



**Wedge Island Protection Association Inc**  
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Mr Colin Ingram  
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via email to [colin.ingram@dpaw.wa.gov.au](mailto:colin.ingram@dpaw.wa.gov.au)

2 May 2014

Dear Colin

### **Response to DPaW Zone Planning Proposal for Wedge as presented 26<sup>th</sup> February 2014**

On behalf of the members and Executive of the Wedge Island Protection Association Inc (WIPA), I submit the following observations, comments, recommendations and required action to advance the development of a workable management plan for the Wedge reserve.

WIPA acknowledges that the Proposal represents a tangible step forward in the resolution of coexistence and shack retention at Wedge and commends the team at DPaW for the effort that has gone into the formulation of this draft proposal.

Both shack associations at Wedge and Grey have been seeking resolution to the issues of shack retention, certainty of tenure, public access, environmental sustainability and conservation of the social and cultural heritage of these communities for many years. This Proposal, in principle, addresses these issues in a constructive way and therefore forms a solid basis on which to commence a more detailed planning and negotiation process.

Whilst the Proposal provides a conceptual model and a platform for further development of the coexistence planning process, there are significant areas of concern for the members of WIPA regarding the underlying principles of this Proposal. There is also insufficient detail or information in a number of areas and all areas will require resolution prior to WIPA being willing to endorse the Proposal.

## **Our consultation process to date**

Following attendance by our three representatives at the DPaW workshop for stakeholders, WIPA sought clarification from DPaW on a range of matters during March to enable better explanation of the DPaW Zone proposal and rationale to WIPA members.

Advice was also sought from external consultants relating to coastal processes, planning policy and options under the managed retreat provisions. In addition, the impact of the Zone proposal on heritage issues was also pursued.

Member meetings were conducted in Perth in early April and discussions were held at Wedge during the long weekends in March and April. Feedback was received verbally, via email, phone and in written formats.

## **Initial concerns**

WIPA and GCCA sought an early consultation meeting with DPaW following the offer at the workshop, circulation of the record of discussions from workshop, confirmation of the extended response period to 30<sup>th</sup> April and initial member feedback.

A list of concerns was forwarded on 18<sup>th</sup> March and a meeting arranged for 25<sup>th</sup> March.

Issues covered included;

- Unacceptable term for the proposed interim licence (to only 30 June 2015) and proposed differential long term lease periods.
- Unacceptable universal evacuation date for all shacks in Zone A/V
- Inequity of the requirement to upgrade shacks to meet compliance standards but not matched with equal long term tenure
- Unacceptable resumption provision of shacks in Zone F/Y post upgrade and possible lack of definition of public recreation facility plans prior to needing to make investment decisions
- Lack of definition of the relocation process in terms of sequencing and priority for WIPA/GCCA members
- The previously agreed halt to effecting shack transfers until mandatory relocation issues had been resolved was deferred, pending an alternative proposal from DPaW

Apart from a commitment to extend the interim period to 30 June 2016, which was well received by members and met the political commitment to provide a three year interim extension from 1 July 2013, the commitment from that meeting for DPaW to seek further advice from the State Solicitor's Office (SSO) to address liability issues, lease caveats and shack transfer policy has not resulted in an outcome. Similarly, no advance has been confirmed on matters relating to further analysis of specific site erosion risk and realistic relocation timescale for Zone A/V shacks or a timeframe for the definition of establishment of public facilities in Zone F/Y.

## **Concern regarding the underlying principles of the Proposal:**

### **1. Conservation of Social and Cultural Heritage Values**

WIPA acknowledge that in this Proposal DPaW have endeavoured to consider the heritage values of the Wedge and Grey communities and included representatives from the State Heritage Office (SHO) in the Stakeholder feedback process. However we are concerned that conservation of the Social and Cultural Heritage values of these communities has not been given appropriate priority in this process, nor have they been sufficiently considered and addressed.

The Proposal does not take into account the Social and Cultural heritage values of these communities in that it designates Zones without regard to these values. Some of the shacks earmarked in the Proposal for early or possible removal at Wedge are amongst the earliest shacks built by fishers in these communities. They are an integral part of the social cultural fabric of the community.

