

Port Geographe Landowners Association Inc



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As a community gesture, this newsletter is distributed to all residences in *Port Geographe*, as well as an email-out to members of PGLOA.

SPECIAL AREA RATE ISSUE

Thanks to all who turned up at the PGLOA Annual General Meeting and for your input into the issue of the Special Area Rate (SAR) and the missing 25% community contribution.

Since the AGM we have discovered further evidence of regulatory inconsistency on this matter. This has now been put before a Perth lawyer on the recommendation of our Busselton lawyer Peter May. Peter advises he can no longer attend to our requirements due to an ever increasing workload. We thank him for his past services.

That evidence is contained in a City administrators report put before Busselton Council on the 9th April 2014. This report details the new Management Agreement thrashed out

between Busselton City and the Department of Transport.

After being ratified by Council it replaced an older Management Deed between three parties, the Port Geographer developer, the State Government and the then Shire of Busselton.

This older agreement required the Shire of Busselton to establish a **Port Geographe Management Waterways Reserve Fund** for the purpose of placing funds for future maintenance. This Management Development Deed became defunct when the developer went into bankruptcy.

However it appears the new Management Agreement requires changes to the Local Government Act to be legal.

The City report states:

*“With the support of the Department of Transport, the City approached the Department of Local Government with a request to **consider changes to legislation to enable the City to collect the Port Geographe Specified Area Rate** even though it would not be directly responsible for the specific works and services for which the rate is collected.”*

The report then goes onto say:

“While acknowledging the City’s request the Department of Local Government has indicated that they would not progress this form of legislative change at least in the short term, given other priorities”.

Other documentation is being compiled to give our lawyer a full history of legal agreements which goes back at least two decades.

HISTORY OF THE SPECIFIED AREA RATE

Those that came to the PGLOA AGM in October 2016 will be familiar with the history of the Specified Area Rate (SAR) - a levy charged on Council rates for all landowners in Port Geographe. This rate applies to all lots whether dry (back from canals) or waterway lots.

The SAR has been levied since the first lots were rated by the then Shire of Busselton in 1996/7. Funds have accumulated in the **Port Geographe Waterways Management Reserve Fund**, initiated by the Council under the terms of the Port Geographe Development Deed.

Its purpose is to pay for the future maintenance of the coastal (beach) strip immediately west and east of Port Geographe, and the entrance channel and associated waterways. This was to become a Busselton Shire/City responsibility once the project was completed by the developer. This was spelt out in the original Development Deed.

With the construction of public boat ramps for use by all and sundry to navigate via the Port Geographe waterways to Geographe Bay, the then Shire of Busselton paid a further amount into this Reserve Fund taken from the total general municipality rate for the Shire (now City). This amount was 25% of the total SAR collected each year from Port Geographe landowners.

However in 2003/4 the Shire for reasons best known to itself, opened a new reserve fund called the **Port Geographe Development Fund** into which the 25% municipality contribution was redirected.

When the previous developer (a party to the Port Geographe Development Deed) went bankrupt, Busselton City and Department of Transport entered into a new Port Geographe Management Agreement for coast and waterway management.

The Department of Transport now organises the annual waterways maintenance work and the State pays for the majority of the cost. It bills the City for around \$300,000 per annum (however there is no cap on this amount) which is taken from the accumulated funds held in the City’s Port Geographe Waterways Management Reserve Fund.

A major issue for PGLOA is that the 25% contribution is no longer made and the landowners of Port Geographe are the only ratepayers in the City of Busselton paying the SAR while all and sundry can use the beaches, boat ramps, and waterways connecting to Geographe Bay.

Consequently the PGLOA committee is gathering documentation to assist our lawyer to look at this matter, so that it can get some traction to mount a case against the City of Busselton, in order to reinstate the community contribution into the Port Geographe Management Waterways Reserve Fund.

BOAT RAMP FUNDING

In October 2014, the Council decided that major maintenance was required on the Port Geographe Boat ramps and indicated that the Council contribution be funded out of the PG Development Fund.

