



Order Paper For The Meeting Of The

S357 OBJECTION HEARING
Independent Commissioner J Taylor

Monday 26 November commencing at 9.00am
at
The Copthorne Hotel, 27 Frankton Road, Queenstown 9300

**TUCKER BEACH RESIDENTS SOCIETY
INCORPORATED**
Submitter Number 2802
Stage 2 – Proposed District Plan – Stream 14

QUEENSTOWN LAKES DISTRICT COUNCIL

S357 OBJECTION

Appendix 1	1-13 July Procedure Application to Strike out	4
Appendix 2	2 – 30 July Submissions in response to Strike out Application	6
Appendix 3	3 – 30 July Nugent – s2 Reasons RE: Healy Evidence	15
Appendix 4	4- 6 August Reply Submissions for Middleton FT to strike out further subs from Tucker Beach Residents	18
Appendix 5	5- 8 August Decision of the Chair to strike TBR Submission	23
Appendix 6	6 – 29 August Objection from Tuckers Beach Residents	28
Appendix 7	Robin Martin affidavit 23 Feb 2018	66

**APPENDIX 1 –
1-13 JULY PROCEDURE
APPLICATION TO STRIKE OUT**

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of the Queenstown Lakes
Proposed District Plan

AND

IN THE MATTER of Submission 2332 by
Middleton Family Trust

MINUTE CONCERNING APPLICATION TO STRIKE OUT FURTHER SUBMISSION

1. At the hearing on 12 July 2018 Ms Macdonald, counsel for the Middleton Family Trust, applied to have Further Submission 2802 in the name of Tucker Beach Residents struck out under section 41D of the Act¹.
2. The grounds for the request, set out in detail in paragraphs [17] to [25] of Ms Macdonald's legal submissions, were, in summary, that there is no evidence of the membership of the "Tucker Beach Residents" nor evidence of any common purpose prior to the lodgement of the further submission.
3. Before I consider this application I will provide the further submitter the opportunity to lodge submissions and evidence that the further submitter is a person entitled to lodge a further submission in respect of Submission 2332. The further submitter has until 4pm of Friday 20 July 2018 to lodge any such submissions and evidence and serve them on counsel for the Middleton Family Trust.
4. The Middleton Family Trust will have until 4pm of Friday 27 July 2018 to lodge and serve any reply.

For the Hearing Panel



Denis Nugent (Chair)

13 July 2018

¹ Counsel referred to s.41C however these submissions are being heard in accordance with the version of the Act as it was at 18 October 2017.

**APPENDIX 2
2 – 30 JULY SUBMISSIONS IN
RESPONSE TO STRIKE OUT
APPLICATION**

**BEFORE THE HEARINGS PANEL
FOR THE QUEENSTOWN LAKES PROPOSED DISTRICT PLAN**

IN THE MATTER

of the Resource Management
Act 1991

AND

IN THE MATTER

of a submission to the Proposed
District Plan – Stage 2

BY

**TUCKER BEACH RESIDENTS
SOCIETY INCORPORATED**
(submitter #2806)

**SUBMISSIONS ON BEHALF OF TUCKER BEACH RESIDENTS SOCIETY
INCORPORATED**

Dated: 30 July 2018

Solicitors:

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Queenstown 9348
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ben@toddandwalker.com

MAY IT PLEASE THE PANEL:

Introduction

1. These submissions are on behalf of the Tucker Beach Residents Society Incorporated ("**TBR Society**") in response to an application by the Middleton Family Trust ("**Middletons**") (submitter #2332) to strike out the TBR Society's submission to Stage 2 of the Proposed District Plan ("**PDP**").
2. The TBR Society makes application to be a successor to the submission filed on 17 May 2018 in the name of Tucker Beach Residents, which was an unincorporated group at the time the submission was filed. The TBR Society was incorporated on 11 June 2018. A copy of the Certificate of Incorporation is attached and marked with the letter "**A**".
3. It is submitted Tucker Beach Residents as an unincorporated body had standing to file a submission to the PDP. The TBR Society likewise has standing to pursue the submission as its successor.

Section 2 Resource Management Act 1991 – meaning of "person"

4. Section 2 of the Resource Management Act 1991 ("**Act**") defines a "*person*" as including "*the Crown, a corporation sole, and also a body of persons, whether corporate or unincorporated*".
5. The Tucker Beach Residents at the time of filing the submission was an "unincorporated body of persons". The body of persons comprised residents of Tucker Beach Road and its surrounds who had agreed to file a submission opposing the Middletons' submission.
6. The application by the Middletons to strike out the Society's submission at [19] claims "to be an unincorporated body which is a separate legal person under the Act there must be two or more persons who have a similar or related purpose in relation to some function or proceedings under the RMA, and who have agreed to move in concert. Unincorporated group – must have members – a group of people

with a common purpose. Submission names no individuals – prima facie it's not a group with a common purpose”.