The heritage values of the Wedge and Grey communities have been independently verified by both the National Trust of Australia (WA) and recognised Heritage consultants and advisers, Godden Mackay Logan and Context. These State level values need to be appropriately addressed via a formal assessment by the State Heritage Office (prior to development and implementation of the Proposal) and the development of an appropriate constraints and opportunities policy or Conservation Management Plan. Failure to complete this process prior to development and implementation of the DPaW proposal is likely to result in significant adverse impact on the social and cultural fabric of Wedge and Grey and subsequent loss of a heritage asset for the State.

The zoning process may address the natural and Aboriginal cultural values and threats to those values but does not address in any way the European cultural heritage values contained in these special landscapes.

Mr Geoff Ashley, co-author of the Godden Mackay Logan Shack Settlements Cultural Heritage Assessment report, in collaboration with Context, was again engaged by the NTWA to provide an opinion on the DPaW Proposed Management Zones. His response is at Attachment 1.

In relation to Aboriginal Heritage matters, WIPA was also informed in mid April of a proposal to extend the western boundary of Zone D (Aboriginal Heritage) and that Zone G (the 'Gun Club') would become an area for exclusive Aboriginal activity.

As explained at the workshop, DPaW had undertaken formal negotiations to better define the Aboriginal Heritage site and a buffer area had been added to ensure adequate protection. This area was then defined by the boundary of Zone D.

DPaW has confirmed that the renegotiated boundary with DAA has not changed again. WIPA members vehemently oppose such an extension for what is considered dubious merit and would not accept such a change as a means of evicting perceived 'troublesome neighbours'.

This is another reason to finalise the European heritage assessment and recognise the legitimate 'co-existence' use of the area represented by Zone G.

**Required Action:**

- 1.1 Suspension of the current planning process until such time as the Heritage Council of WA has completed its assessment of the Wedge and Grey Settlements and prepared a conservation policy document that would inform the DPaW planning process.
- 1.2 Inclusion of the National Trust of Australia (WA) as consultants and stakeholder participants in the planning and consultation process.
- 1.3 Adoption of the recommendations proposed in Attachment 1, Context letter (Geoff Ashley)
- 1.4 No change to the proposed Zone D boundary or use of Zone G

**2. Approach to Risk Management**

The approach taken in the Proposal regarding the necessity to remove shacks due to coastal erosion and inundation risk is, in the opinion of WIPA and our advisers, overly conservative and impractical. Furthermore, it is the opinion of WIPA that the process taken thus far to define all of the planning and DPaW proposed management zones has been based on data at inappropriately coarse scales.

In particular, for DPaW designated high risk areas (A and V), it is imperative that this information is appropriately reviewed and ground-proofed. This process should proceed via the engagement of a suitably qualified coastal processes consultant and give consideration to assigning separate 'imminent, medium-term and long-term' risk classifications. Such separation of risk timeframes might be achievable by using specific year period modelling data, to align better with timeframes defined in Section 7 of Schedule 1 of State Planning Policy (SPP) 2.6, where 'variations' (or exceptions) allow for planning timeframes of less than 30 years; rather than 1 in 100 year data which has been utilised to formulate the current zone mapping.

One of the technical references cited during the workshop, 'Eliot et al, The Coast of the Shires of Gingin and Dandaragan, Western Australia', acknowledges that the results should be treated as indicative rather than prescriptive and recommends further studies to enable appropriate hazard and risk assessment at 'cell level'.

WIPA was referred to a consultancy, UDLA, to identify how such a process could be undertaken. The UDLA proposal is at Attachment 2 and proposes that all shack sites in Zone A be assessed to determine current erosion effects, vulnerability, realistic risk identification, remediation opportunities, extended timeframe possibilities and timing of managed relocation.

WIPA acknowledges the need for prudent risk management to ensure the safety of people and preservation of the environment. This acknowledgement includes recognising the probable need to remove or relocate some shacks, however removal should occur where there is imminent risk rather than future risk.