This is the fund that the community contribution from general municipality revenue was paid into after 2003/4. It represented 25% of the total annual SAR collection. Prior to 2003/4 this money was paid into the PG Waterways Management Reserve Fund where SAR money accumulates.

Successful lobbying by your Committee saw the following outcome.

*“The Boat Ramps are subject to a design and assessment analysis as funding for the first stage of the works was secured via the Regional Boating strategy. Once the initial assessment has been undertaken, funding will be sought for implementation of recommended works **not from the reserve but from other sources**”.*

Your committee was stunned to discover earlier this year that this decision had been reversed and the \$467,000 estimate for the Council contribution was again to come out of the Port Geographe Development Reserve Fund.

This decision is currently being hotly contested by your Committee. It is our view that the PG Development Reserve Fund should be closed and the money placed back in the PG Waterways Management Reserve Fund.

The boat ramps in Port Geographe are a public facility and the works are classed as maintenance. Your committee is now seeking legal advice on this matter.

PORT GEOGRAPHE COASTAL MAINTENANCE BOUNDARY

The boundary of Port Geographe was defined in the original management agreements and

landowners within this catchment have been paying SAR ever since.

Without reference to PG land owners we now find that the foreshore maintenance area has been extended from Guerin Street in the West to Morgan Street, and in the East from McCormack St to the Baudin Car Park.

The committee is currently organising negotiations with the Department of Transport on this issue.

This change represents a double-whammy whereby PG ratepayers are funding coastal maintenance of a much expanded area compared to the original obligation.

BUILDING STANDARDS PORT GEOGRAPHE

Your Committee has always been mindful of maintaining the building standards within Port Geographe. After a plus-50 year-old wooden house was relocated (with Council approval) to Spinnaker Boulevard your committee has sought to strengthen the existing Special Area Status of Port Geographe.

Subsequently the Council voted unanimously twice to strengthen both the local control orders via Urban Centre Policy 4B and Town Planning Scheme 21 by Amending the Plan, basically to restate the original standards within Port Geographe.

In short Council agreed that:

“Ground floor for any home to be of masonry construction”.

“Relocated buildings Prohibited. “

“Second-hand or new transportable dwellings prohibited”.

The Committee was partly successful with these amendments, but the State Planning Commission in its dubious wisdom declined to approve masonry-only on the ground floor, and

did not approve the requirement for no new transportables.

Your committee has since met with Minister for Planning the Hon Donna Faragher who has received similar complaints from a range of Councils throughout the State. She has agreed that within Special Area Zones (i.e. Port Geographe) that masonry-only should apply to ground floors.

The Minister also found the banning of both second-hand and new transportable is acceptable.

Your committee has submitted our amendments to Council as part of Amendment No 10 within Town Planning Scheme 21 which was again advertised recently by Council after the Minister's response. Your committee has made a submission on the basis of the recent discussion with the Minister for Planning. We wish to see these agreements enshrined in TPS21.

PORT GEOGRAPHE HARBOUR ENTRANCE

The Department of Transport has advised that dredging is required at the entrance to Port Geographe. PGLOA is pleased to see that dredging is now underway.

SUBURB OF PORT GEOGRAPHE

This is an ongoing priority of the committee that Port Geographe be known as a standalone suburb not lumped in to Geographe.

We are encountering some resistance to this, so we need all members to lobby your Councilor and your local politician.

TREES LAYMAN ROAD

At the Annual General meeting, we asked for your input into the types of trees that would be suitable to replace the Casuarinas in Layman Road. Layman Road is the second prime entrance to Busselton from the north, and is a designated Tourist Route. As such it should present an attractive and welcoming statement to residents and visitors. Please let us have your input (not all peppermints).

MEMBERSHIP

Our membership is some fifty members this year so far. There are some 750 land owners now in Port Geographe. We need as many as possible on board to effectively represent your interests, both in the long and short term.

Attached is a membership form. If you have neighbors who are not yet members please bring them up to date on our activities and invite their interest. The annual subscription is a modest \$25 and your support can considerably enhance the value of your asset.