7. It is submitted the Tucker Beach Residents at the time of filing its submission was in fact a group of people with a similar and related purpose who agreed to move in concert. The similar and related purpose was the opposition to the proposal sought by the Middletons. By agreeing to file and pursue its submission the group had agreed to move in concert.
8. It is submitted there is no requirement for the submission itself to have named each member of the group.
9. To show that these members existed, an email from Mr Will Hodgson to Tucker Beach Residents' counsel dated 17 May 2018 (the same day the submission was filed) is attached to these submissions and marked with the letter “**B**”. The email refers to at least two members of the Tucker Beach Residents group, being Mr Hodgson himself and Ms Vicki Summer. To the extent it might be relevant it also refers to other members yet to be named.
10. The Middletons' application at [20] claims in order for an unincorporated body of persons to have standing under the Act “there must have been a meeting to discuss any opposition (or support), and reached agreement on a common purpose **prior to** lodgement of any submission”.
11. It is noted this assertion is not supported by any case law. The TBR Society refutes the suggestion that an unincorporated body has to prove there was a meeting held between members prior to the filing of its submission in order to fit within the definition of person under the Act. It is submitted the hearing authority simply needs to be reasonably satisfied that the submitter was a group formed for a similar or related purpose and with the intention of acting in concert. It is submitted the email of Mr Hodgson referred to above satisfactorily demonstrates that there was in fact this group, and it did have this intention.
12. It is submitted that to place too strict a burden on the submitter to prove it had the requisite standing to file a submission would be contrary to the intention of the Act to facilitate and encourage public participation.

Section 2A Resource Management Act 1991 – successors

13. Section 2A of the Act provides:

Successors

(1) In this Act, unless the context otherwise requires, any reference to a person, however described or referred to (including applicant and consent holder), includes the successor of that person.

(2) For the purposes of this Act, where the person is a body of persons which is unincorporated, the successor shall include a body of persons which is corporate and composed of substantially the same members.

14. It is submitted the TBR Society is a successor of the Tucker Beach Residents submission as it is composed of substantially the same members as the unincorporated Tucker Beach Residents group. Mr Hodgson and Ms Summer, the two named individuals at the time of filing, are now members of the incorporated body.

15. It is submitted the fact that new members have since joined the TBR Society is irrelevant in assessing whether the TBR Society is a successor. The Court has interpreted s 2A (2) to mean that a substantial portion of the members of the original unincorporated group (more than 50 per cent) must be members of the incorporated group.¹ It has held that it does not matter if the group has substantially increased in size following the filing of the submission.²

Conclusion

16. It is submitted there is sufficient evidence before the Panel to confirm that the Tucker Beach Residents were at the time of filing the submission an unincorporated body of persons pursuant to s 2 of the Act, as they were a group of two or more people formed for a related purpose and who agreed to move in concert.

¹ *Gold Mine Action Inc v Otago Regional Council* (2002) 8 ELRNZ 129

² *Friends of Michael Avenue Reserve Inc v Auckland Council* [2015] NZEnvC 110

17. Further, it is submitted the TBR Society, being comprised of the same plus further members as the unincorporated group, has the right pursuant to s 2A of the Act to pursue the submission as a successor.

18. It is therefore submitted that the application by the Middletons to strike out the TBR Society's submission should be rejected.



G M Todd/B B Gresson

Counsel for Tucker Beach Residents Society Incorporated



11 June 2018

TODD & WALKER LAW
PO BOX 124
QUEENSTOWN 9348

**TUCKER BEACH RESIDENTS SOCIETY INCORPORATED
2706672**

Letter ID: 3152529
Barcode: 10064754725
Our Ref: MAI
Registry Key: 8820656

Please find attached the Certificate of Incorporation for the above mentioned incorporated society. Registered documents for this society (including rules) can be viewed for free online at www.societies.govt.nz by conducting a **Register Search**.

After incorporation a society has an ongoing obligation to continue to file certain information with the Registrar of Incorporated Societies. These include:

- Annual financial statements
 - Changes to the rules of the society (including a change of the society's name)
 - Changes to the society's address details (registered office and contact address)
- Annual financial statements and address details are able to be update online at www.societies.govt.nz using your registry key. This website also gives societies the ability to include additional information about their activities. Features include entering a society's:

- **Purpose** eg "the society promotes netball in the North Shore area etc."
- **Public telephone, website and email details** to enable people viewing the website the ability to contact a society directly or visit their website.
- **Officers** which enable the public to contact specific people within a society.

Please contact our office on freephone 0508 SOCIETIES (0508 762 438) or visit <http://support.business.govt.nz> if you have any enquiries regarding this letter.

Registrar of Incorporated Societies



CERTIFICATE OF INCORPORATION

TUCKER BEACH RESIDENTS SOCIETY INCORPORATED

2706672

TUCKER BEACH RESIDENTS SOCIETY INCORPORATED is incorporated under the Incorporated Societies Act 1908 this 11th day of June 2018.

A handwritten signature in black ink, appearing to be "D. Smith".

Registrar of Incorporated Societies



Ben Gresson

From: Ben Gresson
Sent: Monday, 30 July 2018 2:28 p.m.
To: Ben Gresson
Subject: FW: Further Sub id=2911

ActionName: District Plan Review
Assigned (Actionstep): 2911
Organization (Actionstep): gtoddlaw

From: Will Hodgson [mailto:hodgsonwill@yahoo.co.nz]
Sent: Thursday, 17 May 2018 8:36 p.m.
To: Graeme Todd <graeme@toddandwalker.com>; Ben Gresson <ben@toddandwalker.com>
Cc: Ben. Farrell <Ben.Farrell@jea.co.nz>; John. Edmonds <john.edmonds@jea.co.nz>
Subject: Re: Further Sub id=2911

Thanks Graeme,

I have been in touch with Vicki Summer. She is on board as one of the "Tucker Beach Residents" along with others. I will have their names for you tomorrow that think the same as we do, that a less intensive development is more appropriate.

