



Minister for Transport; Planning; Lands

Our ref: 72-06777
Your ref: No.19

Hon Matthew Swinbourn MLC
Chair
Standing Committee on Environment and Public Affairs
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Mr Swinbourn

PETITION NO. 19 – SCARBOROUGH FORESHORE REDEVELOPMENT

Thank you for your correspondence dated 2 November 2017 seeking my comments on *Petition No. 19 - Scarborough Foreshore Redevelopment* submitted by Mr Chris Burke, Director of Wild Fig Café, and referred to the Standing Committee on Environment and Public Affairs (Committee).

It is my understanding that, at law, damages claims for losses asserted to arise from nuisance supposedly constituted by public works are unlikely to be supported by courts, particularly in cases where the public work is authorised by statute and the carrying out of the public work is not undertaken negligently.

The purpose of the Act of Grace payment offered by the State Government in relation to the Scarborough foreshore redevelopment to affected small business who met certain eligibility criteria was made as a gesture of goodwill and not because of any entitlement by those businesses at law.

The Act of Grace payment offered was to recognise that there may have been some indirect costs borne by some small business tenants. In particular, some tenants would have had to pay land tax in an amount which appeared to reflect that the market was already factoring in the benefit of the Scarborough redevelopment works prior to completion of the same, into land values. That increase in value clearly accrued to property owners however there was a clear and measurable quantum in the hands of eligible business owners and that is what the State Government was prepared to offer.

All applications for Act of Grace payments that were received were independently assessed to ensure that the affected small businesses met the required eligibility criteria before any payment was made. Again, I emphasise that the Act of Grace payment was not an entitlement.

The Committee may be interested to know that the Wild Fig Café (of which Mr Chris Burke is a director and business owner) could have lodged an application for an Act of Grace payment but declined to do so.

There will be numerous development and public works projects within my portfolio that will come into fruition in the near future. I am very mindful of the environment within which these works will be undertaken and any possible impact on local businesses arising from these works. Any such impacts must reasonably, however, be balanced against the community benefits of any revitalisation projects/public works.

I will monitor future works falling within my portfolio and the manner in which small businesses may be affected, on a case by case basis.

I appreciate the Committee allowing me the opportunity to comment on the terms of the petition and the submission from Mr Chris Burke. I trust this information is of assistance.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'RS', written over the text 'Yours sincerely'.

**HON RITA SAFFIOTI MLA
MINISTER FOR PLANNING**

29 NOV 2017