**Required action:**

- 2.1 All shacks should have the option to remain, subject to compliance with other agreed requirements over time, until such time as there is imminent risk of erosion or inundation.
- 2.2 An agreed definition of 'imminent' is required.
- 2.3 Further assessment of erosion and inundation risk be carried out on a shack-by-shack basis, using modelling data for appropriate timeframes to separate imminent, medium-term and long-term risks.
- 2.4 Engagement of an external consultant, such as UDLA or Damara WA (Matt Eliot), be undertaken to accelerate a resolution.

**3. Future tenure and Universal 20 year lease periods post shack upgrade**

There is a disconnection between required decision deadlines by shack owners and lack of clarity of the process to obtain long term tenure.

Agreement on the terms and conditions of the current proposed licence remains unresolved, as does the issue of Licence (proposed by DPaW) versus Lease (preferred by WIPA).

As an underlying principle, agreement on the terms and conditions of the lease / licence for the initial term and either agreement on the terms and conditions of future licences / leases or a memorandum of understanding detailing agreed terms and conditions will be required as a part of the planning process and prior to WIPA agreeing to a plan.

It is simply not good business practice to enter into a new 'contract' when the full picture is not clear.

The process followed with hut owners at Donnelly River involved an agreement which formally linked the three year upgrade licence with a connecting lease. The lease document was created at the time of signing the licence with the conditions and term defined.

It is accepted that DPaW cannot currently issue a lease extension as changes to the CALM Act has removed that authority as the land is not 'owned' under that Act. In addition, a new lease which is possible through the Minister for Lands, would trigger a 'future act' under Native Title.

However, legal advice provided to WIPA suggests that Native Title may have been extinguished over the specific shack lease sites, due to the date of issue and nature of original leases and possible former history of any 'exclusive possession' tenure. Resolution of this matter has been delayed due to difficulty accessing relevant records to confirm previous tenure history and complete a tenure audit. If Native Title has been extinguished then a different picture emerges with current licence/lease negotiations.

The Proposal prescribes either 5 or 20 year rolling leases following upgrade of shacks, depending in which zone the shack is located, to meet relevant building and health code compliance.

DPaW explained that whilst 5 year terms were expected to be automatically rolled over, it was also a matter of managing risk. If shack owners heavily invested in the upgrade, assuming long term tenure, then the government would be less likely to terminate such leases if the worst case scenario occurred.

WIPAs position is quite clear – the agreement to upgrade to compliance standards and meet such costs is offset with a 20 year rolling lease.

The mechanism to manage risk is reference to lease/license caveats to indemnify the State and define early termination circumstances. This approach is provided for in the SPPP guidelines.

**Required action:**

- 3.1 The tenure plan details be formally defined to move from interim extension, transition upgrade to long term occupancy
- 3.2 Evidence of the tenure audit of the reserves is required to then resolve if Native Title has been extinguished over the shack sites (not the reserves)
- 3.3 Proposed long term lease term be 20 years for all compliant shacks
- 3.4 Tenure document to define indemnity, caveats, termination/removal/relocation clauses to protect the interests of all parties

**Other Concerns with insufficient detail or information**

**4. Management of transition process for relocated shacks and shack owners**

DPaW have acknowledged that much of the detailed planning for this transition process is still to be determined. Appropriate management of the transition process for displaced shack owners is a critical factor in ensuring no undermining of the intent of the Proposal and no damage to the social fabric of the Wedge and Grey communities. There are a number of issues that will impact this process, including but not limited to:

- Availability of suitable available shacks or shack sites for displaced shack owners at the right time.
- Determining which shack owners have priority over others for choices of locations.
- Ensuring availability of shacks for displaced shack owners – unlike previous periods where tenure extensions were delayed, the Proposal dictates that shack sites will diminish and resultant retained sites become more desirable. There is potential for a ‘black market’ for shacks that could result in shacks that would otherwise become available for displaced shack owners being sold to ‘queue jumpers’. It is likely, that if this occurs on any scale there may be no (or very few) shacks relinquished.
- Due consideration being given to cultural heritage values. Specifically there should be relevant importance given to continuity of established relationships between shacks (both physical and social).

