject to the application of the policy review are brought into a standard short term lease extension of 3 years pending finalisation of site specific management plans.

5. Site Specific Management Model

In the preceding sections a two tiered policy change has been recommended to allow site-specific management plans to be developed for each Shack site area

The Model represented in this section is an example to demonstrate how the principle of the policy changes would apply and take into account the key local site specific factors which should be included in the Wedge specific management plan.

Local site specific factors include:

- The European and Aboriginal heritage of the site
 - Cultural significance and shack landscape value has been well documented and processes are underway to formalise these claims
 - The model will ensure the 'sense of place' is maintained as will low-impact family oriented activities
- The fishing history, current fishing focus and marine park provisions
 - Professional fishing activity will continue, its infrastructure retained
 - All forms of legal recreational fishing activity will be accommodated in the plan. Beach access for boat launching/retrieval and long trailer parking areas provided
- Proximity to the metropolitan area and visitor patterns
 - Provision for public day use areas and overnight stay facilities
- Imminent opening of the Indian Ocean Road
 - Need for immediate interim camping site definition and ultimate integrated sites
 - Need to control the 'cutting sick' attitude visitors
 - Increase of existing market
- Tourism market and linkage to surrounding features
 - Existing market vs new market
 - Seasonal and cyclic patterns (Guilderton model)
 - "Extra every day" weekend market
 - Natural attractions drawcard
 - Commercial impact on Lancelin, Cervantes and Jurien Bay
 - Maintaining the existing economic impact
 - Shack-stay options – competing or complementing.

Tourism Market

DEC has put forward the proposition that the new coastal road, connecting Lancelin to Cervantes, will create a new market to the area.

In the case of Wedge, it will only ever expand the existing tourism market to the area, not create a new market, at least not one in the manner of which the proposition was made.

However, WIPA believes the existing tourism market for Wedge is similar to that which operates at Guilderton and for this reason we will call it the “Guilderton Model” for discussion purposes.

The important point to note is that this market is based on seasonal and cyclical tourism occupancies which include Christmas, Easter and School Holidays.

Any additional tourism market at Wedge can only be influenced by supplemental activity which, again, can only be generated through the “Natural Attraction” or “Landform” of the area. In the case at Wedge there is simply no other attraction, landform or activity that will facilitate additional tourism occupancies than those mentioned previously at Christmas, Easter and School Holiday periods.

This will restrict potential accommodation providers to be able to make viable the development of tourism infrastructure facilities, such as a camping or caravan site, at Wedge if the Shacks are removed, on the basis of what is a very low annual occupancy rate without regular intermittent visitations.

The Real Weekend Market – The “Extra Everyday”

The real market for Wedge is what Curtin University Department of Architecture design lecturers Reena Tiwari and Lyn Churchill wrote in their study into Wedge several years ago, referring to it as the “Extra Everyday Experience”.

This in part means that a visitor in Perth will finish work early Friday afternoon, drive to Wedge to spend the weekend, stay the Sunday night (the “Extra Day”) and be back at work mid-morning Monday. This is a real market and it can happen every weekend of the year.

Southwest Tourism is now promoting this as “The New Sunday”, which is essential for that area to utilise and promote due to the extra travelling distances involved for a two day rather than a three day weekend escape.

Evolution of the Model

The site specific model for Wedge described here presents one approach for retention of the shack community and was developed to present a concept to the Minister for the Environment last December to address the equity issues discussed in Section 5. This model, as a consequence, may generate competition with accommodation providers in Lancelin and Cervantes. Further discussion of this point will be addressed in other parts of this submission..

Weekend and seasonal holiday visitation are the primary means in which the shacks at Wedge are presently utilised. WIPA's vision for Wedge is an integrated recreation and tourism facility for day visitors, campers and Shack Stay users alike in a heritage themed fishing village that values low impact affordable family holidays.

WIPA believes the retention of the community can assist commercial proponents in making viable the tourism infrastructure requirements of Wedge. This model of shared Shack Retention and Commercial Tourism Operations is referred to by DEC as the Co-existence Model.

WIPA does not intend to be the proprietor or partner of any commercial tourist operation at Wedge. The Association is, however, prepared to participate in the setup and development of a commercial venture where key parties, such as the land manager, tourism authority and the local shire, believe this is warranted to further the best interest of the future tourism expansion of the site or until a critical mass is reached that would provide economic viability.

Under this draft model proposal the site would be operated through a combination of DEC, commercial operators and community stakeholders, and managed in an integrated way that delivers the Wedge "sense of place".

The key elements of the site specific management model are presented here.

5.1 Proposed Settlement Structure

The proposed Settlement Model comprises four integrated components, with management of the settlement being a partnership between DEC, the Shack Management Body (Club) and the Commercial Operators.

A Wedge Council is also proposed, comprising representatives from all the on-site stakeholders including the Yued clan (the Native Title claimants of the area), to ensure all visitors to the settlement will experience a consistent service standard and be reflective of the Wedge sense of place.

1) Shack Owners

Management of the recreational shack area at Wedge would be achieved through a single lease held by a shack management body, eliminating the 300 plus separate leases in effect now

The shack management body would be incorporated and function as a Club. The lease by the shack management body enables the operation of the Wedge settlement to operate as a short stay Residential Park. The shack management body would offer subleases to shack owners as tenants of the Residential Park

Subleases will include conditions related to relevant building code that may require shacks to be upgraded. Upgrading and refurbishment of shacks will be undertaken to comply with relevant Building Code regulations for safety and services standards, while retaining the shack architecture. A programme will also be implemented to increase use of alternate energy generation systems based on solar and wind power, and to upgrade grey water and sewerage treatment systems.