Regards,
Will

From: Graeme Todd <graeme@toddandwalker.com>
To: Ben Gresson <ben@toddandwalker.com>
Cc: Will Hodgson <hodgsonwill@yahoo.co.nz>; Ben. Farrell <Ben.Farrell@jea.co.nz>; John. Edmonds <john.edmonds@jea.co.nz>
Sent: Thursday, 17 May 2018 4:17 PM
Subject: FW: Further Sub id=2911

Graeme Todd LLB, Notary Public
Principal
P: +64 3 441 2743 | M: +64 27 433 0457 | F: +64 3 441 2976
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W: www.toddandwalker.com



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APPENDIX 3
3 – 30 JULY NUGENT – S2
REASONS RE: HEALY EVIDENCE

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of the Queenstown Lakes
Proposed District Plan

**MINUTE CONFIRMING REASONS FOR REFUSING TO HEAR THE EVIDENCE OF
R J HEALY FOR THE TUCKER BEACH RESIDENTS ASSOCIATION INCORPORATED**

1. At the hearing of Stream 14 on Thursday 26 July 2018 Mr Todd, representing the Tucker Beach Residents Association Incorporated ("TBRA"), sought to call evidence from Ross John Healy in support of Further Submission 2802 ("FS2802") lodged by Tucker Beach Residents (we were advised that TBRA was the successor of Tucker Beach Residents). This evidence was emailed to the Hearing administrator on 25 July 2018. I refused to allow this evidence to be presented. I set out my reasons for that direction.
2. FS2802 opposes Submission 2332 lodged by the Middleton Family Trust and seeks that all of that submission be disallowed.
3. The Panel's first Procedural Minute¹ set out a timetable for submitters and further submitters to lodge evidence. Those dates were 11 June 2018 for primary evidence and 27 June 2018 for rebuttal evidence. No evidence was lodged in support of FS2802, nor was any rebuttal evidence lodged. The Procedural Minute further directed that the presentation at the hearing by witnesses should be limited to a single side of an A4 sheet².
4. Submission 2332 was heard on 12 July 2018, represented by Ms Macdonald. In support of the Middleton Family Trust case, she called expert evidence in relation to landscape, infrastructure, economics, traffic and resource management. That was the sole opportunity for Ms Macdonald and her witnesses to respond to the Council's evidence and any evidence lodged in support of the three further submissions³ on this submission.
5. The evidence Mr Healy sought to present amounted to some eleven and a half pages, along with a 27-page long traffic engineering report and various other documents and photographs.

¹ 1 May 2018

² See paragraph 27(f)

³ FS2713 in support and FS2714 and FS2802 in opposition

6. In some cases the Panel has waived compliance with the requirement that presentations by witnesses at the hearing be limited to a single A4 page. This has been in cases where the exceedance was modest and no prejudice to other parties arose. Neither was the case in this instance.
7. It was clear to me and my fellow commissioners, after reading all of the material, that the evidence Mr Healy sought to present contained facts, assertions and opinions that the Middleton Family Trust was entitled to respond to, and most likely would wish to respond to.
8. One of the primary principles the Hearing Panel has committed to is to act in a fair manner⁴. Such fairness applies to the council and to all submitters and further submitters. One of the reasons for requiring the lodgement of evidence in advance was to ensure such fairness. In addition, all evidence lodged has been placed on the Council's website so that all parties have had access to it.
9. To have heard Mr Healy's evidence, which had not been prelodged nor made available to other parties, would have been procedurally unfair to the Middleton Family Trust. Mr Todd submitted that that unfairness could be overcome by giving the Middleton Family Trust the opportunity to respond to the new evidence. However, because TBRA appeared on the last day of the hearings, that opportunity was not available. Mr Todd did not suggest any alternative remedy to that unfairness and I have not been able to identify any alternative myself.
10. Although we did not hear Mr Healy, we did hear submissions from Mr Todd in support of FS2802. Those submissions outlined the concerns of TRBA. Mr Todd also advised that his submissions were in support of FS2714 (James Muspratt). Thus, those submissions will be among the material the Hearing Panel takes into account when deliberating on the Middleton Family Trust's submission.

30 July 2018



Denis Nugent
Hearing Panel Chair

⁴ Procedural Minute dated 1 May 2018, paragraph 6

**APPENDIX 4
4- 6 AUGUST REPLY
SUBMISSIONS FOR MIDDLETON FT
TO STRIKE OUT FURTHER SUBS
FROM TUCKER BEACH RESIDENTS**

BEFORE THE QUEENSTOWN LAKES
DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act
1991

AND in the matter of the Queenstown Lakes
Proposed District Plan

AND in the matter of Hearing Stream 14 – Wakatipu
Basin

**REPLY SUBMISSIONS FOR MIDDLETON FAMILY TRUST -
APPLICATION TO STRIKE OUT FURTHER SUBMISSION FROM
TUCKER BEACH RESIDENTS**

Dated this 6th day of August 2018

MACALISTER TODD PHILLIPS

Barristers, Solicitors, Notaries

3rd Floor, 11-17 Church Street

Queenstown 9300

P O Box 653, DX ZP95001, Queenstown 9348

Telephone: (03) 441 0125 Fax: (03) 442 8116

Solicitor Acting: Jayne Macdonald

MAY IT PLEASE THE COMMISSIONERS

Is there an unincorporated body of persons capable of being a “person” for the purposes of the further submission (“FS”)?

