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SPECIAL  
AREA  
RATE

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Review of Special Area Rate Submission  
Port Geographe Landowners Association  
Incorporated

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## Special Area Rate, Port Geographe

### Introduction

Our Association is aware of negotiations currently taking place between the City of Busselton and the State Government to frame a new Management Deed.

While this Deed is being negotiated without the third stakeholders, the developer, Port Geographe Landowners Association (PGLOA) believes that the SAR rate charged by the City exclusively to Port Geographe landowners should also be renegotiated. Landowners did not have a say when this impost was struck as this condition was imposed prior to the first lot being sold in the development. Prospective landowners, who wanted to live in this development, had to pay the levy, no argument.

We believe if it is good enough for the City to renegotiate with the State Government over the future coastal and waterways maintenance, then it is good enough for our Landowners to renegotiate the SAR rate. After all they pay this particular SAR, no one else does, and the dynamics have changed with the old groyne system built by the developer with private money now being replaced with a new configuration funded by the State Government.

### Unfair Impost

This report is submitted by the Port Geographe Land Owners Association to highlight what our members consider is an unfair Special Area Rate for the **future** coastal and water ways maintenance at Port Geographe.

Our members have had to pay the SAR continuously, from about the 1997/98 fiscal year, in addition to the annual council rate.

The PGLOA has received conflicting messages recently from the City over the SAR and the future maintenance funding. A response letter from the City outlining the negotiations taking place for a new management deed is in direct contrast to what PGLOA representatives were told during a "Cuppa with Councillor" session on 3<sup>rd</sup> September 2013, and reconfirmed later by a City email, that the SAR rate would not increase. (See Attachment section at the back of this submission.)

A scanned copy of the first page of the City's letter is enclosed as an attachment at the end of this document. **The second and third paragraphs of this letter are of concern to the PGLOA.** This concern and the future collection methodology form the basis of the landowner group (PGLOA) wanting input into these current negotiations.

This is because we believe Port Geographe landowners are unfairly targeted considering other community infrastructure costs are shared by the whole community. Furthermore, the SAR establishes a payment inequality between landowners and those that use the waterways and benefit from the new transformation of coastal structures. This is because the waterways are used more by others than landowners.

The PGLOA believes that the current sole SAR collection from landowners should be changed to include a user pays system and the SAR charged to landowners reduced to a more equitable and fairer collection system. In return, the value of the reduction in SAR rate should then be used for parks and gardens maintenance and improvement.

In essence, the current SAR charge on Port Geographe landowners is discriminatory and is based on an unfair, and in some ways misguided, rationale. **This is because everybody else has access to the Port Geographe coastal strip and canal water ways at no cost.** Our landowners believe that, while they own land in this privately funded development, it is not their “exclusive” estate. Landowners living close to other public infrastructure, such as the Busselton Leisure Centre, do not pay a SAR because they do not own the facility. It is a public facility and we all pay for its operational and maintenance requirements. This is just one example and there are plenty of others.

This should also be the case with the future maintenance of Port Geographe infrastructure. The coastal strip at Port Geographe does not belong to landowners. The waterways throughout the canal system and the marina do not belong to Port Geographe landowners. Those landowners who live on the canals pay a licensing fee for a jetty, built by the landowner, into the canal waterways. This in itself is proof that the waterways are a public asset.

The total annual collection of this SAR (around \$156,000) compared to possible future maintenance costs indicates the tardiness in monitoring and addressing this issue since the construction of the first waterways and public access to the boat ramp. It is evident that, had a user pays system been in place from the start and less of an impost placed on a limited catchment of landowners, the waterways management fund would have been in a far better state. There are far more people using the waterways than landowners.

Regardless of what future maintenance is required along the coastal strip at Port Geographe and its waterways, it is public infrastructure and should be funded by the community at large. Furthermore, the State Government, via the Department of Transport, obtains revenue from leasing the harbour bed. This revenue should in fact be set aside for the maintenance of the entrance channel and waterways. It is not unreasonable then to expect the State Government to contribute to the maintenance cost as it receives funds for both the harbour bed lease and licensing fees for jetties.

