

**SUBMISSIONS ON BEHALF OF BRUCE AND SALLY ANSLEY AND SEVEN
OTHER BATCH OWNERS AT LIGAR BAY**

INTRODUCTION

1. Thank you to members of the Committee for extending to me and my clients the opportunity to present this submission. I did expect to be in Westport today to conduct a resource consent hearing for the Buller District Council, but I have been able to avoid that commitment.
2. This meeting has come as a surprise to me and the batch owners. We had all expected that in the light of the report dated the 23rd of February 2010 provided by the Golden Bay Community Board and the public reaction to the issue, that Jim Frater's report would have recommended a renewal of the licences, at least on the terms recommended by the Board. In that expected event, I did not think that it would be necessary for the batch owners or me to have to be present making this submission to you.
3. In the light of Jim's report (of which I shall have something to say later) I have advised the owners to obtain a report on the environmental and planning issues that arise in respect of this matter, and I have approached that well known planning person Sylvia Allan who has agreed to inspect the batches and provide such a report. Unfortunately the short time that has elapsed since I and the owners have had Jim's report has not allowed enough time for Sylvia to do the work and prepare the report for your consideration. I would however like you to consider the following matters:

4. HISTORY

- 4.01 There are eight batches at Ligar Bay. They are built on Road Reserve. They were all built with the knowledge or indeed the connivance on at least one case I am aware of, of either the Golden Bay County Council or the Tasman District Council over the years. These are not buildings that were erected in secret on a road reserve and this is not a situation where the Council is approaching a miscreant building owner who has erected a building without the knowledge or consent of the Council. Some batches and septic tanks have building consents to allow them to exist.
- 4.02 As I think the situation deserved, previous councils have legitimised the batches by issuing relatively long term licences for the batches the latest of which are due to expire in three years time.

4.03 The batches were all built either just before or just after the Second World War. Apparently Jock Cropp has a photograph that shows that the batches and the Swafford Farmhouse as the only buildings in Ligar Bay. That of course means that the batches are all over sixty years old and were built well before any of the other residents purchased or built their properties in the Bay.

5.0 NATURE OF OWNERSHIP

5.01 The eight batches are owned as follows:
Two (2) are owned by full time occupants.
Three (3) are owned by people who live in Motueka.
Two (2) are owned by Golden Bay residents
One (1) is owned by people who live approximately six months of the year in the batch which they call home.

6.0 IMPACT OF THE BATCHES ON THE ENVIRONMENT

6.01 The impact of the batches on the environment is minor indeed. Most of the batches are clothed in vegetation, and at least one cannot be seen from the road. They do not create a nuisance in any respect. As far as I am aware they do not cause any discharges to the beach or to the Coastal environment. They do not prevent access to Liger Beach, except for the building space that they occupy, which leaves a considerable area for unrestricted public access. The buildings are unobtrusive visually and in fact add to the charm of the Coast in that area.

6.02 The batches are built in materials, and are of such a small size, that they are no different from the various batches around the New Zealand Coastline that have been assessed as having iconic status. Some batches, of a similar kind to the subject batches, have been declared as historic sites. The Historic Places Trust has several batch communities on its register, the nearest being two at Red Rocks on the South Wellington Coast and "Rotten Row" at Taylors Mistake near Christchurch. The owners of these batches are presently negotiating with the Christchurch City Council for extended licences with the support of their Community Board

6.03 The Historic Places Trust said:

"The batches are a wonderful part of our heritage. They enhance the environment, they improve Taylor's mistake because they are very much part of the Bay. We've got masses of natural coastline but this one is unique because of the batches there. We recognise the cultural landscape, and batches are one component of them."