Body of persons

1. The Tucker Beach Residents (“TBR”), submit that at the time of filing the FS, it was an “unincorporated body of persons”, comprising residents of Tucker Beach and surrounds who had agreed to file a submission.
2. As will be discussed below, TBR produces insufficient evidence to substantiate those claims.
3. In defining a “person”, Section 2 of the Act refers to a “body” of persons comprised in an unincorporated group. By definition, there must be more than one person in the group.
4. While the name on the submission form is stated to be *Tucker Beach Residents*, further consideration of the ‘form’ of the submission is instructive. It uses the singular “I”, rather than the plural “we” as would otherwise be expected of a submission made on behalf of a body of persons. When explaining the grounds for being a person who has an interest in the proposal greater than the public in general it says, “I own land affected by the submission”.
5. TBR submit that there is no case law to support a requirement that there be a meeting held between members to establish a common purpose and intention to move in concert. While that is accepted, the fact of a meeting held is evidence of satisfaction of the common purpose and intention to move in concert, and is not an uncommon occurrence for members of an unincorporated group such as thus.
6. In fact, the TBR can point to no common purpose of organised effort at all by persons *other than* Mr Hodgson, who appears to have been the person who gave instructions for the FS to be prepared and filed. It is submitted that more is required than that.

7. TBR submission attaches a copy of an e-mail exchange timed at 8.36pm on 17 May 2018, the evening of the date of lodgement of the FS. It contains a statement that Mr Hodgson has been in contact with a “Vicki Summer” and she is on board as one of the TBR “along with others”.
8. There is no evidence of who these others are, or when the contact with Ms Summer was, or the nature of it. While as above, it might be taking it too far to require a meeting to establish a common purpose, the “evidence” produced by TBR falls well short of the requirements to establish the “fact” of a group of residents who had **agreed** to move in concert.
9. Furthermore, the e-mail produced by TBR is not sufficient evidence that the requisite intent or agreement was formed prior to the FS submission being lodged.
10. It is submitted that what the “evidence” for TBR does show is a last minute effort on the part of Mr Hodgson to rally the support of neighbours under the guise of a residents group. There is no evidence of an organised effort, or agreement to move forwards as a group prior to the lodgement of the FS. Rather, that appears to have occurred after the submission was lodged, as can be seen in the fact of incorporation of the residents group, and the fact of a number of late further submissions that were filed.
11. It is submitted that there is insufficient evidence for TBR to qualify as a person, and therefore be capable of having standing to lodge a FS.

Does Tucker Beach Residents Society Inc meet the requirements to be a successor?

12. The majority of cases considering the issue of succession have a similar fact scenario whereby there are a number persons who have filed individual submissions, who then seek to form an incorporated society “to step into the shoes” of those who commenced participation as individuals.

13. That is not the factual scenario here. There is one FS purporting to be made on behalf of an unincorporated group. In such circumstances, it is submitted the only test that requires satisfaction is whether the successor is composed of substantially the same members.
14. The qualifying counting membership of the predecessor should be calculated at the date which the last action is taken under the RMA (the lodging of the FS)¹. At best, the evidence for TBR is that it was constituted of two members at the time the FS was filed. While these two members are members of the incorporated society, upon incorporation, the membership of the corporate entity was not comprised of substantially the same members as its predecessor. Out of 15 members on incorporation, only two are members of the unincorporated group. This is well below the threshold of “substantial”.
15. What it represents is not “one group” who have moved in concert, for a common purpose and therefore should have the benefit of taking over the FS, but two different groups comprised of substantially different persons. The grounds for succession have not been met.

Prejudice and no rights of participation

16. As noted in the minute recording the reasons refusing to hear the evidence of Mr Healy on the part of the TBR², the legal submissions made for the TBR were also made for Mr James Muspratt (FS 2714). The TBR retain the ability to participate in the process through Mr Muspratt’s further submissions, which to all intents and purposes appears to be aligned with the concerns of the TBR.



Jayne Macdonald

Counsel for the Middleton Family Trust

¹ Gold Mine Action Incorporated v Otago Regional Council C51/2002

² At paragraph 10

APPENDIX 5
5- 8 AUGUST DECISION OF THE
CHAIR TO STRIKE TBR
SUBMISSION

IN THE MATTER of the Resource
Management Act 1991

AND

IN THE MATTER of the Queenstown Lakes
Proposed District Plan

AND

IN THE MATTER of Further Submission 2802
lodged by Tucker Beach
Residents

DECISION ON APPLICATION TO STRIKE OUT FURTHER SUBMISSION

Introduction

1. At the hearing on 12 July 2018, Ms Macdonald, counsel for the Middleton Family Trust (Submitter 2332) ("MFT"), applied to have Further Submission 2802 lodged by the Tucker Beach Residents ("TBR") struck out on the grounds that there was no evidence TBR was a legal person.
2. I issued a Minute on 13 July 2018 setting out a timetable for receipt of submissions from TBR on this application, and reply from the MFT.
3. Due to an administrative oversight this Minute was not served on TBR. Counsel for TBR advised by email on 23 July 2018 that TBR had only become aware of the Minute the previous day and sought an extension of time to lodge submissions. This was granted, and the period for MFT to lodge a reply was duly extended.
4. In the interim, the Tucker Beach Residents Society Incorporated ("the Society") appeared on 26 July 2018 on the basis that the Society was successor to TBR. The submissions responding to the strike out application were lodged by the Society on 30 July 2018.
5. I have been delegated the Council's powers to make procedural decisions in relation to hearing of submissions on the Proposed District Plan. That includes the powers provided under section 41D of the Act to strike out submissions.