It is an opportune time to reconsider the SAR collection process given the new groyne configuration work is geared to prevent seaweed build up on the western beach at Port Geographe, a factor that has cost up to \$2 million annually previously (City’s figure) on bypassing. This new groyne configuration should also reduce the amount of sand replenishment required at Wonnerup beach after winter erosion. **The combined benefits of these new works should dramatically reduce the amount of coastal maintenance.**

The PGLOA acknowledges that the annual SAR collection is around \$156,000 and that the remainder of expenditure for maintenance of the Port Geographe coast and its waterways is yet to be determined, given the formation of this new groyne configuration. But it would appear that any shortfall in collection over expenditure will result in an increase in the SAR and the remaining tab picked up by ratepayers and or taxpayers (if the State Government chips in to fund maintenance). If this is the case, Port Geographe landowners will be contributing to the rise in the City’s annual general council rate in addition to the rise in the SAR rate as well as paying taxes to the State Government.

This scenario clearly demonstrates the lack of attention to this issue, with sole reliance on Port Geographe landowners paying up until now into an accumulating fund for future maintenance. This collection ideology has been short sighted given that a user pays method should at least have been running conjointly.

It must also be remembered that the SAR is being collected for waterways maintenance. This waterways maintenance does not include maintenance of canal walls, which are inside canal lot owners' boundaries. It also does not contribute to any maintenance of private jetties extending from these canal lots. Landowners will have to pay individually for any deterioration of these items.

As stated already the waterways are for public use. So too is the coastal strip in front of Port Geographe. Furthermore, the maintenance boundary for the coastal works at Port Geographe has been extended over the years beyond what was first surveyed. On the western side, the coastal maintenance boundary only extended to the old Guerin Street groyne (located adjacent to Groyne Road). This groyne was subsequently removed. Public pressure (some of which has come from outside the Port Geographe SAR catchment area) due to seaweed buildup has seen these boundaries and the bypassing work extended further and further west beyond this point to Guerin Street. Similarly, at the Wonnerup end there has been more beach refurbishment done annually than first envisaged. These two factors have contributed up until now to the annual coastal maintenance expenditure at Port Geographe rising to \$2 million.

However, erosion occurs at many places on the Busselton coastline caused by the unpredictable winter storms. A recent example of this is the erosion that took place on the beach just east of the Busselton Jetty. Such remedial works on the Busselton coast are paid out of the City funds raised through the normal annual rates. All Port Geographe landowners' general rates contribute to these costs. The exclusive SAR collection is a separate impost on top of annual rates collection from these landowners.

## **Background**

The SAR collection was introduced out of the initial Development Deed implemented during the early 90's, with subsequent modification in later years, and is applied by the local authority. It requires Port Geographe landowners **exclusively** to pay a levy of about 22% (on top of their annual council rates) for future coastal and waterways maintenance.

The surcharge was imposed because of the ongoing maintenance identified for coastal management, such as sand bypassing from the western side of the development to Wonnerup. It also was imposed for dredging within the entrance channel and canal water ways, hydrological studies for canal depth and water quality testing, to name but a few. Only Port Geographe landowners who live in the identified catchment area pay this levy, including those that live back from the canals on "dry lots" within this catchment area and whether they use the waterways or not.

The PGLOA understands that the "Waterways Management Fund" currently holds a nominal amount of \$2.7million-\$3.1million. We understand that, for a Special Area Rate to be struck by a local authority, there has to be a benefit to landowners. The perceived benefit of this special area rate for landowners is based on the premise that, because water ways have been constructed, the benefit would be an increase in land values. However the reality is not necessarily the case.

Since the development of the first lots in Port Geographe 20 years ago, there has been no bigger increase in the value of property in Port Geographe compared to like real estate in the western side of Busselton. While it is recognized landowners paid market value for the land at Port Geographe, this value would have had to have exceeded developer's cost otherwise the project would never had seen the light of day. So, indirectly, landowners have paid for the infrastructure at Port Geographe even though land purchased was assessed at market value. So, indirectly, landowners have paid their fair share of a public asset.

The PGLOA understands that, under the existing Development Deed (now under review), the drawing from these accumulated funds by the City of Busselton can only occur after the developer has sold out of the last lot in Port Geographe and met all their obligations. Currently, however, the dynamics have changed as the developer is bankrupt and the developer's bank is holding debt and there are still about 400 lots to be developed with no future developer in sight.

