

Taylor's Mistake Association Inc.

Baching at Taylor's Mistake, Hobsons Bay and Boulder Bay since 1891
PO Box 3120, Christchurch, New Zealand.

THE TAYLORS MISTAKE BACHES - WHAT IS HAPPENING NOW – AUGUST 2010

INTRODUCTION

In 2002 the Environment Court released a decision in favour of the Bach holders – the Taylor's Mistake Association. (TMA)

This decision represented several decades of hard work by the TMA and provided a solution to the long running dispute as to whether the baches should stay or whether they should be removed.

WHAT THE ENVIRONMENT COURT DECISION MEANS

Basically it set down a method of going forward that provides for

1. The 'Unscheduled Baches' (The 'Foreshore 14') being relocated or replaced on a Bach Zone set up behind Rotten Row on the land owned by the TMA. These are baches 28, 30, 31, 32, 33, 47, 48, 49, 51, 52, 55, 56, 57 and 58.

The Bach Zone will have a single freehold title. It is envisaged that each individual bach within it will have a lease with the Taylor's Mistake Land Company Ltd. It is anticipated that there will be some form of 'unit' entitlement in each lease that will enable each lessee to use the bit of land it's sitting on as security for bank loans or the like.

(The Taylor's Mistake Land Company Ltd is the entity that owns the 73 Ha of land in the valley and the controlling shareholder is the Taylor's Mistake Association)

These baches will not have the same lease/ licence that the 'Scheduled Baches' will have.

The baches in this zone can either be new baches with a 50m² maximum floor area and a maximum height of 4.5m (similar scale and size as the existing baches) or the existing bach relocated.

There is provision for 18 baches to be constructed in this Bach Zone that allows for the 'Foreshore 14' and the possibility of accommodating, if approved by Council, a 4 further baches from Hobsons Bay if the owners wish to relocate if it is unsafe for them to remain due to rock fall, landslide and / or wave damage.

2. The 'Scheduled Baches' that are generally Hobsons Bay, Rotten Row and Boulder Bay are able to stay where they are.

They can not be altered or added to (other than a small addition for a flush toilet if required and pre approved by the Council) and will have a licence / lease with the Christchurch City Council

3. The balance of the 73 Ha of land owned by the Taylors Mistake Association is gifted to the 'citizens of Christchurch' (Christchurch City Council – the CCC) to remain as a recreational reserve.

The Environment Court decision has been incorporated into the CCC City Plan and the City Plan has been operative since November 2005.

So, in summary think of the processes which led to the decision as the way the 'Rules' were set. The 'Rules' are now in the City Plan and these set out how the 'Foreshore 14' and the Bach Zone will be managed by the CCC and also the recognition in the City Plan of the Scheduled Baches.

These 'Rules' do not have any bearing on the type of licence / lease the Scheduled baches may end up having.

The establishment of the Bach zone can not be completed until we prepare an approved landscape plan and the land is gifted to the Council.

All baches (Scheduled and the Unscheduled 'Foreshore 14') have to connect to the sewer or have Council approved alternatives. The costs associated with this, along with all costs involved in setting up the Bach Zone and the relocating or building of new baches are at the TMA / individual bach holders' expense.

ALTERING THE 'RULES'

If anyone, including the TMA, the CCC or Save the Bay (STB) want to alter these 'Rules' then there must be an application to the CCC seeking a plan change to the City Plan.

Any such plan change would involve:

1. Public notification of a plan change;
2. The opportunity for anyone to submit on the plan change in support / opposition or in a neither support / oppose stance;
3. A council hearing where submitters have the opportunity to present oral evidence;
4. The release of a council decision;
5. The opportunity for any submitter to appeal the decision;
6. If it's appealed, the matter is dealt with by the Environment Court.

For example plan changes could include:

1. Have the Foreshore 14 remain where they are;
2. Not gifting the land;
3. Increasing the number of baches to be constructed on the land owned by the Taylors Mistake Land Company;
4. Have the land re zoned for residential development;
5. STB having all the baches removed.

There is a high probability that any attempt to alter the 'Rules' (which can only be done by a plan change) would end up back at the Environment Court.

This process would cost anywhere between \$ 300,000 - \$ 500,000 and would take a minimum of 2 – 4 years and there would be absolutely no guarantees of success.

If a plan change promoted by the TMA was declined by the Environment Court, the risk is that we could be liable for all the other parties' costs on top of our own. (Other parties could include the CCC, STB or any other individual or organization in New Zealand who was part of the Court Hearing).

WHAT HAS HAPPENED SINCE THE RELEASE OF THE ENVIRONMENT COURT DECISION ?

There was a period of inactivity for a few years as the decision sat with the Council. In 2007 they started to implement the 'Rules' and lease / licence negotiations for the Scheduled baches were started.

LEASE / LICENCE NEGOTIATIONS

We are currently negotiating a lease / licence with the Council for the 'Scheduled Baches' and while there are numerous areas of difference the main points of difference are:

Lease or a Licence

In the past the baches have had a licence not a lease.

The Council has received a legal opinion that it can only grant us licences because the baches are sited on an unformed legal road.

We want a lease as it provides more security of tenure and have provided the Council with examples where other Councils have granted leases for structures on unformed legal road.

We want the Gift of the land to be reflected in the lease / licence

Gift of the land to the city makes our situation unique and we want this to be recognized and form part of the lease / licence by way of the following

1. A reasonable length of the term of the lease / licence;
2. A reasonable annual fee;
3. A clause which provides that if the Council does not renew our lease / licence within a certain period we either have the land returned to us or the scheduled baches can be relocated onto the land or there is some other fair alternative that reflects the value of the gift.
4. Security of tenure

Transferability

We want to be able to pass our baches onto other family members upon the death of the current owner or sell them if the need arises.

We want a reasonable annual lease / licence fee.

We have suggested \$ 800 per annum, the Council has suggested \$ 3,000 per annum

WHAT IS HAPPENING NOW

We are continuing negotiations with the Council and feel we are making progress. It is a negotiation and compromises will have to be made on both sides.

If we can not successfully negotiate a suitable lease / licence then the land will not be gifted, other options (such as all baches relocating onto our land) will be considered and we will probably be heading back to the CCC via a Plan Change to try to have these changes implemented.

STB have threatened enforcement action to have the 'Foreshore 14' removed.

No lease / licence will be entered into without your, the TMA members, agreement.

If we can not negotiate a lease / licence with the Council then the whole process falls over and we are then in 'uncharted territory'.

THE APRIL 2010 COUNCIL MEETING

At this meeting Councillors instructed staff to report back to them on the possibility of the Council undertaking a Plan Change themselves to allow the 'Foreshore 14' to remain where they are.

The Council has indicated the cost of doing this is around \$ 300 - \$ 400K. If they progressed this thinking then the benefit of spending this amount of ratepayers money would need to be compared with the benefits of spending it elsewhere.

THE JULY 2010 COUNCIL MEETING

Save the Bay wrote to the Council threatening it with legal action if it did not immediately implement the conditions of the Environment Court decision and arrange for the early removal of the 'Foreshore 14' baches.

In the face of this threat the Council has instructed us to proceed with the preparation of the required landscape plan for the Bach zone, but also signalled to us that the Council is in favour of the 'Foreshore 14' remaining where they are.

However, the Council's hands are legally tied by the current Environment Court decision and it remains to be seen how the Council's wish to retain the 'Foreshore 14' can be achieved. It is possible that the Council itself may decide to incorporate the required Plan Change in the next general review of the Christchurch City Plan, which is due to be started in 2011.

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