Matters to Consider

6. The questions to answer are:
- a) Was TBR an unincorporated body of persons at the point when FS2802 was filed?
 - b) If the answer to (a) is yes, is the Tucker Beach Residents Society Incorporated successor to TBR?

Was TBR an Unincorporated Body of Persons?

7. The definition of “person” in section 2 of the Act indicates that an unincorporated group does have legal status. Ms Macdonald outlined the legal requirements for an unincorporated body to have standing under the Act as follows¹:

To be an unincorporated body which is a separate legal person under the Act there must be two or more persons who have a similar or related purpose in relation to some function or proceedings under the RMA, and who have agreed to move in concert². Unincorporated group – must have members – a group of people with a common purpose³.

8. I accept that to be a succinct analysis of the requirements. I also accept that the existence of an unincorporated group is a question of fact. Ms Macdonald submitted the caselaw suggests there should have been at least one meeting of the group and that it must have reached agreement on a common purpose prior to lodgement of any submission.

9. Mr Todd, counsel for the Society submitted:

... the Tucker Beach Residents at the time of filing its submission was in fact a group of people with a similar and related purpose who agreed to move in concert. To show that these members existed, an email from Mr Will Hodgson to Tucker Beach Residents’ counsel dated 17 May 2018 (the same day the submission was filed) is attached to these submissions and marked with the letter “B”. The email refers to at least two members of the Tucker Beach Residents group, being Mr Hodgson himself and Ms Vicki Summer. ...”⁴

¹ Legal Submissions for Middleton Family Trust (#2332), dated 11 July 2018, at paragraph 19
² *Gold Mine Action Incorporated v Otago Regional Council* (2002) 8 ELRNZ 129 at [37]
³ *Appealing Wanaka v Queenstown Lakes District Council* [2015] NZEnvC 23
⁴ At paragraphs 7 and 9

10. As Ms Macdonald noted in her reply on behalf of the MFT, the email referred to in the Society's submissions was sent at 8:36 pm on 17 May 2018. The Council records show that FS2802 was lodged at 4:22 pm on that day.
11. On the face of it, there is no evidence of a group of people acting with a common purpose at the time the further submission was lodged. While there appears to have been two persons so minded in the evening of 17 May 2018, there is no evidence of any agreement being reached on their common purpose prior to the further submission being lodged. That omission might easily have been remedied had I been supplied with a brief statement by Mr Hodgson, but, as it is, I have only his email, which does not say when he spoke to Ms Summer. Thus, on the facts before me I must conclude that TBR at the time the further submission was lodged was not an unincorporated body of persons.

Is the Tucker Beach Residents Society Incorporated Successor to TBR?

12. While I do not need to answer this question, given the answer to the previous question, as Ms Macdonald appeared to concede that "*at best, the evidence for TBR is that it was constituted of two members at the time the FS was filed*"⁵, I have considered this question also.
13. Mr Todd provided a copy of the Certificate of Incorporation of the Tucker Beach Residents Society Incorporated, but did not provide a copy of the application to incorporate the society. That document may have established that both Mr Hodgson and Ms Summers were founding members of the society. I would still have needed to consider Ms Macdonald's argument that the Society is not made up of substantially the same members as TBR, but in the absence of the application form I cannot conclude that they were. On the facts before me, there is, therefore, no evidence that the Society is successor to the TBR.

Outcome

14. On the facts provided I have concluded that "Tucker Beach Residents" is not a legal person as defined by the Act. There is no evidence that, prior to or at the time of lodging the further submission, "Tucker Beach Residents" comprised a group of people (two or more) with a common purpose of opposing the MFT submission.

⁵ Reply Submissions for Middleton Family Trust – Application to Strike Out Further Submission from Tucker Beach Residents, dated 6 August 2018, at paragraph 14

15. It would be an abuse of process to allow a further submission not lodged by a legal person to proceed. Consequently, Further Submission 2802 is struck out under section 41D of the Act.

8 August 2018



Denis Nugent
Hearing Panel Chair

**APPENDIX 6
6 – 29 AUGUST OBJECTION
FROM TUCKERS BEACH
RESIDENTS**

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of an objection under section 357 of the Act
BY **TUCKER BEACH RESIDENTS SOCIETY
INCORPORATED**

NOTICE OF OBJECTION

Dated: 29 August 2018

TODD & WALKER **law**
LAWYERS | NOTARY PUBLIC

Solicitors:

G M Todd/B B Gresson
PO Box 124
Queenstown 9348
P 03 441 2743
F 03 441 2976
graeme@toddandwalker.com;
ben@toddandwalker.com