The shack management body will seek applications from members of the public desiring to obtain a shack lease, providing for greater participation in shack ownership and enjoyment at Wedge and a waiting list of applicants for shacks will be maintained by the shack management body

2) The Public Users

The public access areas will be managed by the authority with responsibility for management of the reserve (currently DEC).

Public access to the beach areas for visitors will be created involving parking, picnic areas and beach shelters close to the beach.

The opportunity for short stay visitors can be provided through “shack stay” accommodation as temporary Club Members.

Areas will be set aside for campers providing short stay visitors at Wedge with a simple low cost accommodation option. These areas will be integrated into the Shack Settlement, allowing them to experience the community and heritage aspects of Wedge. Patrons of these camp areas will have use of ablution blocks, picnic tables, benches and BBQs

3) Tourism/Commercial Operators

Accommodation providers, commercial entities and tourism operators will be managed by the authority with responsibility for management of the reserve (currently DEC).

The camp areas will be supported by an operation that delivers booking and reservation management, site and building maintenance, and camp equipment hire and sales

Provision of serviced caravan site facilities to supplement the camp areas presents the means in the long term to further enhance the short stay and holiday options at Wedge

Long term opportunities for facilities and services could include a General Store and a Heritage Information centre.

4) Professional Fishers

It is expected that the professional fishers will negotiate a lease that addresses their requirements with the authority with responsibility for management of the reserve (currently DEC).

Fishers will be required to comply with Building Code for shacks equivalent to the recreational shack owners

Summary

This model retains the cultural heritage and “sense of place” of Wedge with minimal changes to the footprint of the existing shacks and other structures while providing a variety of visitor facilities and services.

This model is consistent with elements of the successful Tasmanian shack community model and that of the shacks in the Dampier Archipelago Recreational Dwellers Association (DARDA). This model does cater for a greater level of visitation by the public and visitors to W.A., providing a benefit to the region and the state. Currently, individual Shack Visitors exceed 10,000 annually.

The single lease over the Wedge shack area delivers an efficient and cost effective means to manage the leases for the 300 plus sites in the settlement.

This management model addresses the identified issues of Exclusivity, Financial Advantage and Equity through:

1. Provision of public use and visitor facilities that enable access to and use of the Wedge shacks and settlement
2. Conformance with Building Code will require significant financial investment by shack owners over a period of time, reducing opportunity for financial advantage
3. Control of subleases by the shack management body provides the means for equitable participation in shack ownership by members of the public through the membership applications and waiting list.

5.2 Benefits to the State

The retention of the shacks, implementation of the proposed draft settlement model and adoption of a management model consistent with that proposed delivers the following benefits:

- Unique tourist destination with affordable accommodation in a family oriented community
- a holiday place with bed-night capacity that exceeds the family accommodation available at Rottnest, and the settlement model proposed here opens up this holiday place to the whole state
- retention of the cultural heritage resulting from the family oriented community centred around the shacks; generations of Wedge children having learned community values such as helping their neighbours, being involved in community events, participating in healthy outdoor activities and accepting responsibilities that go hand in hand with freedoms
- a shack based settlement that cannot be delivered by any other commercial operator
- Continued environmental protection against destruction and damage from uncontrolled visitation to an undeveloped reserve
- Retention of a critical mass of holiday users and visitors that facilitates creation of additional local tourist services for existing Tourism Operators

- affordable family oriented holiday options that encourage holidays in W.A. rather than families flying overseas for cheap holidays in places like Bali
- continued support by shack owners and visitors of local businesses, particularly at Lancelin and Cervantes, through the purchase of goods and services
- Local investment in tourism assets that is greater than that possible from a single commercial operator or DEC alone
- Creation of local employment opportunities
- The shack upgrade programme alone will result in millions of dollars expended in the purchase of building materials, solar energy equipment, water storage and waste treatment systems, much of this with local businesses
- “Sense of place” is protected from the impact of the new road.

Complementing regional business, not competing with it

One component of the exclusivity argument to be resolved is the matter of the protection of the existing commercial operations, particularly relating to the accommodation providers at Lancelin, Cervantes and Jurien.

In response to the opposition by Shire of Dandaragan and DEC to the retention of the shacks at Wedge, the arguments put forward by those bodies for the removal of the shacks essentially revolved around the principle of “Exclusive Use” of the shacks by the shack owners.

As a result of this disparagement for the retention of the shacks, and in the circumstance that greater public access to the shacks, beyond the occupancy rate which presently exists, became a condition for the retention of shack sites in WA, WIPA has incorporated the right of public access to the Shacks as a core element of its shack retention modelling.

The contention exists, though, that the principle of public access should be more concerned with public access to the site under a commercial arrangement rather than public access to the shacks, as the rental of shacks to the General Public is not consistent with a policy of “complementing” the expansion of local regional business, not “competing” with it.

WIPA believes that the accommodation providers of the area should be protected from the erosion of their business that may eventuate from increased visitation market to the area brought about by the opening of the new road connecting Lancelin to Cervantes, and that this issue will be paramount to any position of agreement that may be reached with the Shire of Dandaragan.

WIPA raises this point as an example only to highlight areas of issue, one among many, that will need to be resolved in the future with a change of direction in State Government Policy regarding shack site retention.

Transitional Implementation

The transition to move from the current DEC shack lease to the site specific management model described in this submission had been researched by WIPA in conjunction with the development of this specific model.

