Hon Brian Ellis MLC  
Chairman  
Standing Committee on Environment and Public Affairs  
Legislative Council  
Parliament House  
PERTH WA 6000  

Dear Mr Ellis  

INQUIRY INTO SHACK SITES IN WESTERN AUSTRALIA  

Thank you for your letter dated 31 May 2010 inviting the Department of Environment and Conservation (DEC) to make a submission to the Standing Committee's inquiry into shack sites in Western Australia.  

I would like to provide the following background information and overview of key issues as DEC's submission to the inquiry.  

OVERVIEW OF GOVERNMENT POLICY  

Government policy for shack communities  

Squatter shacks have been confined to small coastal locations where farmers and city dwellers erected opportunistic and makeshift dwellings for annual holidays, and where professional fishers set up bases close to fishing grounds and good anchorage. As recreational use of the coast increased, larger numbers of squatter shacks were erected and the State Government determined that a policy for the administration and removal of illegally erected squatter shacks should be prepared.  

The State Government Squatter Policy was formulated in 1987 and formally adopted as Government policy in 1989 (copy at Attachment 1). The policy was developed by the former Department of Land Administration and is derived from, and enforces, section 164 of the Land Act 1933, which relates to offences on public lands (now the Land Administration Act 1997, sections 270-273).  

Under the Squatter Policy, 678 shacks have been removed including:  

- 138 shacks in the Shire of Coorow;  
- about 240 in the Shire of Carnamah;  

DIRECTOR GENERAL AND ENVIRONMENTAL SERVICES DIVISIONS: The Atrium, 168 St Georges Terrace, Perth, Western Australia 6000  
Phone: (08) 6467 5000 Fax: (08) 6467 5562 TTY: 1880 555 630  

PARKS AND CONSERVATION SERVICES DIVISIONS: Executive: Corner of Australia II Drive and Hackett Drive, Crawley, Western Australia 6009  
Phone: (08) 9442 0300 Fax: (08) 9386 1578 Operations: 17 Dick Perry Avenue, Technology Park, Kensington, Western Australia 6151  
Phone: (08) 9219 8000 Fax: (08) 9334 0498 TTY: 9334 0546  

POSTAL ADDRESS FOR ALL DIVISIONS: Locked Bag 104, Bentley Delivery Centre, Western Australia 6983  
www.dec.wa.gov.au  
wagov.au
The most recent removal of 170 shacks from Jurien Bay in 2001 enabled development of the popular Sandy Cape recreation area that provides basic amenities for camping, caravanning and day visitors. Likewise shack removal in the Shire of Coorow in 1994 enabled development of a coastal drive and series of recreational sites adjacent to Greenhead.

Professional fisher shacks are a recognised exemption from the policy and generally are permitted to remain.

Other policy relevant to shack communities

The *State Planning Policy No. 2.6: State Coastal Planning Policy*, administered under the Planning portfolio, states that local and regional planning decisions should:

'...support the removal of existing unlawful dwellings (squatter shacks) on coastal Crown land as per the Cabinet endorsed State Government Squatter Policy (July, 1989 and January, 1999).

This policy also provides guidelines for ensuring that new buildings and coastal foreshore infrastructure 'are positioned to avoid risk of damage from coastal processes and, where possible, avoid the need for physical structures to protect development from potential damage caused by physical processes on the coast'.

The *State Coastal Planning Policy* also includes a number of relevant principles including:

- public ownership of and access to the coast should be through the provision of a coastal foreshore reserve;
- identification of coastal setbacks should take into account ecological values, visual amenity, recreation needs, safety of lives and property; and
- allowance should be made for the ongoing operation of natural dynamic coastal processes over time such as the impacts of severe storms and sea level rise.