To: The Queenstown Lakes District Council

1. Tucker Beach Residents Society Incorporated (“**submitter**”) objects pursuant to section 357 of the Resource Management Act 1991 (“**Act**”) to a decision of the Chair of the Hearings Panel for the Queenstown Lakes Proposed District Plan (“**Plan**”) to strike out the submitter’s submission to the Plan (submission #2802).
2. The reasons for the objection are as follows:
 - a. The Chair’s decision to strike out the submitter’s submission was on the basis that the submitter at the time the submission was filed was not a “person” for the purpose of section 2 of the Act. The Chair took the view that the Tucker Beach Residents, which was not yet incorporated at the time the submission was filed, was not an unincorporated body of persons under section 2 of the Act as it did not consist of two or more individuals who had reached a common purpose and had agreed to move in concert.
 - b. Consequently the Chair held that the subsequently incorporated Tucker Beach Residents Society could not be a successor to the Tucker Beach Residents submission.
 - c. The Chair erred in this determination as while the group had not yet incorporated at the time the submission was filed it did in fact consist of two or more individuals who had agreed to move in concert.
 - d. The Tucker Beach Residents Society Incorporated accordingly has standing to be a successor to the submission as it is comprised of substantially the same members as the unincorporated group.
3. The submitter seeks the decision of the Chair be overturned and the submitter’s submission reinstated.
4. The following documents are **attached** in support of this notice:
 - a. A copy of the Tucker Beach Residents submission;
 - b. A copy of the decision of the Chair;
 - c. An affidavit of William Fulton Hodgson;
 - d. An affidavit of Ben Farrell;
 - e. An affidavit of Bryan Hutchins;
 - f. An affidavit of Victoria Ann Onions; and
 - g. An affidavit of Michelle Anne Rudd

Dated this 29th day of August 2018

A handwritten signature in black ink, appearing to be 'G. Morris' or similar, written in a cursive style.

Signed for Tucker Beach Residents Society Incorporated
By its solicitor and duly authorised agent
Graeme Morris Todd/Benjamin Brett Gresson



FORM 6: FURTHER SUBMISSION

IN SUPPORT OF, OR IN OPPOSITION TO, SUBMISSION/S
ON A PROPOSED PLAN CHANGE



Clause 8 of First Schedule, Resource Management Act 1991



TO // Queenstown Lakes District Council



YOUR DETAILS // Our preferred methods of corresponding with you are by **email** and **phone**.

Name:

Phone Numbers: Work:

Home:

Mobile:

Email Address:

Postal Address:

Post code:



THIS IS A FURTHER SUBMISSION // In support of (or in opposition to) a submission on the following Plan Change:

I AM

A person representing a relevant aspect of the public interest.
In this case, also specify the grounds for saying that you come within this category; or

A person who has an interest in the proposal that is greater than the interest the general public has.
In this case, also explain the grounds for saying that you come within this category; or

The local authority for the relevant area.

I own land affected by the submission.



I SUPPORT (OR OPPOSE) THE SUBMISSION OF // Name the original submitter and submission number.



THE PARTICULAR PARTS OF THE SUBMISSION I SUPPORT (OR OPPOSE) ARE // Clearly indicate which parts of the original submission you support or oppose, together with any relevant provisions of the proposal.



THE REASONS FOR MY SUPPORT (OR OPPOSITION) ARE //



I SEEK THAT THE WHOLE OR PART [DESCRIBE PART] OF THE SUBMISSION BE ALLOWED, OR DISALLOWED // Give precise details.

- DO/DO NOT** wish to be heard in support of my submission.
- WILL/WILL NOT** consider presenting a joint case with others presenting similar submissions.

SIGNATURE

Signature (to be signed for or on behalf of submitter) **

Date

*** If this form is being completed on-line you may not be able, or required, to sign this form.*

NOTE TO PERSON MAKING FURTHER SUBMISSION

A copy of your further submission must be served on the original submitter within five working days after making the further submission to the Local Authority.



5491 Bryan Hutchins affidavit in support of objection to strike out.docx
1

I, **Bryan Simpson Hutchins** of Queenstown, Retired, swear/affirm as follows:

1. I reside at 331 Tucker Beach Road, Queenstown. I also own a property at 393 Tucker Beach Road.
2. I am a member of the Tucker Beach Residents Society Incorporated.
3. In May 2018 I received a telephone call from Ben Farrell of John Edmonds & Associates. I have subsequently been informed the date of this telephone conversation was 17 May 2018. In the conversation Mr Farrell informed me of a "Tucker Beach Residents" group which was proposed to be formed for the purpose of filing a further submission to the Queenstown Lakes Proposed District Plan to the submission of the Middleton Family Trust.
4. Mr Farrell confirmed to me that William Hodgson had agreed to be part of the Tucker Beach Residents group. He then asked me if I wished to join the group. I confirmed to him that I and my wife Penny Hutchins wished to be part of the group.

Sworn/affirmed at
by Bryan Simpson Hutchins
this 27th day of August 2018
before me:



M.A. McLean J.P.

M.A. McLean, JP
#89181
TE ANAU
Justice of the Peace for New Zealand

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of an objection under section 357 of the Act
BY TUCKER BEACH RESIDENTS SOCIETY INCORPORATED

AFFIDAVIT OF MICHELLE ANNE RUDD IN SUPPORT OF A NOTICE OF OBJECTION

Dated: 28th August 2018

TODD & WALKER law
LAWYERS | NOTARY PUBLIC

Solicitors:

G M Todd/B B Gresson
PO Box 124
Queenstown 9348
P 03 441 2743
F 03 441 2976
graeme@toddandwalker.com;
ben@toddandwalker.com

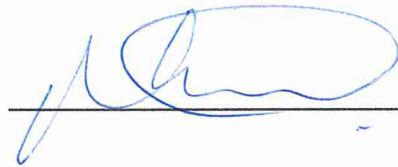
CM
ML

ml. CM
Carer

I, **Michelle Anne Rudd of Queenstown, Contractor**, ~~swear~~ affirm as follows:

1. I reside at 162 Hansen Road, Queenstown.
2. I am a member of the Tucker Beach Residents Society Incorporated.
3. On 17 May 2018 at 4.05pm I received a telephone call from my husband William Hodgson. He informed me of a Tucker Beach Residents group that had been formed for the purpose of filing a submission to the Queenstown Lakes Proposed District Plan in opposition to the submission of the Middleton Family Trust.
4. During this phone conversation he asked me if I wished to be a part of the group and I confirmed I wished to be a part.