Up until the recently started groyne reconfiguration project, and 2012 coastal and entrance channel maintenance, not one cent of government money has been spent on public amenity infrastructure. It has all been provided by private money. **As previously stated, many Port Geographe landowners believe that they have paid indirectly for the public amenities as these costs have been a component of the market value of the land price on purchase. These prime, public amenity components include the entrance channel waterways, harbour and canal waterways and public boat ramps.** As a consequence they believe the SAR surcharge is a "double whammy" payment.

Apart from the West Australian public using the boat ramps and the Port Geographe waterways for recreational purposes, commercial operators, and government agencies such as Fisheries, Customs and Water Police also enter this water based development. No boat ramp fees or boat ramp car park fees are collected to defray any maintenance costs. However, boat ramp car parking fees **are** levied at Hillary's boat harbour and another Mandurah marina facility.

The PGLOA believes this has been a lost opportunity over the years and would not have occurred if a fairer user pays method had been introduced some years back and combined with a lesser impost on the affected Port Geographe community. Port Geographe landowners believe it is timely to review the SAR encumbered solely on them. It needs to be reconsidered during this current negotiating period between the State Government and the City of Busselton so the burden is less on Port Geographe landowners and shared more equitably across the community of Western Australia.

**In other words, the PGLOA needs to be part of any negotiation which discusses future maintenance funding. We have a right to do so as we are the ratepayers most affected and the only landowners contributing to maintenance. We do not wish simply to be asked for comment after these matters have been thrashed out internally within the City's administration and the State Government departments. Simply because it becomes a fait accompli!**

#### **Other SAR Collections in the City of Busselton**

The current Special Area Rates levied for the communities at Vasse and Yoganup (Provence subdivision) which is for parks and gardens and water features, is for the sole betterment of those particular estates. This is in contrast to the Port Geographe levy which is imposed for the benefit of all City of Busselton residents and furthermore for every West Australian.

**In fact, this report would not have been submitted if the SAR for Port Geographe was for parks and gardens.** Landowners would much prefer the SAR contributing to a higher standard of landscaping rather than maintenance of infrastructure which should be funded by the whole community via State and Local Government funding.

### **Port Geographe Boat Ramps and Adjoining Car and Trailer Park**

The licence plates of vehicles in the car and trailer park at the Port Geographe Boat Launching Ramps shows that users come from far and wide to launch their craft to enjoy recreational fishing in Geographe Bay. Many are from areas outside the City's boundaries. **By using the boat ramp facilities they also traverse the Port Geographe waterways free of charge.**

There is no tourism promotion needed here, just good infrastructure, even though it is in need of repair (a City maintenance obligation). This car park and the adjoining boat ramps have indirectly been paid for by the landowners of Port Geographe. It raises a very fundamental question. Is it fair that Port Geographe Landowners are the sole payers of SAR for coastal and waterways maintenance? The life of these boat ramps is about twenty years, a common life span for underwater marina facilities. So these boat ramps are now over half their life span. And if maintenance is not done soon, and these boat ramps are allowed to deteriorate further, then their life span could be shorter thus utilising more unnecessary ratepayer/taxpayer funded outlays to rebuild them.

### **Commercial and State Government Operations**

Commercial tour operators visit Port Geographe as part of their routine charters. So too do Government agency vessels such as Fisheries, Customs, Water Police and marine research craft. These vessels pass through the entrance channel without any contribution to the canal waterways maintenance or the maintenance of the coast west and east of Port Geographe. They may lease a pen in the marina, but this in itself does not contribute to the maintenance cost of the waterways.

This begs the question - why do Port Geographe landowners solely pay the SAR when such use of these waterways goes on without any contribution to the SAR by commercial or government craft?

### **Wonnerup Beach**

Much of the coast that surrounds Port Geographe is a soft coast and is subject to the vagrancy of winter storms. Wonnerup in particular has been an area of coastline which has been vulnerable to winter elements. In some years the beach has accreted while in other periods it has been savagely eroded. At one point, prior to the construction of Port Geographe groynes, the beach was back level with Layman Road at McCormack Street.

In the main, the coast in Western Australia has been the responsibility of the State Government. No major preventative erosion funding had been spent on Wonnerup Beach prior to the Port Geographe development deed and the building of groyne structures to protect the coast. So why is that only Port Geographe landowners have to pay the SAR levy to contribute to the ongoing maintenance of Wonnerup erosion problems?