OVERVIEW OF SHACK SITES IN WESTERN AUSTRALIA

Location and prevalence of shack sites in Western Australia

In Western Australia, shack communities vary in terms of their accessibility, the standard of shack construction, the size of the community and its location and proximity to the Perth metropolitan area or regional centres. These factors, as well as the environmental conditions at each site, create different issues and impacts at each shack location and affect the long-term sustainability of these settlements. Estimates of shack numbers and locations, as understood by DEC, are shown in the table below.
<table>
<thead>
<tr>
<th>Shack location</th>
<th>Shire</th>
<th>Estimated number of shacks</th>
<th>Managing agency/authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wedge</td>
<td>Dandaragan</td>
<td>320</td>
<td>DEC</td>
</tr>
<tr>
<td>Grey</td>
<td>Dandaragan</td>
<td>130</td>
<td>DEC</td>
</tr>
<tr>
<td>Naval Base</td>
<td>Cockburn</td>
<td>178</td>
<td>Local government</td>
</tr>
<tr>
<td>Shannon and D'Entrecasteaux National Parks</td>
<td>Nannup/Manjimup</td>
<td>63</td>
<td>DEC</td>
</tr>
<tr>
<td>Lucky Bay, near Port Gregory and Horrocks Beach</td>
<td>Northampton</td>
<td>30</td>
<td>Local government</td>
</tr>
<tr>
<td>Quobba</td>
<td>Carnarvon</td>
<td>35</td>
<td>Local government</td>
</tr>
<tr>
<td>Dampier Archipelago</td>
<td>Roebourne</td>
<td>33</td>
<td>DEC</td>
</tr>
<tr>
<td>Israelite Bay</td>
<td>Esperance</td>
<td>1</td>
<td>Local government</td>
</tr>
<tr>
<td>Coolimba (professional rock lobster fisher shacks) near Dongara</td>
<td>Carnamah</td>
<td>20</td>
<td>Local government</td>
</tr>
<tr>
<td>Cliff Head (professional rock lobster fisher shacks) near Dongara</td>
<td>Irwin</td>
<td>40</td>
<td>Local government</td>
</tr>
<tr>
<td>Peaceful Bay, near Walpole</td>
<td>Denmark</td>
<td>203</td>
<td>Local government</td>
</tr>
</tbody>
</table>

An overview of the situation at each of the shack sites is provided below.

**Shacks at Wedge and Grey**

Wedge and Grey (combined) is the largest shack community in the State. Management of squatter shacks at Wedge and Grey was formalised in 1995 with the creation of reserve 43284 at Grey for the purpose of parkland, recreation and letting of cottages; and reserve 43283 at Wedge for the purpose of parkland, recreation and letting of cottages. These reserves were created with the intention that they would be added to adjoining reserves managed by DEC under the *Conservation and Land Management Act 1984* (CALM Act) following removal of the squatter shacks.

With the approval of both the then Minister for Lands and Minister for the Environment, the Governor placed these unvested reserves with the Department of Conservation and Land Management on 14 February 1995 under section 33(2) of the CALM Act. At this time the reserves became subject to the lease and enforcement provisions of the CALM Act. On 25 August 1995, the Executive Director of the then Department of Conservation and Land Management was granted powers and duties under the then *Land Act 1933*, through an instrument of delegation, to exercise powers and duties for offences on public lands, removal of unauthorised structures from public lands, and the power to extend the time limit for removal of structures.

The Central Coast Regional Strategy (under the Planning portfolio) supports implementation of the Squatter Policy at Wedge and Grey. The *Nambung National Park Management Plan 1998* (Attachment 2) and the *Wedge and Grey Master Plan 2000* (Attachment 3) provide for the removal of shacks at Wedge and Grey, consistent with the Squatter Policy. The *Wedge and Grey Master Plan 2000*
provides a framework for future land use at these sites which provides public access and recreation and tourism opportunities including day visitor facilities and a range of accommodation from campsites, caravan parks to family chalets.

Leases have been granted to shack occupiers at Wedge and Grey, with the current lease period designated to end at 30 June 2011.

It is expected that Indian Ocean Drive, linking Lancelin and Cervantes, will be completed by June 2011 and up to 3,500 vehicles per day will use the road. Sealed road access to Wedge is due to be completed by July 2010. This will be the major tourism road to the north-west, and it will access the State’s second most visited national park, i.e. Nambung National Park. For the first time, the new road will allow two wheel drive access to Wedge and Grey and the shacks will become more prominent.

**Shacks in national parks and reserves**

Where shacks occur on parks and reserves managed by DEC, the management plan for the area addresses management of shacks. This is the situation for shacks in the Shannon National Park, D'Entrecasteaux National Park and Dampier Archipelago nature reserves.

With regard to huts in the Shannon and D'Entrecasteaux National Parks, the *Shannon Park and D'Entrecasteaux National Park Management Plan 1987-1997*, which is the current management plan for these parks, contains objectives to:

- ‘retain huts which are useful for public purposes, have recognised historic values or are subject to a current leasing arrangement’ (page 121) and;
- ‘progressively remove other huts which impinge on the physical, biological or aesthetic values of the Parks’ (page 121).

The prescriptions contained in the plan in relation to the huts support these objectives and also indicate that ‘no new huts or cabins will be constructed and no new leases issued’ (page 122).