Sworn/affirmed at *Queenstown*
 By Michelle Anne Rudd
 This *28th* day of August 2018
 Before me:




Courtney Mirkusich
 Deputy Registrar
 District Court
 Queenstown

~~A solicitor of the High Court of New Zealand/Deputy Registrar/Justice of the Peace~~

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of an objection under section 357 of the Act
BY **TUCKER BEACH RESIDENTS SOCIETY INCORPORATED**

AFFIDAVIT OF VICTORIA ANN ONIONS IN SUPPORT OF A NOTICE OF OBJECTION

Dated: 29th August 2018

TODD & WALKER law
LAWYERS | NOTARY PUBLIC

Solicitors:

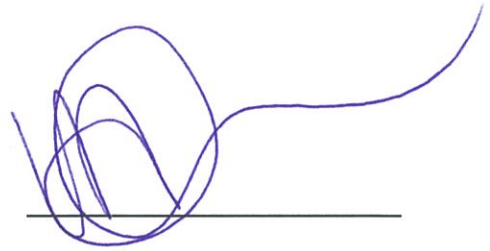
G M Todd/B B Gresson
PO Box 124
Queenstown 9348
P 03 441 2743
F 03 441 2976
graeme@toddandwalker.com;
ben@toddandwalker.com

9/100

I, **Victoria Ann Onions of Queenstown, Retail Manager**, swear/affirm as follows:

1. I own land at 172 Hansen Road, Queenstown.
2. I am a member of the Tucker Beach Residents Society Incorporated.
3. On 17 May 2018 at approximately 3.30pm I met with Mr William Hodgson at my office at 32 Rees Street, Queenstown. At this meeting Mr Hodgson informed me of a Tucker Beach Residents group that had been formed to file a submission to the Queenstown Lakes Proposed District Plan in opposition to the submission of the Middleton Family Trust.
4. Mr Hodgson asked me if I wished to be part of the Tucker Beach Residents group. I confirmed to him I wished to be a part.

Sworn/Affirmed at Queenstown
By Victoria Ann Onions
This 29th day of August 2018
Before me:



A solicitor of the High Court of New Zealand/Deputy Registrar/Justice of the Peace

Elliot Charles Goldman
Solicitor
Queenstown

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of an objection under section 357 of the Act

BY TUCKER BEACH RESIDENTS SOCIETY INCORPORATED

AFFIDAVIT OF WILLIAM FULTON HODGSON IN SUPPORT OF A NOTICE OF OBJECTION

Dated: 28th August 2018

TODD & WALKER law
LAWYERS | NOTARY PUBLIC

Solicitors:

G M Todd/B B Gresson
PO Box 124
Queenstown 9348
P 03 441 2743
F 03 441 2976
graeme@toddandwalker.com;
ben@toddandwalker.com

On
W.F.H.

I, **William Fulton Hodgson** of Queenstown, Company Director, swear/affirm as follows:

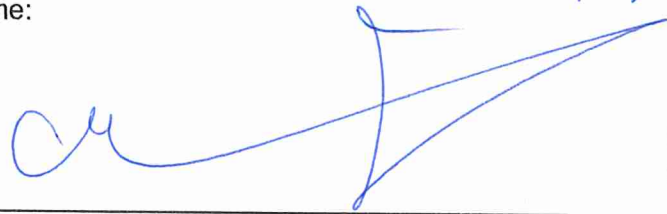
1. I reside at 162 Hansen Road, Queenstown.
2. I am a member of the Tucker Beach Residents Society Incorporated. A copy of the Certificate of Incorporation for the Society is attached to this affidavit and marked "A". A copy of the incorporation application showing the names of the original 15 members is attached and marked "B".
3. On 17 May 2018 at 2.30pm I met with Messrs John Edmonds and Ben Farrell of John Edmonds & Associates at their office at 36 Shotover Street, Queenstown.
4. The purpose of this meeting was to discuss the rezoning of an area of land at Tucker Beach Road sought by the Middleton Family Trust ("Middletons") in its submission to Stage 2 of the Queenstown Lakes Proposed District Plan. I advised Messrs Edmonds and Farrell that I had been in some discussions with other residents of Tucker Beach who had learned of the Middletons' proposal, were concerned about it and wanted to object.
5. We discussed the adverse effects of the rezoning on the residents of Tucker Beach, and the most effective way for the residents to oppose the Middletons' submission.
6. Mr Farrell suggested the best way to oppose the submission was to form a residents group, and for the group to file a further submission in opposition to the Middleton's submission. I confirmed that I agreed with this suggestion and that I would form the group.
7. During the meeting at some time between 2.30pm and 3.30pm Mr Farrell called Mr Bryan Hutchins, who is a resident of Tucker Beach, to inform him of the Middleton proposal and the proposed Tucker Beach Residents group. Mr Farrell confirmed to me that he asked Mr Hutchins if he wished to be a part of the group. He said Mr Hutchins confirmed that he and his wife Penny wished to be a part of the group.
8. Mr Edmonds then rang Graeme Todd of Todd and Walker Law at approximately 3.30pm. He placed the call on speakerphone and I instructed Mr Todd on behalf of the Tucker Beach Residents group to file a further submission in opposition to the Middleton submission in the name of Tucker Beach Residents.
9. Following the meeting I then met with Ms Vicki ^{Onions WFL - CM.} ~~Summer~~, also a resident of Tucker Beach, at her office at 32 Rees Street, Queenstown. I informed her of the Middleton submission and the proposed Tucker Beach Residents group and asked her if she wished to be part of the group. She confirmed to me that she did wish to be a part of the group.