## **Beach West of Port Geographe**

The design of the groyne system for Port Geographe was approved by the State Government via its then agency, the Department of Marine and Harbours. Prior to the new reconfiguration, the beach immediately west of the entrance channel groyne at Port Geographe was designed to be a sand trap to accumulate sand to replenish Wonnerup Beach which was eroded by annual winter storms. It is now clear that, as well as being a sand trap area, this beach with its first groyne configuration was also a seaweed trap.

The beach west of Port Geographe and Wonnerup beach are public beaches. Furthermore, management of the coast should be a State responsibility, particularly now the reconfiguration is being funded by the State Government. Even though this infrastructure was initially paid for by a private developer, it is not a fair proposition that Port Geographe landowners are the sole payers of the SAR. And in the future, Port Geographe landowners will pay 75% of the cost, a disproportionate amount for such a small community. Currently around 600 landowners pay the SAR. This will only grow to 1000 landowners when the development is completed.

A more equitable arrangement would be a user pays system with a lesser contribution from Port Geographe landowners. The Port Geographe coastal strip and its waterways are used by all and sundry and, as such, the maintenance costs should be shared by the whole community.

## **State Government Initiative**

The State Government has taken on the responsibility for the new configuration. The Minister responsible, when announcing these new works at a press conference, was asked about Government funding for this project. He responded by saying it is a State responsibility. The PGLOA is thankful for these new works and supports the statement that it is a State responsibility.

As stated, Port Geographe landowners within the SAR catchment area are only a small proportion of the people who will benefit from this initiative. Wonnerup residents, and those landowners living further west of the Port Geographe SAR catchment area, also benefit without any impost. Not to mention the general public and tourists who use the waterways, boat ramps, beaches etc.

We were also interested to read comments of the Minister for Transport in the local paper "The Mail" of July 3 2013 when it was announced the reconfiguration works was about to commence. The paper quotes the Minister as saying, "In my view the project de-risks the project for two key groups: The City of Busselton and its ratepayers". Under this plan the financial responsibility has been taken back by the State Government. We will take responsibility for it, not the ratepayers of Busselton".

## **Suggested Recommendation Options :**

- **That the PGLOA is included in current negotiations taking place between the State Government and the City of Busselton on the SAR issue. (While we recognize the PGCCG is in place, we only have two representatives on this consulting group while others on this committee do not pay this levy.)**

- **The State pays for the future maintenance of the coast at Port Geographe. It is now their infrastructure. They are building the new groyne configuration and part of their responsibility should be the maintenance of this new asset, including the adjacent coastline on both sides of these structures.**
- **The new works is a benefit for all Western Australians, not just Port Geographe landowners. (The beaches and facilities created via new foreshore landscaping will create a new tourist attraction. The lagoon in particular will become a safe swimming area, even more so now with public concern over sharks.)**
- **Funding of the waterways management throughout Port Geographe includes a user pays system with a lesser percentage SAR charge on Port Geographe landowners. As a consequence, the amount discounted on the current SAR charge is utilized to better maintain and improve the parks and gardens in this estate.**

**Other suggested options, but not necessarily limited to those below, are:**

- Cap the SAR for Port Geographe Landowners and charge the rest of the Busselton community a surcharge on their rates.
- Charge an additional licencing fee for commercial and government vessels entering Port Geographe waters.
- Charge boat ramp users other than Port Geographe residents a user pays fee, either a car parking fee or a boat ramp fee.

***Attachments follow on next two pages.***

## Copy of Email from the City of Busselton on 10/9/2013 (key paragraph highlighted below).

(Sender: Meredith Dixon)

Dear Steve,

Nice to meet you the other day.

Sorry for lateness of responding, we've been tied up lately with the Mayor's Prayer Breakfast.

But below are the outcomes of the meeting attended by you and Mr Valentine, I know you have already been in contact with Karl Ilich regarding DoT's future consultation plans, so that's great.