The transition will require three key steps:

1. Formation of the Wedge management authority “club”
2. Interim Facilities for the site
3. Site Management Planning.

Formation of the Wedge management authority “club”

The Wedge management authority being established as a “club” is a pillar of this settlement proposal model.

As an incorporated association, the “club” will require a constitution that enables it to operate and manage the site leases.

All shack owners will be required to become members, as will visitors who wish to participate in “shack stay” visitation.

Interim Facilities for the site

The new management authority will work with the current reserve manager to identify and formulate requirements for interim facilities for the site:

These facilities would include:

- Parking
- Interim camping ground
- Rubbish disposal.

Site Management Planning

The new management authority will participate in planning development activities for the site with relevant government agencies and the local government authority.

The plans will include

- Corporate, Administrative, Management and Operating Plans
- Assessment of a Shack Retention Process
- Building Works Programs:
 - Shack Upgrades
 - Site Works.

6. Other Relevant Matters

6.1 Wedge & Grey Task Force

The Task Force was a 2005 election commitment made by the State Labor Party to review resolution practices of other jurisdictions specifically Tasmania, SA and NSW. The first meeting was convened in July 2008.

Due to the calling of an early election in September 2008, no outcome of that meeting was formalised.

The State Liberal Party committed, as a 2008 pre-election promise via the office of the Shadow Minister for the Environment, to continue the Task Force created to:

“...’examine policies, legislation and associated resolution practices regarding shack communities in other states and jurisdictions, in order to determine the best way forward..’ in implementing management plans for the two reserves. Further, the purpose of the Wedge and Grey Task Force is to investigate and make recommendations on how shack communities could be integrated into such plans for the provision of upgraded recreation and tourist facilities, prior to any future EOI process being commenced.”

Carriage of this commitment was left with the Minister for the Environment. The Hon Donna Faragher concluded that the Task Force would not be re-activated due to opposing views of its membership, specifically the shack representatives and the Shire of Dandaragan, in agreeing on the terms of reference.

As a result of the task force not being re-activated, WIPA initiated Petition action was activated during 2009 which has led to this public inquiry.

6.2 Impact of Indian Ocean Road on Wedge and Grey

The main impacts of the completion of the Indian Ocean Drive between Lancelin and Cervantes will be a consequence of the increased access to the area by visitors, in both two wheel drive and four wheel drive vehicles.

This increased traffic into the Wedge and Grey sites will be for those periods of high seasonal demand such as Christmas, Easter and School Holiday periods, however there is also expected to be significant numbers of visitors each weekend.

Already there are signs that the opportunity to visit these sites is being taken by numerous visitors with varied objectives, including campers, 4WD enthusiasts, and recreational fishers.

Presently, there is no plan or activity by the Reserve Manger, DEC, to cater for the increased visitor numbers to the sites or other areas now accessible from the road.

This uncontrolled visitation and use of the sites has caused land degradation, social unrest and issues with litter and rubbish.

Wedge is now being frequented on a weekly (weekend) basis by enthusiasts bringing in high performance Dune Buggies, Quad bikes and two wheel motorcycles. Apart from the impact on the environment these vehicles are a safety risk to everybody at these sites.

The visiting camper numbers has supplemented the typically low number of convention low-impact frequenting the area; more and larger camping groups are noticeable in Wedge.

DEC has a Policy of “No Camping” in the area, however due to staffing constraints, they are unable to enforce the Policy and these activities are unchecked.

The consequence is the Wedge and Grey environment is under threat of degradation of the natural landform in the Reserve, involving:

- Dune vegetation; causing the erosion of the dune in part and the creation of sand drifts and wind blowouts
- Scrublands; by the clearing of the bushes to create or enlarge individual camping nodes and to provide camping firewood.

This increased visitation also creates concerns over health issues, mainly caused by campers rubbish left abandoned or secreted under bushes and by a lack of ablution facilities.

The common denominator which compounds these issues is a sense of non regulation of the area and a belief of impunity from prosecution for civil disobedience or anti-social behaviour. Bike Sellers are actually promoting Wedge as an area to go to ride, “as there are No Rules”.

A two-pronged approach is required to neutralise this unwanted market.

1) Interim Camping Ground

A key feature of the Settlement Model suggested by WIPA is the establishment of an Interim camping area to pave the way for Transitional change.

Initially, this camping area will provide the means to eliminate unwanted Camping behaviour by providing a sense of Regulation to which this Retroactivity Camping market will dissent and move on.

The Interim Camping Area will then provide immediate relief for those acceptable groups of Campers now able to frequent the area as a result of the construction of the new road.

Eventually, this Camping Area will provide an alternative to and an overflow from the main Camping Ground, once completed, in times of high seasonal tourism demand, such as at Christmas, Easter and School Holidays.

The development of the interim camping area would require the:

- Determination of the extents of the Camping Area
- Delineation of individual Camping Nodes within the overall Camping Area.
- Construction of an Ablutions Block
- Establishment of a Ground Water Supply to the Ablution Block, (Ground Water only, not Potable)
- Construction of a suitable Waste Water Sewerage Treatment System
- Establishment of a Refuse Disposal System including the placement and maintenance of Rubbish Bins with the Camping Area.

The formalisation of the interim camping area will provide the appearance of a regulated site, and address the environmental concerns relating to Public Health and Safety conditions.

The degradation of the Natural Landform will, however, require additional measures, which will require changes to the regulation of Traffic Management,

2) Change in Traffic Management Policy

Currently DEC relies on the Traffic Act of WA to manage traffic violations in the Reserve. The effectiveness of this Act relies on the ability of the Police and DEC Rangers to pursue and infringe transgressors.