A revised management plan for the Shannon and D'Entrecasteaux national parks is currently progressing through the approvals process under the CALM Act.

Huts in Shannon and D'Entrecasteaux national parks are of a standard where they are likely to be upgraded to meet building codes.

With regard to shacks on Dampier Archipelago nature reserves, a 1970s shack licence exists between DEC and the Dampier Archipelago Recreational Dwellers Association. The *Dampier Archipelago Nature Reserves Management Plan 1990-2000*, which is the current management plan for these reserves, states that:

- ‘The issue of shack licences on the recreation reserves will be resolved within the life of the management plan’ (page 24); and
'the derelict remains of shacks and camping shelters that occur on some of the islands subject to this plan will be removed. No permanent structures are to be erected on the islands, except at the departmental research facility on Enderby Island' (page 47).

**Shacks on lands managed by local government authorities**

Shacks at Quobba are located on a reserve managed by the Shire of Carnarvon and are subject to its town planning scheme and coastal strategy. Shacks at the Naval Base are managed by the City of Cockburn under a memorandum of agreement with an annual approval. Shacks at Lucky Bay are located on a reserve managed by the Shire of Northampton and are subject to an agreement with the Shire. The shack at Israelite Bay is managed by the Shire of Esperance. The shacks at Peaceful Bay are managed by the Shire of Denmark under a 21 year lease with the Minister for Lands being a signatory to the lease. All of the aforementioned leasing arrangements by the Shires pre-date the Squatter Policy.

All private recreational shacks at Coolimba and Cliff Head have been removed under the Squatter Policy. The remaining shacks belong to professional rock lobster fishers. It is expected that these shacks will be upgraded to meet the Building Code of Australia.

**OVERVIEW OF KEY ISSUES**

The presence of shacks, particularly in large numbers, as is the case at Wedge and Grey, presents a number of issues. These include:

1. compliance with planning, building and health requirements;
2. equity of access and use of the areas for all members of the community;
3. environmental management;
4. native title claims over shack areas; and
5. heritage considerations in respect of shack communities.

An overview of these issues is provided below.

1. **Compliance with planning, health and safety requirements**

The nature of shack construction and the historical development of shack communities has meant that they generally do not meet planning, health and safety requirements nor building codes.

Illicit waste disposal has occurred at many shack communities and there are illegal and unplanned refuse sites at these communities. Scattered debris and refuse from shack activities is often present, including materials such as asbestos, loose metals, car bodies, broken glass and concrete, plastics, spilt oils and fuels. None of the disposal sites have the required environmental controls or checks in place. All are unlined and therefore risk contaminating groundwater with leachates, creating the
potential for human disease, injury and other problems associated with uncovered refuse.

The provisions of the *Health Act 1911* are not met by the shack settlements. As such, if shacks were to remain, long-term plans for these areas would need to incorporate health controls for water supplies, sewerage and refuse disposal.

It is considered that most of the shacks in their current condition would not comply with the structural requirements of the Building Code of Australia (BCA). For example, in terms of compliance with the BCA, the majority of shacks at Wedge and Grey are built from low value recycled materials including tin and asbestos sheeting. This presents hazards associated with falling structures, asbestos materials, loose tin, contaminants and fire. The BCA is applicable to the shack settlements and any future plans that consider shack retention need to include compliance with the code to ensure public safety and amenity. In some cases, upgrading of shacks to meet BCA requirements would mean that it is necessary to totally rebuild shacks due to their dilapidated state. If new shacks were to be constructed rather than upgrading existing shacks, consideration would need to be given to native title rights and interests and coastal setbacks, as well as broader planning policies.

2. *Equity of access*

The shacks occupy attractive locations that would otherwise be available for tourism development and public use and enjoyment. The shacks have generally been established on public lands without lawful authority or purchase. If the shacks are granted permanent or long-term tenure, the issue of equitable access will need to be addressed. A process that allows the general public opportunities to bid for and use the land on an equal basis should be considered. The formal continuation of shack communities may create a precedent for the establishment of further shack communities in other parts of Western Australia.

3. *Environmental management*

Environmental issues relating to shack sites mainly revolve around human usage pressures which impact on the natural environment. The scale of environmental impacts is generally proportional to the size of the shack site community and the sensitivity of the environment in which the shacks are located.

Impacts on vegetation and landforms are caused by the footprint of shacks, the use of off-road vehicles and foot tracks. This causes loss of habitat for flora and fauna, fire management issues, and the spread of pest plants and animals. Rehabilitation to repair environmental damage has been necessary in some instances.

