

## CCC Council Chambers. 23 July 2010.

**Jim Turpin:** ...We are though, as always, acting in good faith, with good intent to reach no more than a fair outcome. So thank you, and any of us three will be very happy to answer any questions you may have.

**Mayor Parker** – Thankyou. I am very happy to use the remaining couple of minutes if there are any questions.

**Councillor Buck:** If Council was to agree to your (*propositions*) and timelines. Would you agree to add into it that the bach owners themselves have to agree to the landscape, and be done in the same timeline?

**Jim Turpin:** I'm not aware of the cost of what a proposed landscape change would do, but our stance to agree to the license or the lease issue first of all is because we have some surety that we're going to go ahead, because we don't want to enter into anything that may not succeed, that may not be useful, does that make sense? Until we have a, they go hand in hand, having an acceptable lease goes hand in hand with developing the bach zone and the subdivision at the back. If we don't have that, we don't have anything.

**Councillor Buck:** Maybe you can tell me what timeline you were thinking of.

**Jim Turpin:** I'm not sure how long these things take, but we get an acceptable lease, we will enter into those. We will take a month or so to organise ourselves and organise our finances, and things like that, and then we'll be into it straight away. I guess as long as it takes people to do that, and the Council to approve them. I'm afraid I can't really tell you how long those things take.

**Mayor Parker:** Thank you. The questions are appreciated. Now I move on to Philip Moore from Wyn Williams, who is speaking on behalf of Save the Bay.

**Philip Moore:** Morning. Thank you Mr Mayor. Thank you councillors for the time to address you this morning. Now being handed round is a copy of my submission which I've kept short and brief. By way of introduction I act for Save the Bay Ltd. Save the Bay has had a long standing interest in the protection of the area which is generally known as Taylors Mistake. And I'm joined at the table this morning by Mr David Evans who is the director of Save the Bay.

**Philip Moore:** Save the Bay is concerned that no action is being taken by the Council, both in its capacity as landowner, and in its capacity as local authority to remove the unscheduled baches at Taylors Mistake. By way of background Save the Bay was heavily involved as a party of proceedings before the Council, and before the Environment Court relating to the ongoing location of baches in the Taylors Mistake area. Those proceedings culminated in an Environment Court decision which classified fourteen of the existing baches in the bay as unscheduled. Following the issuing of that decision in 2002, the parties, including the Council, the Taylors Mistake Association and Save the Bay were invited to consider the wording which would be inserted into the plan to give effect to the

decision. A high level of agreement was reached between the parties to the extent where almost all of the provisions were agreed. The Environment Court then issued a further decision dealing with three areas where agreement could not be reached, culminating in the issuing of Decision C40 2003. The amended plan provisions as set out in that decision were subsequently incorporated into the Christchurch City Plan. It's the plan that I will now deal with.

**Philip Moore:** Rule 2.4.4d in Part 5 of the Plan clearly states that any bach located in the conservation 1A zone, which is not scheduled in Part 5, appendix 1, is a prohibited activity. There can be no doubt that the ongoing occupation of public land, being road reserved vested in the Council by the fourteen unscheduled baches is a prohibited activity. The plan provisions, as agreed by the parties, and endorsed by the Court, following a lengthy hearing on the merits, have never been enforced by the Council both as landowner and / or as territorial authority. Council in its capacity as landowner, in allowing the ongoing occupation of that land by the 14 unscheduled baches is acting in contravention of the provisions of its own plan and is knowingly breaching the provisions of the Resource Management Act.

**Philip Moore:** Despite agreement having been reached between the parties and the Environment Court's detailed consideration of the merits of retaining particular baches at Taylors Mistake, our client was dismayed to read that the Council had sought further advice on the steps necessary to retain all baches. This issue has been litigated at significant cost to all parties involved, and there has been no change in circumstances that would justify departure from the Environment Court decision made in 2003. In these circumstances Save the Bay urges the Council not to put all the parties through the significant cost of the further plan change, to consider the very issues which were considered and agreed to back in 2003. Save the Bay considers that this is a complete waste of both public and private resources and does not amount to the sustainable management of natural and physical resources.