The situation currently is that Police and Rangers are unable to pursue “extreme edge” motorcycle riders and off-road vehicle drivers through sand dunes and bushland; in most cases the transgressors evade capture and prosecution.

Quite apart from the danger involved in chasing these riders and drivers, DEC Rangers are reluctant to serve infringements for Dangerous Driving due to the requirements in such cases for them to attend court and the difficulty in proving such driving behaviour.

DEC has, however, opted to simply infringe those vehicles that are unregistered. Although this is an important initiative, it is only reaching the soft targets with DEC booking persons on low revving, low speed Agricultural Farm Bikes on their way to the beach for a spot of beach fishing or driving around the Settlement with an attached trailer gathering rubbish. The real target here are the bikes and vehicles that are recklessly speeding and seriously threatening the safety of themselves and the General Public; they should be the priority.

The real target is being missed as registered high powered two wheel bikes are allowed in the Reserve under the Traffic Act. These are now the main offending vehicles.

If DEC implemented a change so that Traffic Management was administered under the Off-road Vehicles Act these matters could be addressed and this extreme off-road activity at Wedge would be eliminated.

Under the Off-road Vehicle Act, the Reserve and its adjoining beaches can be proclaimed as a “Passive” Off-road Vehicle Area, which would incorporate a:

- restricted maximum speed limit
- classification of allowable Vehicles types
- classification of prohibited Vehicles types.

By simple banning those offending vehicles that are not allowed in the Reserve, (ie; four (4) and two (2) wheel high performance bikes and off-road racers), the need for law enforcement officers to pursue and capture dangerous riders and drivers will be no longer required.

As the Riders of these vehicles will eventually return to their Camp Sites, Enforcement Officers will only need to visit each Camp Site and either confiscate and compound the vehicles or issue infringement notices, on the basis that their vehicles are prohibited in the Reserve. Such an infringement is indefensible; the added benefit is that enforcement officers would not be required to attend Court as the vast majority of defendants will simply plead guilty.

This measure will eliminate extreme off-road vehicle activity over a short period of time. Conversely, attempting to manage traffic under the Traffic Act will only prolong the problem as it doesn't address the issue of policing the regulations adequately and efficiently.

Without these two measures for an interim camping area and traffic management being put in place concurrently and immediately, the low environmental impact and safe family oriented community at Wedge will be in jeopardy.

6.3 Inquiry into the Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in WA by the Economics and Industry Standing Committee

Whilst the recreational market for this inquiry was caravanners and campers, some of the findings and recommendations are relevant to the shack sites user group. The fundamental underlying drivers are similar to the shack site clientele.

Relevant findings from this Inquiry are listed here:

- Finding 13** Demand for cabins and chalets has risen in recent years as visitors to caravan parks demand a greater mix of accommodation types
- Finding 18** There has been an increase in the demand for camping and caravanning opportunities on pastoral leases which offer a less regulated and more nature-based camping experience
- Finding 37** The loss of nature-based camping sites on pastoral leases would constitute a major setback to tourism in WA
- Finding 58** Seasonality of demand is a defining characteristic of the caravan park and camping ground industry

- Finding 73** The diversification of caravan parks into higher yielding accommodation risks caravan parks' capacity to provide an affordable family holiday, which means the potential exclusion of the traditional family holidaymaker.
- Finding 77** Unless DEC allocates portions of its existing estate and/or future estate to caravanning and camping there will be a continuing shortage of caravan and camping sites
- Finding 99** A more flexible application of the State Coastal Planning Policy, together with a more risk-based approach to coastal planning for caravan parks, would remove some of the barriers to improving supply
- Finding 147** Tourism WA does not place sufficient priority on caravanning and camping holidays in WA

Relevant recommendations from this Inquiry are listed here:

- Recommendation 1** Tourism WA must address the lack of reliable and consistent data
- Recommendation 4** Local and state governments encourage and support pastoral leaseholders to retain and further develop low-cost, nature-based tourism sites, especially along their coast line and in other appropriate locations
- Recommendation 6** State planning ensure that future generations have sustainable access to camping along the coast and the opportunity to experience the marine park first-hand
- Recommendation 19** The DEC take a lead role in identifying and making available land on its estate that could be used for nature-based caravan parks and camping grounds
- Recommendation 38** The DoP interprets the State Coastal Planning Policy in a more flexible manner so as to allow caravan parks, and particularly overflow facilities, to be developed in areas that would ordinarily be excluded by the rigid application of the policy
- Recommendation 53** Tourism WA becomes much more active in the development and promotion of caravanning and camping in the state

6.4 Economic & Social Impact Studies

The Indian Ocean Drive Economic and Social Impact Study conducted by Pracsys was commissioned by the Wheatbelt Development Commission, DPI and the Central Coast Planning Coordinating Committee to identify the likely impacts of the road being completed on the communities, businesses and government interests within the region.

It did not however make any reference to the communities at Wedge and Grey, nor did it identify the impacts of the removal of both communities post road completion. Perhaps this was outside the

study brief, as current policy required removal of the sites or it was assumed that any negatives would be overshadowed by replacement development.

In any case it is the contention of WIPA and GCCA that due to the ongoing financial crisis and uncertainties of world markets, it is highly unlikely that any significant commercial development would happen at Wedge or Grey in the medium term.