Along with the human health implications, long-term unplanned, unserviced and unmanaged human habitation has led to sewage and leachate contamination of groundwater.
4. Native title claims over shack areas

Existing native title claims that cover shack areas need to be considered. It is understood that issuing longer term leases for shacks, and/or allowing new structures to be built to meet health, safety and building requirements, may be considered as 'future acts' under the Native Title Act 1993.

5. Heritage considerations of shack communities

Shack owners have suggested that shacks may have cultural heritage values. For example, the Wedge Island Protection Association and Grey Community and Conservation Association have presented to government a model for shack retention based on heritage grounds and the need to maintain a sense of place, together with other recreational shack use proposals. The Heritage Council of WA and DEC have consulted over these matters and agreed that the heritage issues related to the shacks are best examined on a case-by-case basis Statewide.

Thank you for the opportunity to make this submission to the Standing Committee on Environment and Public Affairs.

Yours sincerely

Keiran McNamara
DIRECTOR GENERAL

6 July 2010

Att
OBJECTIVE

To control the establishment of any new unlawful dwellings (squatter shacks) on coastal Crown land and facilitate the removal of existing dwellings (shacks) over a six-year period.

POLICY STATEMENT

i) PRINCIPLE

DOLA has participated in the formulation of an appropriate Statewide policy on squatters and is required to proceed in accordance with the Government’s policy on squatters as adopted by Cabinet in 1989 and detailed more fully below.

The policy relates to unmanaged (unvested) Crown land and unmanaged (unvested) reserves. Bodies already holding a Management Order (vesting) of affected reserved land (e.g. local governments) may exercise delegated powers under Section 273 of the LAA, 1997 (Section 164B of the Land Act, 1933) to immediately remove squatters.

A Management Body (vestee) may nevertheless opt to proceed in accordance with the policy, and where that body has indicated an unwillingness to evict squatters, may be required to proceed along these policy lines.

Crown land may be placed under the care and control of (vested in) a management body to facilitate implementation of the policy guidelines through local management.

ii) POLICY

1. No new illegal shacks will be permitted on reserved or vacant Crown land along the State’s coastline from the date of Cabinet’s approval of this policy.

2.1 Existing owners of shacks on Crown land or unvested reserves will be permitted to remain for a period of 6 years provided that:

   i) there are no extraneous circumstances in particular areas which require shacks to be removed sooner;
ii) the shacks are not situated on reserved land that has been subject to a management plan under the CALM Act.

The 6 year period is to allow for the reasonable usage of existing investment while deterring extensive improvements or redevelopment. The 6 years will be calculated from the commencement date of arrangements for particular areas.

2.2 This 6 year tenancy is subject to:
   i) no services being provided by State or Local Government;
   ii) the sites being left in a clean and tidy condition upon completion of occupancy and the cost of removal of the shack and rehabilitation of the site is being borne by the shack owner;
   iii) no further clearing or making of access roads being undertaken;
   iv) no transfer of shacks or occupancy rights being permitted;
   v) no improvements or extensions apart from those sanctioned by the local authority for safety or health reasons being undertaken;
   vi) State, Federal and Local Governments being indemnified against damage to property or persons resultant from the poor condition of the shacks;
   vii) the payment of an annual fee to the Local Authority or other body managing the reserve or Crown land, which should cover progressive rehabilitation and management of shack areas;
   viii) the land not being required for another purpose at an earlier time, in which case the owner(s) would be issued at the conclusion of the six-year period or at an earlier time.

3. The Government recognises that professional fishers merit an exemption from the policy and will be permitted to continue to operate from shack areas. However, formalised tenure to a fisherman’s shack will only be granted in the form of a lease in conjunction with fishing licences under the control of Fisheries Western Australia and subject to conditions laid down by the Department. Leasing of sites for professional fisher’s shacks to generally be granted and administered by local government with variations to be subject to negotiation between local government and the Department of Land Administration and/or consideration by the West Coast Working Group as part of the practical implementation.

4. Fishers’ shacks should be of a reasonable standard as determined by the particular local authority. In using these coastal areas, fishers must have regard for the coastal environment. This should be monitored and regulated by the local authority.

5. This general policy will be further developed through the progressive examination of individual areas of the State by working groups generally comprised of local government and State government representatives. More detailed studies of particular areas will be undertaken in order to consider the tenure of particular coastal lands, the uses to which these areas will be put once squatters are removed and management programs considered appropriate.

(PPRMLP12)