Advice – Mr Valentine and Mr O'Brien advised to get involved with community consultation initiatives that will be undertaken by the DoT over the next 6 – 12 months esp. in relation to the landscaping and future foreshore enhancement plans, community liaison officer is Karl Ilich

[PortGeographe.Info@transport.wa.gov.au](mailto:PortGeographe.Info@transport.wa.gov.au)

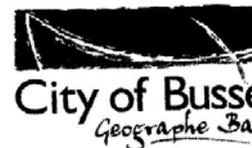
**Advice – Mayor Stubbs advised that it is Council's intention that the current SAR on P/Geo residents will not be increased to cover the anticipated shortfall in maintaining coastal waterways. Mayor Stubbs noted that the current SAR is being collected for the purpose of meeting the obligations in the current management deed which includes the maintenance of coastal structures, bypassing and water[way] quality management.**

Advice – Mayor Stubbs advised that there is an existing P/Geographe reserve fund (from CoB reserve). Council has made no determination on the future spend of these funds.

Action - Sharon Woodford-Jones (in association with Oliver Darby) to provide Council with briefing notes on the current status on the water pump that is supposed to aerate the water in the stinger free pool (near Starboard and Keil Street). Noting that there is no pump in operation and the water is stagnant.

Advice – the Port Geographe Community Consultation Forum have been advised about the intent of the future management deed between the State and the City and will be notified of the outcome of negotiations.

**Meredith Dixon**  
Public Relations Officer



Dear John

Thank you for your recent email enquiring about the terms of the new management deed being negotiated with State Government.

To recap, the existing management deed provides that following handover of the development the City (formerly the Shire) will take on responsibility for (among other things):

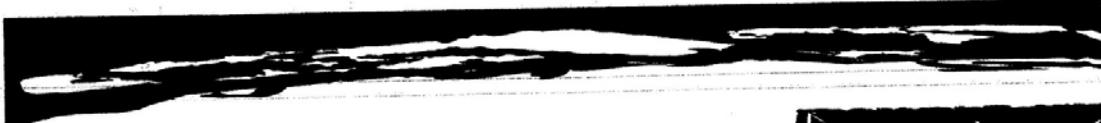
- the quality of water in the canals
- the annual sand bypassing programme
- the seagrass management programme
- maintenance of the harbour entrance, harbour bed and canal beds and
- maintenance of the foreshore reserve, the groynes and breakwaters and shore profiles.

The specified area rate levied on properties in the Port Geographe catchment is set at a level to ensure that sufficient funds would accumulate over a period of time to cover the cost of at least one year's bypass works. The actual amount generated annually by the specified area rate is currently less than \$150,000. We know now, having become involved first hand in the same, that the annual bypass works alone cost in the region of \$1.8 to \$2m. If handover of the development were imminent, the City would have to significantly increase the amount of the specified area rate to cover the cost, not only of the bypass works but the other items of responsibility referred to above.

The State (via the Minister for Transport) have made it clear in their dealings with staff at the City that the terms under which they would be willing to consider relieving the City of its current responsibilities under the existing management deed must include the ability to draw on the funds already collected for that purpose and currently held in the Waterway Management Reserve. There is also an expectation that this will continue to be topped up with funds collected each year by way of specified area rates.

I am advised by City staff that the concern of the State is that nowhere else in WA are the Department of Transport solely responsible for maintaining the infrastructure and water quality in canal subdivisions and naturally they do not want to set a precedent by doing so in Port Geographe. There is also a desire on their part to eradicate the perception that the State are 'rescuing a failed development'. It is for this reason that the conditions imposed by Cabinet in allocating the \$28.15m for the groyne reconfiguration require state government representatives to make the necessary arrangements with the City to contribute in the form of the funds currently held in the reserve fund and make available the future revenue from specified area rates.

I should also point out that in accordance with the Local Government Act the funds collected and held in the reserve can only be spent for the purpose they were levied. You can be assured



therefore that this money can only be spent on the Port Geographe obligations and not a purpose unconnected to the development.

These issues still need to be considered by Council who need to assess what is the most beneficial outcome for the residents of Port Geographe. There is a desire to relieve the City of the significant burden of taking on ultimate responsibility for the management of the waterways, bypassing and foreshore structures and it may transpire that the most appropriate means to achieve this would be to continue to levy a specified area rate.

The approach of the State to this has issue has been raised in the past at meetings of the Port Geographe Community Consultation Forum which I understand have been attended by representatives of your association. It is the intention of City staff to table this at future meetings once the detail of the State's proposals and the legislative requirements have been further explored.

Regards

IAN STUBBS

DRAFT

*Events Capital of Regional WA*

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