The removal of both communities would therefore have a negative economic impact, both at the local level (Lancelin and Cervantes) and on the broader state level:

- Shack owners and visitors purchase goods and services from local merchants during trips
- Shack owners maintenance costs impact either at the local level or residential location
- Shack owners currently pay \$400,000+ per annum to DEC in lease fees
- Majority of family shack owners would otherwise spend their recreational dollars overseas due to the lack of affordable, alternatives if the settlements were demolished.

There is a cost positive benefit to the State by retaining these communities:

- Lease fee income is maintained (and probably increased) for use by government agencies
- Facilities and infrastructure are upgraded at no cost to the taxpayer
- Tourism assets are enhanced
- The capital investment and ongoing maintenance cost provides a multiplier effect on the local economy
- Through the economy of scale, other service providers can establish on site.

The scale of the social impact if the settlements were removed is equivalent to the closing down of Rottneest. There is also the lost opportunity to educate children in community values, environmental management and to develop a sense of responsibility

6.4.1 Recommendation:

11. that an Economic and Social Impact Study be commissioned urgently to verify the projected value of the Wedge and Grey shack sites to the region. WIPA and GCCA have offered to contribute to the cost of such a study to expedite the outcome of this study.

6.5 Heritage Values and Related Studies

Two sites have been registered under the Aboriginal Heritage Sites Act involving the Wedge reserve. Legislative protocols limit development actions which can be taken.

Both the Wedge and Grey Communities have been acknowledged as having cultural heritage significance to the extent that they represent an extremely rare cultural landscape and this provides a valuable opportunity for tourism development.

The National Trust of Australia (WA) has undertaken assessments of the two communities- Wedge Island Beach Shack Community in 2000 and the Grey Beach Shack Community in 2010.

The Wedge Island assessment stated

“ it is the last remaining, and largest example of a squatter shack settlement that demonstrates; a way of life for generations of Western Australian families and ‘make do’ philosophy in establishment and subsequent development of the shacks”.

The Grey Community assessment stated it was

‘ a rare cultural landscape” and had ‘high social value through the leaseholders and their friends and family’.

Copies of the full heritage assessments have been provided to the inquiry by others.

In discussing shack settlements May and Selwood wrote

‘ their settlements reflect an adaptation to the environment rather than dominance over it and their shacks are genuine examples of vernacular architecture, and a reminder to us of an earlier era’.

A Curtin University study in 2006 titled ‘Coastal Squatter Settlements in Western Australia ; Sustainability, Cultural Heritage and Identity’ commented that

‘Squatting has a long and venerable history in Australia and despite their often illegal status squatters were an admired group symbolising Australian self reliance, resourcefulness, courage and disregard of hardship’.

These well credentialed comments support the view that the settlements of Wedge and Grey have significant cultural significance. How that significance may be considered and conserved is of importance.

However other states in Australia have acknowledged the high heritage significance of squatter settlements. These states have introduced management plans that have secured ‘good outcomes with shack leaseholders taking more responsibility for the condition of their shacks and the environment and the State Governments allowing them to enter legal agreements to stay on the publicly owned land’

A 2009 Grey Community submission to the National Trust (WA) highlighted that a heritage acknowledging management plan for the settlement could be entirely in accord with the Wedge and Grey Master Plan 2000. The settlements at Wedge and Grey have a cultural significance that is squarely focussed on the communities who use Wedge and Grey. That significance can be acknowledged and preserved without any detriment to the future use and or development of the settlements or surrounding parks. Shacks and shackies are a significant part of the areas heritage.

In relation to tourism values the point repeatedly made in relevant studies is the shack settlements themselves, and the lifestyles they represent, are the focus of tourist interest.

Reena Tiwarri wrote;

‘Tourism development seems to be an answer to the need for capital inflow required to develop Wedge. The question we are faced with here is, why is wiping out the shacks necessary for any kind of tourism development at Wedge?’”

and further “

‘...but surely wiping them out is not the answer, considering that the shacks and the special practices that they give rise to are crucial in retaining the specific ‘sense of place’.

May and Selwood wrote;

“Furthermore, tourists want uniqueness, variety, stimulus.....They don’t want to go from town to town to find a sameness.....the coastal town sites are depressingly similar and are not meeting the needs of their current market – whereas the squatter shacks are.”

also

“...the current State policy of removing squatting shacks is short sighted. It effectively removes some settlements which have intrinsic charm and atmosphere and will contribute to a vacuum in informal accommodation options where demand is growing”.

References to these authors and articles are listed in Section 7

6.5.1 Recommendation

12. The process to formally assess and develop heritage conservation plans for Wedge and Grey be accelerated. Both shack associations, WIPA and GCCA, have indicated preparedness to contribute financially to a timely result.

6.6 Quinlan Legal Opinion

Due to the delay by the Dept of CALM in finalising lease extension negotiations following the 2001 election commitment and resolving the outcome of the EOI which closed December 2001, WIPA sought legal opinion as to the authority of CALM and the Minister for the Environment to implement a management plan at Wedge and Grey.

Although the unequivocal opinion (refer Appendix) was issued in September 2004, recent checks of vestings, reservation tenure, amendments to relevant Acts and Regulations would suggest the opinion is still valid.