- 6.04 Recently the Westland and Buller District Councils and also the Department of Conservation had to consider the same issue that is whether batches could remain on public land, in respect to batches along the West Coast and the Boulder Bank at Nelson. The batches in those cases were recognised as having special merit and licences were renewed for various periods. The Buller District Council I understand issued licences for 35 years. If more time had been available, I would have asked Ms Allan to prepare a list of how DOC and the various Councils had dealt with their batches in a similar circumstance.
- 6.05. The Department of Conservation has been reassessing its positions in respect to the Boulder Bank batches, but has made it plain that it recognises that Kiwi batches are an endangered species and has acknowledged their place in our country's history and culture. DOC has made it clear that the Public must always give close consideration to batches staying where they are before any attempt is made to remove them.
- 6.06 do not think it unfair to say that the Ligar Bay batches are much easier on the eye and contribute a great deal more to the physical and cultural landscape than do the houses built more recently at Ligar Bay which have brought a "built" characteristic to the area, which resembles Kaiteriteri or Buckland's Beach more than a beautiful Golden bay beach.

7.0 PUBLIC OPINION

- 7.1 There have been three attempts to sample public opinion in respect of whether the batches should remain or go. The batch owners themselves took a sample of people in the immediate vicinity. They questioned 30 people, all living in Ligar Bay. A copy of that survey is attached to this submission. It records that of the 30 residents approached; only one opposed the retention of the batches. Three others were "undecided"
- 7.02 The Community Board says in its report that it canvassed the community for views and received a wide variety of submissions. The Board does not say in its report what the proportion of "yays" and "nays" was but it is reasonable to assume that the Board found widespread public support for the batches remaining on their present sites and new licences being offered to the batch holders because of their recommendations to the Council.
- 7.03 Finally the Nelson Golden Bay Weekly conducted a survey that found that eighty five percent (85%) supported the batches remaining.
- 7.4 These surveys support the view that
- (i) The batches are part of the history of the Golden Bay.

- (ii) The batches are a vanishing part of New Zealand's heritage; and
- (iii) The batches are increasingly New Zealand icons.

8.0 OTHER REASONS

8.01 Apart from the wider issues of public interests that I have discussed above, there is the sheer human element that requires the batch owners to be able to continue their long association with the batches.

9.02 There is also the story of Mr Garth Bray, one of the full time occupants. Mr Bray has a terminal condition and does not want the uncertainty of whether he can live in his last home or not worrying him in his last days. I am sure all of the batch owners can tell you stories of happy family occasions in the batches over the years and the loss that the removal of the batches would occasion them.

10.00 LEGAL REASONS TO ISSUE NEW LICENCES

10.01 It is now no longer my place to give you legal advice on issues such as this as I once did. I do however do so because Jim Frater has given as his only justification for the Committee to refuse new licences, the risk that a disaffected submitter might take the Council to Court if it does so. This advice it seems to me is quite wrong and does not address several elements of law and common sense. First Jim is wrong when in his report he states that the areas of the batches are not clearly delineated. They are.

10.02 However the strongest reason why legally the Committee should recommend to the Council that new licences be issued is that your own Community Board was delegated the task of investigating the issue and coming up with a recommendation. The Board conscientiously did this and has said that it consulted widely and canvassed various opinions both for and against. If you decline to accept the Board's recommendation in the circumstances in my opinion you will be laying yourself wide open for a judicial review. It is almost certain that the Board has considered this matter in a great deal more detail than your committee has. I do not think that the High Court on review will be at all impressed that you jettisoned the community Board report because of a vague threat of legal action from unnamed people if you did not.

10.03 Mr Frater refers to the opposing submitters, but I do not know if any of the Committee members have even seen these so called "submissions" in opposition. I certainly have not and neither am I informed have the Batch owners. That itself would be a substantial ground for judicial review.

10.04 You have also given me and the batch owner's very little time to respond to Mr Frater's report, which I suggest to you, is in every other respect supportive of the Batch owner's case and the Community Board's recommendation.

10.05 The most potent reason however that you should ignore Jim's recommendation is that it defies common sense. What possible reason on the facts, would a person such as another land owner have to challenge a decision to grant new licences that would justify that person spending as much as maybe \$50,000 to \$60,000 opposing the grant of licences other than a very bad attitude? The batch owners on the other hand have every reason to challenge a Council decision depriving them of their homes and holiday homes. They have many thousands of dollars at risk and in my view would have every reason to challenge a decision depriving them of in some cases their homes, and I would fully expect them to do so.

WARWICK HEAL
February 3rd 2011