**Philip Moore:** Now as set out in my letter of 14 June, Save the Bay has requested the Council to take immediate enforcement action to remove the unscheduled baches at Taylors Mistake. The Council in its capacity as landowner of the road reserve on which the baches are located is acting in breach of its own plan by continuing to permit the occupation of that land by the unscheduled baches. In doing so it is breaching Section 3381 of the RMA. The Council in its capacity as territorial authority is also acting in breach of its duty to observe and to enforce its own plan pursuant to Section 84A of the Act. This situation of the Council turning a blind eye to non-compliance with its own plan is unacceptable to our client. Our client and other clients to the 2003 Environment Court decision have written on numerous occasions to the Council requesting that action be taken to remove the unscheduled baches. However no such steps have been taken.

**Philip Moore:** In light of the Council's failure to uphold the provisions of its own district plan, our client's only option to ensure compliance with the plan is to apply to the Environment Court for enforcement orders requiring the baches to be removed. Such an application would be served on the council in its capacity as landowner, and as territorial authority responsible for monitoring compliance with the plan. Any such application will come at significant additional cost to our client, costs which our client would ultimately seek to recover from the Council. Save the Bay requests that

the Council takes immediate steps to have the 14 unscheduled baches removed from Taylors Mistake.

**Philip Moore:** And now I'd like to address the issue of licensing of the baches. This is the scheduled baches which are to remain. It appears that the process of removing the unscheduled baches has been stalled pending the negotiation of a suitable license arrangement for the scheduled baches, as between the Council and those bach owners. The Bach Owners' Association appears to be using the licensing process as leverage prior to transferring the land necessary for the creation of the TMB zone, and the removal of the unscheduled baches. This process has been going on for many years and appears no closer to resolution.

**Philip Moore:** There is no requirement in the plan for the TMB zone to be established prior to the removal of the unscheduled baches. As such as the issues associated with the creation of the TMB zone and the transfer of land to enable the establishment of that zone are separate from the removal of unscheduled baches. There is no valid reason why the unscheduled baches cannot be removed now. If anything that would provide an incentive for the Bach Owners' Association to extradite the process of creating the TMB zone. For these reasons, should the Council decide to accept the staff recommendation in respect of baches at Taylors Mistake, we ask that Part C4 of the recommendation be amended to read: 'confirm the undertaking – confirm the Association's undertaking on behalf of affected bach owners that all unscheduled baches will be removed by 30 September 2010.'

**Philip Moore:** By way of conclusion Save the Bay requests that the Council take immediate steps to enforce the provisions of its own plan by requiring the removal of all unscheduled baches at Taylors Mistake by 30 September 2010. Thank you.

**Mayor Parker:** Thank you. There being a brief amount of time still available, I will certainly take questions. Councillor Broughton has one.

**Councillor Broughton:** I've got two questions. You make the statement Mr Moore that Council couldn't proceed with the plan change, plan change. My understanding why it might not be your wish for that to happen, but we're legally entitled to.

**Philip Moore:** Yes, I accept that the Council is legally entitled to go through a further plan change process, but my submission is that the issues have not changed from the point in time when these issues were considered in detail by the Environment Court in 2003. And in fact the position which has been substantially agreed by all parties has not been enforced by the Council, and that is my concern.

**Councillor Broughton:** Now, ok, I do have a question about enforcement. What's your understanding as to why it hasn't happened?

**Philip Moore:** My recollection of reviewing some of the correspondence over the last three years, and that's correspondence with the enforcement unit of the Council, is that the Enforcement Unit

has been unwilling to take steps pending some direction being given by the Council. And the enforcement process seems to have stalled.

**Mayor Parker:** Thank you both for joining us this morning. I appreciate you taking some time to come down here and to raise those issues, along with all of the other deputations this morning. And I appreciate the calm manner in which councillors have taken on board that acquisition of information as well. What I would like to do now is...

END OF RECORDING (12: 06)