The conclusion from that legal opinion is reproduced here:

In light of the above and the existing arrangements that apply to the Reserve, in my opinion:

- 26.1 The Reserve is not “land to which this Act applies” within the meaning of s5 of the CALM Act;
- 26.2 The Reserve cannot be subject to a management plan made under Part V of the CALM Act;
- 26.3 The “Wedge and Grey Master Plan 2000” is not a management within the meaning of Part V of the CALM Act, nor is it binding on CALM pursuant to S33(3) of the CALM Act;
- 26.4 CALM has no authority to treat the Reserve as if it were “land to which [the CALM Act] applies” and to pursue the objectives of the CALM Act which are clearly applicable only to such land;
- 26.5 It could not form part of CALM's statutory functions to manage land which is reserved under Part 4 of the Land Administration Act 1997 for which the care, control and management is governed by s46 of that Act;
- 26.6 In order for a “management plan” within the meaning of the Land Administration Act 1997 (or indeed any statutory management plan) to be created for the orderly and proper planning of the Reserve, the care, control and management of the Reserve would have to be vested in some other person or persons pursuant to s46 of the Land Administration Act 1997.

The full opinion is provided as at Attachment 3. However this document is commercial in confidence and is requested not to be released as public document.

6.7 Lancelin Defence Training Area

Immediately to the south of the Wedge reserve is the current northern boundary of the Lancelin Defence Training Area (LDTA).

The LDTA covers approximately 26,000Ha, bounded by 13km of coastline and is comprised of freehold land, long term leasehold and vacant land extending to the east of the Indian Ocean Road alignment. The freehold coastal section is the designated impact area used primarily for naval bombardment, with a surrounding safety buffer zone. The eastern sector is used primarily by the Army for artillery and battle run exercises.

The long term Defence use of this area is the reason the Indian Ocean Road reserve is so far to the east of Wedge, approximately 13km. It is understood that the new public road may, on occasions of large exercises, be temporarily closed to the public to allow movement of military vehicles across Indian Ocean Road.

In 2002 a Public Environmental Review was conducted by Ecoscape (Australia) Pty Ltd for the Department of Defence to extend the LDTA by another 36500Ha to the north of the existing area. This has not yet proceeded but is indicative of the intentions of Defence.

The ongoing activity of the LDTA is likely to be a negative factor in attracting any commercial developers to the Wedge reserve.

6.8 CALM Expression of Interest 243/EOI/2001

WIPA submitted a proposal in December 2001 to CALM in response to an Expression of Interest calling for Accommodation Facilities at Wedge and Grey as a Tourism Development Opportunity.

WIPA's submission was for a community based development that incorporated the support and advice of such respected persons as Dr Ross Dowling, from School of Tourism Marketing and Leisure at Edith Cowan University, and Mr Manni Papadoulis, the then Chair of The WA Tourism Council, in the creation of its central tourism, marketing and heritage themes.

The submission embraced the general philosophy of ecologically sustainable coastal development in balancing the Environmental, Community and Commercial needs and 'Sense of Place' of the area to provide a low impact, inexpensive, family orientated holiday destination for all to enjoy.

The proposal involved an integrated commercial camping, caravan and 200 shack facility at Wedge, linked to Grey and not dependent on completion of the Indian Ocean Road. The proposal was staged to achieve public access by 2004 and complete shack upgrade by 2010.

CALM eventually abandoned the EOI process in 2005 without any feedback to proponents, citing uncertainty of the road completion as the reason.

A copy of WIPA's substantial response document is available if required; this document has "Commercial In Confidence" status and it is requested that it not be made a public document.

References

7.1 References

CALM – Licence to Enter upon Land in the Dampier Archipelago for the Purpose of Occupying Recreational Shacks: Licence No HQ67590DA

CALM – Wedge and Grey Master Plan 2000

Crown Lands (SHACK SITES) Act 1997 (Tasmania); administered by the Department of Primary Industries, Water and Environment (c.1190s)

Grey Conservation and Community Association Inc and Wedge Island Protection Association, Presentation to the National Trust of Australia (WA) Council, 2009

Economics and Industry Standing Committee – Provision, Use and Regulation of Caravan Parks (and Camping Grounds) in Western Australia, Report No 2 Part 1 2009

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National Trust of Australia (WA), List of Classified Places: Heritage Assessment, Grey Shack Community, 2009

Peter Quinlan - Legal Opinion on Reservation of Crown Land at Wedge Island and authority of CALM to implement a Management Plan 2004

Pracsys - Indian Ocean Drive Economic and Social Impact Study

Shire of Denmark Town Planning Scheme Policy Manual - Policy No 35 Peaceful Bay Conservation Plan Development Guidelines 2004

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Tiwari R (April, 2009) ‘Embedded Poetics and Surrounding Politics in an Australian Coastal Shack Settlement’ in Journal of Landscape Architecture, ECLAS

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Tourism WA – Submission to Standing Committee Inquiry into Recreation Activities within Public Drinking Water Source Areas, December 2009

WA State Government Cabinet decision July 1989

(restricted access)

WA Government Land Policy Manual (GLPM)

(limited access)

Removal of Unauthorised Structures (Item 12.5.1.1)

Professional Fisher Shack Tenure (Item 12.8.1).

WIPA - Wedge 'naturally' Expression of Interest to CALM #243/EOI 1/2001

Exhibitions

Tiwari, R & Churchill, L (2005) 'Transgressions of Domestic Space - Wedge at the Frontline between Everyday-Extra-Everyday and between Nature and Culture', Bread Box Gallery, May 18 – 25, Perth (COMP 9.1)

Tiwari, R & Churchill, L (2004) 'Shack' Architecture – a produced landscape, Western Australian Maritime Museum, February 9 – 13, Perth (COMP 9.2)

Attachments

- Attachment 1** Government Land Policy Manual - Policy Number 12.5.1.1 Illegal Occupation of Coastal Crown Land (Squatters)
- Attachment 2** Government Land Policy manual – Policy Number 12.8.1 Professional Fisher Shack Tenure Along the Central Coast of WA
- Attachment 3** Quinlan Legal Opinion – September 2004
- Attachment 4** Peaceful Bay Conservation Development Guidelines – Shire of Manjimup Town Planning Scheme Policy No 35
- Attachment 5** Dampier Archipelago Recreational Dwellers Association Licence

Appendix 1 Tasmanian Crown Lands (Shack Sites) Act 1997

A Brief History and Summary of the Outcomes of Shack Sites Legislation in Tasmania

Executive Summary

This paper summarises the shack sites project in Tasmania which was instigated in 1997 by specific legislation. The aim of the project was "...to create secure tenure for shack owners on crown land throughout Tasmania while ensuring environmental sustainability and the continued protection of cultural and natural values" (Figure 1).