### **Recommendation**

- 4.1 Control of shack transfer is implemented immediately to ensure sites are available as intended under the Proposal to allow relocation of existing shack owners if required. It is not intended that such a control would continue once all ‘evacuees’ were relocated.
- 4.2 A system is developed to manage the relocation of shack owners in an orderly and fair manner to retain the cultural heritage values identified

## **5. Shack removal / relocation options**

The current proposal includes only relinquished shacks or previous shack sites as options available for shack owners having to relocate.

WIPA does not believe these alternatives will provide sufficient sites for the optimum relocation within reasonable timeframes for those displaced.

We believe alternative sites for relocation or building of replacement shacks for displaced shack owners is required. WIPA and DPaW should work together to identify sites on ‘disturbed ground’ and other sites within the settlement area that would be suitable for shack relocation.

In addition, the proposed Zone F (Public Recreation) is considered an area which could accommodate additional shack sites and should be considered for that purpose ahead of resumption of sites for future public facilities. Zone H is available for that purpose and would have no impact on any shack.

WIPA believes DPaW have sufficient current data available (vegetation condition mapping layer) to facilitate these areas being cooperatively identified. Appropriate redevelopment on these sites would have minimal environmental impact due to the existing disturbance.

## **Recommendation**

- 5.1 Zone F be utilised for shack relocation if sufficient sites are not available in other suitable areas when needed.
- 5.2 DPaW work with WIPA to identify suitable alternative sites to accommodate required shack relocations

## **6. Timing of removal / relocation and timeframes for completion of same**

Recognising that the view of WIPA is that only shacks that are at imminent risk of loss from coastal processes should be removed at all, we believe that the timing for removal for those that must move should be influenced by several factors:

- Willingness and ability of the shack owner to move within a certain timeframe
- Availability of a suitable alternative location to move to.
- The time it will take for the shack owner to make the new location suitable for use (eg. A shack may need to be built on a vacant site).
- The degree to which the risk is 'imminent' (e.g. a slowly eroding dune is less imminent than waves crashing through the front door)

## **Recommendation**

- 6.1 For each shack that requires removal, a transition plan is agreed by shack owners, shack associations and the site manager to ensure the smoothest transition possible.

## **7. Shack compliance with Building Codes**

The required level and method of compliance with relevant Building codes is yet to be agreed and formulated. WIPA, GCCA, and DPaW have agreed to commence a process to determine what these requirements might be.

All stakeholders have indicated support of compliance with basic health and safety requirements. There also seems to be universal support for other compliance requirements, primarily Building Code requirements to be assessed under the Performance Criteria of the Codes, which take a 'fit for purpose' approach to assessment and certification.

WIPA believe a minimum compliance approach similar to that evident in the NSW Royal National Park Management Plan is a relevant precedence. (Refer Appendix 1: Letter authored by Geoff Ashley, Context)

A range of optional improvements beyond minimum compliance standards should also be specified.



## **Recommendation**

- 7.1 Essential health and safety compliance, as agreed, be implemented.
- 7.2 All other elements of relevant codes be deemed on a 'fit for purpose' basis and guidance to be taken from similar shack site precedence

## **8. Cost of compliance**

Many shack owners have limited financial means, so consideration is required in determining compliance standards that are affordable to most.

An alternative to upgrade/relocation of individual shacks is the concept of Cluster Shacks.

- Where agreed by existing shack owners for whatever reason, the option be made available to develop a larger shack site with shared facilities and separate 'private' wings which would replace the separate shacks previously occupied.
- This would take advantage of the economy of scale and represent a reduced environmental footprint compared to the separate dwellings.

## **Recommendation**

- 8.1 Provision be made to enable the cost of compliance to be met by those shack owners with limited financial means
- 8.2 Cluster shacks be considered as an alternative to separate individually upgraded shacks.

## **9. Time frames for compliance and relocation**

Whilst the proposed timeframe of 3 years for compliance seems reasonable on the surface, it may not be a practical, based on the extent of work that may be required on individual shacks. This is relevant to both compliance and removal / relocation issues.

WIPA is comfortable with a 3 year transitional timeframe prior to commencement of the longer term leases, however we believe it will be necessary to include a process by which extended timeframes for compliance or relocation and removal are agreed on a case by case basis with appropriate consideration given to extent of compliance work required and individuals shack owners ability to afford the works.

