

Presentation – Dr John Gray 14/11/17

Section 270 Review -Black Point Land Revocation

I would like to acknowledge and thank you Mayor Agnew, Councillor's and Staff for the opportunity to talk to you tonight as an individual regarding your proposal relating to the Revocation of Classification of Community Land at Black Point. This land was vested to Council to be held on trust for the future benefit of the local and wider community.

My name is John Gray and I have been holidaying at Black Point for 55 years and have lived there full time for the last 9 years. I am a medical practitioner and have provided services to every medical practice on the Yorke Peninsula for the last 20 years and have had the opportunity to meet many of the residents and visitors. I have a good knowledge of Black Points history and its development and of the views of the locals regarding your proposal to dispose of our community land. I have been an active participant during the process. I have provided 2 written submissions and I presented to you at the May Council meeting to voice my concerns and opposition to your proposal. I wrote to all 12 elected members expressing my concerns after the decision in May and I have also participated in the Section 270 review of Councils decision by providing a submission to Norman Waterhouse, Lawyers, again stating my reasons why I feel your decision is wrong.

I could go over old ground but I expect that you are well aware of the overwhelming and virtually total local community's opposition as has been expressed in 51 submissions and a petition which represented approximately 65% of the total BP ratepayers. That opposition failed to convince 7 of your elected members to support the local BP community and in May the 7, for reasons only known to them, lead by the Gum Flat Councillors Hoyle and Bittner, who either moved or seconded all 4 motions, voted to pursue revocation and to forward the proposal to Deputy Premier and Planning Minister John Rau to have it signed and formally approved. I would like to acknowledge and thank Councillors Meyer, Brundell and Headon who did listen to the local community and made an informed decision and voted to support us.

We are here tonight following a ratepayers request for a Section 270 review of your decision. You will also be aware of the wider communities concerns and opposition to your proposal following 12 articles appearing in the Country

Times in the 4 week period that followed your decision in May. None supported your decision. I found it interesting that 1 of the articles opposing your decision was made by your own ex Councillor Dodd and I quote from his article "I doubt the full facts have been presented and Councillors advised, for the matter to have been properly debated by Council"

How did this revocation process unfold and how did we get to where we are tonight?

It is my view that the community engagement process was flawed and that the level of engagement was inappropriate given the importance of and the interest shown in the issue. I don't believe the process complied with your own policy. Despite being suggested by a Councillor that all BP ratepayers be surveyed by mail out to gauge their support or otherwise, that never happened. Nor were the local or wider community given the opportunity to discuss the issues at a public meeting despite the suggestion that one be called. No formal meeting was held with the BPPA who are the representative body of the local rate paying community. Nor were individually affected stakeholders given a seat at the table to discuss their concerns. Only Council staff and elected members were privy to discuss key issues at the Council workshop of March, 2017. You missed the opportunity for a constructive conversation with the affected stakeholders and have upset and caused distress to many in the local and wider community. Have you considered the risk of litigation raised in the submissions of a number of the disaffected stakeholders?

Council controlled the process, called for submissions which were duly ignored and arrived at an end point which appeared to have been a predetermined foregone conclusion from the outset. Not only was community input restricted, administration also provided information to the elected members that supported the proposed revocation and some of that information was misleading and false. For example, that the sale would only impact on 2.4% of BP's community land is dismissive of our concerns and misleading because it equates to 100% of the reserve land on the foreshore in the bay at BP. The claim that other facilities such as BBQ, tables, toilets, showers are not required at BP because they are available at the Caravan Park for public use is false. Caravan park facilities are for paying campers only and your sign states exactly that. I do acknowledge that recently Council has made some changes to be more transparent, informative and consultative with its constituents and I welcome that. Progress Associations now receive Council's Agendas and

Minutes and community consultation appears to have improved as demonstrated with the review of township speed limits, whereby Council has been mailing residents to obtain their views.

Hopefully our local ratepayers can look forward to an open, transparent, consultative and cooperative approach in working with Council in future as issues important to both parties arise.

Only Council and elected members have been privy to the Norman Waterhouse report relating to the Section 270 review. I am disappointed with the lack of transparency in that the report has not been made public and included in the agenda documents nor provided to those parties who made submissions as part of the review. Your own policy states and I quote "the reviewer will provide the applicant with reasons for their decision". Will I need to apply under freedom of information to obtain a copy?

I make the following additional points for your consideration. I understand and acknowledge Council's right to review their land management assets and to create management plans for community land. I understand the budgetary pressures pertaining to local councils and the need to be cognisant of its constituents concerns and I understand that some of you may feel that selling BP's community land for Councils financial gain may benefit the wider community. However that argument in my view does not stand up to the local government act regulations, specifically Section 194.2 which states and I quote "requires an assessment of how implementation of the proposal would affect the area and the local community". The section does not refer to the wider community.

I have previously provided you with correspondence between myself and our local State Member, Mr Steve Griffiths and he states and I quote "it is the opinion of the community that has to drive the decision made and with now having read the BPPA's review, as the representative body, I am working on the basis that YP Council will not support the proposal".

If you have read the submission to Norman Waterhouse by QC Mr Brian Hayes that is in the Agenda documents, you will note that he states and I quote "the Councils decision is not supported in any way by the evidence or the law". He also states that in the only Supreme Court decision which has dealt with Section 194 of the LGA being Penola and District Ratepayers and Residents Association vs Wattle Range Council, the court said and I quote "there is no justification for reading into Section 194(1) a requirement that the trust be for

the benefit of the wider community". He submitted to Norman Waterhouse and I quote "the best possible decision in the circumstances based on the evidence, must be to advise the Council that its decision to revoke the classification of community land in relation to each of the allotments can not stand".

I also doubt that Deputy Premier and Planning Minister the Honourable Mr John Rau would make an informed decision to sign off on your proposal.

As a ratepayer I would be concerned if Council decides to pursue revocation and consume more of rate payer's funds on additional legal expenses as this issue has the potential to end up in the Supreme Court. I respectfully request that you over turn your original decision of May 2017 by voting in favour of RECOMMENDATION 3 OPTION A and also vote to cease the process of seeking to revoke the Classification of our Community Land at Black Point.

I table my presentation for the public record.

Do you have any questions?