Government authorities and shack owners in Western Australia can benefit from studying the Tasmanian experience thereby expediting the process of legalising shacks in Western Australia.

1. History of Shacks of Tasmania and Progress Towards Secure tenure

- first shacks constructed around 1944
- over the years more were constructed all round the state usually at isolated beach areas and near Lakes in the Central Highlands (Figure 1)
- by 1997 over 1300 shacks on either an annual licence or a short term lease, existed on Crown Lands at 39 different locations² around Tasmania
- Shack numbers at each settlement varied from 1 shack to the largest of 379 shacks
- with no long term security of tenure, shack owners had no incentive to maintain or improve the shacks and for years had petitioned the state government for more permanent tenure but with little progress
- three major issues needed to be addressed before certainty of tenure for shacks could be implemented – these were environmental problems, a formal assessment process and special legislation to accommodate planning difficulties
- in 1997 the state government put forward legislation¹ under which each shack site would be individually assessed for suitability of long term tenure against Model Conversion Criteria (Appendix 1) which addressed environmental, Aboriginal and social issues
- the three possible outcomes of the assessment process were freehold (sale to existing shack owner), leasehold (up to 30 years) or relocation/removal
- the intention was that most shack owners would be able to purchase their shack sites once they had complied with infrastructure and environmental issues
- shack owners would pay for environmental infrastructure (effluent treatment & in some cases access roads) plus the unimproved land value of the shack site

- the intention was that all shack sites would be assessed and leaseholders notified within 12 months, however several extensions of time became necessary
- October 1999 the act was amended to extend the time allowed to complete the project by a further three years, and to ensure that all costs of the conversion process were met by shack owners and not the taxpayer.
- April 2004 a further Amendment to allow flexibility in Government assistance to shack licensees facing financial hardship.

2. Process of Implementation

Stage 1 Determination of tenure for each shack

- assessment of suitability of each shack site for long term tenure in accordance with a set of “Model Conversion Criteria” administered by the Secretary of Department of Primary Industries, Water and Environment (DPIWE) (Schedule 2A to the Act¹ reproduced at Appendix 1)
- mandatory consultation with shack owners, the local council and the Office of Aboriginal Affairs prior to the final determination of tenure
- shack owners, local councils and adjoining land occupiers had the right to appeal tenure determinations made by the Secretary
- security of tenure of a shack site could only be granted if:
 - (a) waste water could be effectively treated and disposed of to an acceptable standard
 - (b) the shack did not prevent public access to public lands and waters

Stage 2 Design and installation of infrastructure

- Design and installation of required infrastructure eg roads & sewage for each settlement
- For conversion to freehold title all shack sites had to install Council approved wastewater systems & some settlements had to upgrade existing access roads. This involvement of the relevant Local Government contributed to long delays in some cases.
- Shack owners could either undertake the required work themselves then have it inspected and certified for compliance with required standards, or ask that the government appointed contractor carry out the work and have that cost added to the cost of purchase.

Stage 3 Valuations, sale and transfer of title

- After all approvals the total purchase price for each shack site was assessed based on the cost of infrastructure improvements and the Valuer General's determination of site value. Valuations assumed completed and working infrastructure.
- Over the period from 1997 to 2003 land values rose steeply in Tasmania with the result that shack sites assessed later were assessed to higher values than similar sites assessed earlier in the process.
- Aggrieved shack owners complained to their MP's about the administration of the Act¹.
- During the 11 years from 1997 to 2008, changes in government and of personnel in the Shack Sites Project Team contributed to loss of corporate knowledge, mis-understandings about previously agreed matters and generally delayed progress
- In 2006 the Public Accounts Committee established an Inquiry² "...to investigate the costs of the project, the time taken to ensure the process of determinations for shack sites and the projected time and cost to complete the process."
- November 2008 a Parliamentary Standing Committee of Public Accounts "Administration of the Crown Lands (Shack Sites) Act 1997" delivered its report² after an 18 month long inquiry into the handling of the shack sites project in Tasmania.
- According to the report of the Standing Committee² " co-ordination and communications amongst all the authorities involved – Aurora, Aboriginal consultants, heritage professionals, local councils and engineers as well as the three principal entities involved (the shack owner, the local council and the Project Team) was poor."
- The report recommended compensation for some of the aggrieved shack owners but according to the Mercury newspaper³ this was rejected by the state government.