## **10. Future Governance and the connection the proposed planning structure to the future site utilisation.**

DPaW declared at the workshop that it was 'unable to suggest options for future governance at this stage'.

WIPA is unclear as to who the site manager will be and who will be committed to the management plan. If it's too hard to work out now, then nothing changes until it has been completed.

Our perception is that DPaW, which is not the site 'owner', does not enthusiastically embrace the long term plan implied in the Proposal. If that is the case, then a plan with loose ends will be inherited by some other entity and the process may start again.

## **WIPA response to proposed management zones, guidelines and management prescriptions**

The statements above regarding conservation of Social and Cultural Heritage values, Risk Management approach and Future Tenure raise the question of the validity of the various Zones as presented by DPaW in the Proposal, as a mechanism for determining assessment and management of shacks and shack owners within the communities. WIPA recommends a management process that offers a 'level playing field' for all shack owners, with similar base terms, conditions and opportunities for all. Exceptions resulting from environmental risk or other factors should be determined on a case by case basis.

The statements under the following headings, consistent with the original zone format document reflect our amended statements which represent our views in this submission.

### **11. WIPA response to Guidelines / Rationale for Shack areas (DPaW Zones A, B, C, E & F)**

The purpose of the Shack area is to:

- Preserve, maintain and continue long term shack use and shack heritage values.
- Ensure that environmental values are maintained and protected and public safety risks associated with coastal processes are managed.

Risks associated with coastal processes should be assessed 'on the ground' and remedial action taken where risks are 'imminent'. (refer Section 2 for detailed recommendations)

At least equal consideration should be applied to the conservation of social and Cultural Heritage values of the Settlement areas.

Approach to assessment for potential remedial action or removal to be informed by Conservation Policy determined post formal Heritage Assessment by the State Heritage Office.

## **12. Recommended Management prescriptions (for section 11)**

Short 0-2 years, Medium 2-5 years, Long 5+ years

### **SHORT**

- Shack Licence renewal until 30 June 2016
- Ground-proofing for individual shacks to determine 'imminent' risk of inundation or coastal erosion in areas identified as 'at risk'.
- Agreement with owners of shacks requiring removal regarding re-location or removal of shack subject to identification and availability of mutually agreeable suitable alternative locations.
- Shack owners in 'at risk' locations, but not at imminent risk, will have the option to 'volunteer' to remove or re-locate their shacks to an alternative suitable location.
- Shack removal within a reasonable time frame to be agreed.
- Minor/ general shack maintenance allowed in pre-removal period as directed by building guidelines (to be established)
- Shack owners with shacks not to be removed in the initial licence period have until 30 June 2016 to decide if they intend to comply with Building Act, Health Act, electrical and plumbing requirements for their shacks.
- Shack owners will have until 30 June 2016 to decide if they intend to comply with Building Act, Health Act, electrical and plumbing requirements for their shacks.
- DPaW in association with WIPA will identify 'disturbed' sites that may be suitable to be made available for use by displaced shack owners in the event that existing shack sites are not available or suitable.

### **MEDIUM**

- If shack licence holders in an area assessed to be 'at risk' don't agree to comply shacks will be removed.
- If shack licence holders in other than 'at risk' locations choose not to comply, shacks will become available for licence transfer to those displaced from other locations.
- If shack licence holders agree to comply a licence renewal until 30 June 2019\* will be issued.
- Shack licence holders have until 30 June 2019\* to undertake building improvement works as directed by building guidelines (to be established)

### **LONG**

- Shack lease offered on a 20 year rolling period post 30 June 2019\*
- This lease will include a clause triggering removal / relocation of the shack in the event of imminent risk of loss due to inundation, smothering or coastal erosion.
- If removal or relocation is required shack owners will be able to relocate to a mutually agreeable suitable alternative location within a reasonable agreed timeframe.

## CONDITIONS

- Any shacks not transferred by 30 June 2019\* may be retained to be available to future displaced shack owners, made available for use by the community for public access or other mutually agreed beneficial purposes.
- DPaW will identify previously relinquished shack sites with an existing shack identification number (i.e. a site with a previous shack that may have been removed) that could be redeveloped by displaced shack licence holders firstly from Wedge then from Grey.