3. The Current Situation in Tasmania

- According to a Ministerial report to the Standing Committee² at 30th April 2007, 1160 shacks had been assessed, with 1019 to be freeholded, 88 to be leased and 53 to be removed.
- On 25th June 2010, Ms Julie Avery of Crown Land Services in Hobart Tasmania advised that the Shack Site Project finished in early 2009. The remaining few issues are being handled within Crown Land Services. They are willing to assist with further information but details would have to be obtained from their archives and would require a formal request.
- The contact details are:
Crown Land Services
GPO Box 44
Hobart TAS 7001

Phone: 03 6233 6413
Fax: 03 6233 6655
Email: CrownLandServices.Enquiries@dpipwe.tas.gov.au

Applicability of the Tasmania Process to Shacks in Western Australia

- The report of the Standing Committee² handed down in 2008 provides a comprehensive summary of pitfalls which WA needs to avoid in determining the future of its shacks
- The remaining WA shacks are not as scattered in location or as numerous as in Tasmania where determinations had to be made in over 30 different settlements
- Clearly an assessment process takes time and needs to be made as straight forward as possible
- Control of the process at each settlement needs to be centralised in the hands of one body (not necessarily the same body) appropriate to that location and which has the will to succeed.
- While allowing time for due process, speed is of the essence to ensure fairness to all
- An easily accessible appeal process must be put in place
- Documented communication with the shack owners and their representatives is essential from the beginning
- Introducing and implementing legislation as in Tasmania is likely to delay and prolong the process – it is preferable to find a solution under current laws
- Existing non-conforming use may be an applicable category which avoids some obstacles which would otherwise require legislation to sort out. This category was used for some Tasmanian shacks where a longer term lease was considered most appropriate

- In some areas of WA such as Grey and Wedge, the purposes of the special reserves on which they are situated already includes "...for the letting of cottages..." 4 so a longer term lease may be the easier solution rather than freehold, as it would minimise changes to legislation and be more easily implemented

5. References

1. Crown Lands (Shack Sites) Act 1997 (No. 87 of 1997) Royal Assent 14th January 1998 Parliament of Tasmania. (Accessible online at <http://www.thelaw.tas.gov.au>)
2. Report of the Parliamentary Standing Committee of Public Accounts "Administration of the Crown Lands (Shack Sites) Act 1997" 18th November 2008 Parliament of Tasmania. (Accessible online at <http://www.parliament.tas.gov.au/Ctee/REPORTS/PP31%20Shack%20Sites.pdf>)
3. Paine, Michelle "Last-ditch bid to save shacks" The Mercury 24th July 2009.
4. Nambung National Park Management Plan 1998-2008 Management Plan No. 37 Department of Conservation and Land Management WA 1998

FIGURE 1

The aims of the Shack Sites Project in Tasmania - photograph taken November 2007 at the Cramps Bay Shacks Subdivision in Central Highlands.



FIGURE 2

The Locations of Shack Sites in Tasmania.



Tasmania - Location of Shack Sites

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

Reproduced from the report of the Parliamentary Standing Committee of Public Accounts "Administration of the Crown Lands (Shack Sites) Act 1997" Parliament of Tasmania No. 31 2008

APPENDIX 1

Model Conversion Criteria (Schedule 2A) and conditions (Section 16 (2)) for Determinations under CROWN LANDS (SHACK SITES) ACT 1997

SCHEDULE 2A - Model conversion criteria

Section 5(4)

1. Removal

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

2. Lease or sale

- (1) Other than in exceptional circumstances, a shack site should not be sold if the shack site is within any of the following areas:
 - (a) the Tasmanian Wilderness World Heritage Area;
 - (b) the Southwest National Park;
 - (c) the Southwest Conservation Area;
 - (d) Mount William National Park;
 - (e) Waterhouse Conservation Area.
- (2) Where a shack site is not covered by any of the preceding criteria, the preferred course will ordinarily be the sale of the shack site to the existing lessee or licensee, unless factors special to the case make it desirable to issue a lease, for instance because it is considered necessary to impose conditions of the kind referred to in section 16(2).

CROWN LANDS (SHACK SITES) ACT 1997 - SECT 16

PART 5 - Implementing determinations Division 1 - Replacement 16. Effect of determination to replace lease or licence

- (1) A shack site determination referred to in section 4(1)(a) authorises the Minister to –
 - (a) cancel the subsisting lease or licence for the shack site; and
 - (b) offer the lessee or licensee, by way of replacement, a lease of the shack site under and subject to the Crown Lands Act 1976 or, if applicable, the National Parks and Reserves Management Act 2002 for a period not exceeding 30 years.
- (2) Without limiting the matters that may be made terms or conditions of the replacement lease, such lease may contain provisions generally to the effect of any one or more of the following:
 - (a) that the lessee must carry out specified work or provide specified infrastructure, or both, within a specified time or at specified intervals and that, in default, the Crown may carry out the work or provide the infrastructure at the cost of the lessee;
 - (b) that the lessee must make a capital contribution towards the cost of providing any infrastructure that has been or, in the reasonable opinion of the Secretary, will have to be provided by the Crown in relation to the shack site;
 - (ba) that the lessee must pay, or make a capital contribution towards, the administrative costs;
 - (c) that the lessee must enter into a joint scheme with adjoining lessees or other specified persons;
 - (d) that the lessee must seek the approval of specified persons in relation to specified matters within a specified time or at specified intervals;

- (e) that the lessee must, in relation to the shack site, adopt, cease or modify any practice in relation to the treatment or disposal of waste water;
- (f) that the lessee must adopt, cease or modify any practice in relation to the environmental protection of the shack site;
- (g) that the Minister, on behalf of the Crown, may cancel the lease and remove any shack on the shack site, and recover costs from the lessee, in the event that the lessee commits an on-going breach of a condition referred to in paragraph (d), (e) or (f);
- (h) that on the expiry, termination or surrender of the lease, all or any part of the private infrastructure on the shack site becomes the property of the Crown.