\*For the purposes of this document, reference to a licence / lease renewal until 30 June 2019 is on the basis that this is the date and timeframe agreed by all stakeholders to a reasonable period in which to comply with improvement works. If a reasonable period to comply is deemed to be a different period than 3 years from the end of the initial licence period, this alternative agreed period should replace all references to 30 June 2019.

### **13. WIPA response to Guidelines / Rationale Public Recreation within current settlement area (DPaW Management zone F)**

- Zone's purpose is to identify areas for future development of public recreation facilities and where possible protect shack heritage values.
- The zone is defined by land with physical values suitable for the long term use for public recreation facilities as determined through DPaW's site assessment process.
- Government will undertake further detailed planning to identify specific priority locations of future public recreation development within this zone.
- This planning will occur within a timeframe that enables DPaW to notify any shack owners that their shacks will be impacted by the proposed development, prior to having to make a decision regarding compliance with building standards.
- This planning will furthermore, endeavour to locate development in areas within this zone that will not impact any shacks or as few as possible.
- Shack owners who are impacted by the planned development will have the option to relocate to available suitable locations
- Once this planning is completed, DPaW will re-define the boundaries of Zone F to only the areas of planned development.

NOTE: WIPA acknowledges that the intent of this proposal is to include some public access within the boundaries of the community; WIPA would recommend Zone H for development of public recreation facilities as the first priority. The rationale for this recommendation is to:

- a) Minimise disturbance or potential relocation for existing shack owners.
- b) To maximise possible locations available to shack owners displaced from other locations, and
- c) To minimise disturbance of the social cultural fabric of the community.

Development within the community boundaries should be limited to appropriately located 'shack stay' facilities to enable the public to experience the 'shack lifestyle'.

#### **14. Recommended Management prescriptions (for section 13)**

Short 0-2 years, Medium 2-5 years, Long 5+ years

##### **SHORT**

- Shack Licence renewal until 30 June 2016
- DPaW will complete planning for proposed development locations and define boundaries of impacted areas.
- All shacks not impacted by planned development will revert to current settlement area status
- DPaW will identify shacks impacted by planned development and notify shack owners.
- Shack owners will have the option to remain until removed by the redevelopment or remove or re-locate their shacks to an alternative suitable location prior.
- Minor/ general shack maintenance allowed in pre-removal period as directed by building guidelines (to be established)
- Shack owners choosing to remain will have until 30 June 2016 to decide if they intend to comply with Building Act, Health Act, electrical and plumbing requirements for their shacks.

##### **MEDIUM**

If shack licence holders choose not to comply, the licence of the shacks may be transferred to displaced shack licence holders from Wedge as priority followed by any shack licence holders from Grey who may be displaced.

- If shack licence holders agree to comply a licence renewal until 30 June 2019\* will be issued.
- Shack licence holders have until 30 June 2019\* to undertake building improvement works as directed by building guidelines (to be established)

##### **LONG**

- Shack lease offered on a 20 year rolling period post 30 June 2019\*

##### **CONDITIONS**

- Any shacks not transferred by 30 June 2019\* may be retained to be available to future displaced shack owners, made available for use by the community for public access or other mutually agreed beneficial purposes.

\*For the purposes of this document, reference to a licence / lease renewal until 30 June 2019 is on the basis that this is the date and timeframe agreed by all stakeholders to a reasonable period in which to comply with improvement works. If a reasonable period to comply is deemed to be a different period than 3 years from the end of the initial licence period, this alternative agreed period should replace all references to 30 June 2019.

**15. WIPA response to Guidelines / Rationale Public Recreation within current settlement area (DPaW Management zone G)**

WIPA proposes no change to the statements for this zone and expects the formalisation of the European heritage assessment before any implementation of the Proposal.

We appreciate the opportunity to participate in this process and look forward to the ongoing challenge to achieve a viable management plan for the site.

Regards,



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President WIPA  
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**Attachments**

1. Context letter – Wedge and Grey Settlements-Proposed Management Zones
2. UDLA Proposal – Wedge Island Response Management Plan