WFL

10. I then had a telephone conversation with my wife Michelle Rudd at 4.05pm that same day whereby I informed her of Tucker Beach Residents Group and asked her if she wished to be a part of the group. She confirmed to me she wished to be a part.

Sworn/Affirmed at Queenstown
by William Fulton Hodgson
this 28th day of August 2018
before me:





Courtney Mirkusien
Deputy Registrar
District Court
Queenstown

~~A Solicitor of the High Court of New Zealand/Deputy Registrar/Justice of the Peace~~





CERTIFICATE OF INCORPORATION

TUCKER BEACH RESIDENTS SOCIETY INCORPORATED
2706672

This is to certify that TUCKER BEACH RESIDENTS SOCIETY INCORPORATED was incorporated under the Incorporated Societies Act 1908 on the 11th day of June 2018.

This is the exhibit marked "A" referred to in the annexed affidavit of *William Fulton Hodgson* sworn at *Queenstown* before me this *28th* day of *August* 2018

Solicitor of the High Court of New Zealand
Courtney Mrukovich
Deputy Registrar
District Court
Queenstown

Registrar of Incorporated Societies
22nd day of August 2018



"B"

ORIGINAL



COMPANIES SOCIETIES AND TRUSTS ONLINE



10064754725 www.companies.govt.nz

www.societies.govt.nz | 0508 SOCIETIES | 0508 762 438 Send completed forms to: Companies Office, Private Bag 92061, Victoria Street West, Auckland

Application to incorporate a society Sections 7 and 21, Incorporated Societies Act 1908

2706672

NOTES - The society's name must end with the word Incorporated. The name cannot be the same as any other society, company or organisation. Check existing society and company names for free by doing a Register Search online at www.societies.govt.nz and www.companies.govt.nz. The Companies Office will endeavour to process your application form within three working days. Except where specifically noted, the details you provide on this form (including details and signatures of the members and witnesses provided with this application) will be made publicly available on the Societies and Trusts Online website.

1. Name of society

Society

Tucker Beach Residents Incorporated Society

This is the exhibit marked "B" referred to in the annexed affidavit of William Fulton Hodgson sworn at Queenstown before me this day of August 2018

2. Address of registered office

This address must be a physical address and NOT a PO Box, Private Bag or Document Exchange address.

C/- Todd & Walker Law, Level 1, Aurum House, Terrace Junction, 1022 Frankton Road, Queenstown 930

A Solicitor of the High Court of New Zealand Deputy Registrar District Court Queenstown

3. Addresses for communication

Postal address (this can be a PO Box address) to which communications from the Registrar may be sent. The Registrar may also contact the society by email. The email address you provide here will not be publicly available.

Postal address

C/- Todd & Walker Law, PO Box 124, Queenstown 9348

Email address (optional)

4. Annual General Meeting (AGM) month

The society's annual general meeting will usually be held in the month of:

June

5. Checklist before filing your application

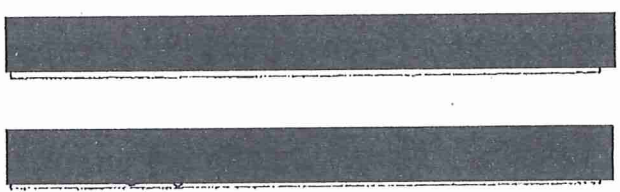
- ✓ We have checked that the society's name is available by conducting a Register Search at www.societies.govt.nz and www.companies.govt.nz
✓ The application form has been signed by 15 members of the society (Pages 2-7)
✓ All the signatures have been witnessed by someone who isn't one of the 15 members signing the form (Pages 2-7)
✓ A copy of the society's endorsed rules is attached to the application
An officer of the society or a solicitor has completed the attached certification (Page 8)
The fee of \$102.22 is included (Please complete the attached 'Payment details' section - Page 9)



6. Your contact details

Name and postal address

Jessica Weinberg Todd & Walker Law Queenstown



Application to incorporate a society (continued)

Name of society

Tucker Beach Residents Incorporated Society

Date

5 June 2018

We, the several persons whose names are subscribed hereto, being members of the above-mentioned society, hereby make application for the incorporation of the society under the foregoing rules, in accordance with the Incorporated Societies Act 1908.

7. Witnesses

Tick here if there is only one witness to all 15 members' signatures. In this case the witness should only complete the first set of witness fields.

If there is more than one witness to the members' signatures, each witness should complete the appropriate witness fields.

8. Members 1 and 2. (Note - Complete details for members 3, 4 and 5 on the next page)

Witnessed by

~~Signature~~  ~~Signature~~  Brown

Signature

P Ford

Name ~~Peter Forrest~~ Christopher William
Address ~~70 Tuckers Place~~ 246 Tucker Beach Road
~~Queenstown~~

Name Peter Forrest
Address 10 Kawarau Place
Occupation Earth moving



2 Signature

P Ford

Name Judith Louise Shea
Address 330 Tucker Beach Road
Queenstown

Name PETER FORREST
Address 10 Kawarau
Occupation Earth moving



Application to incorporate a society (continued)

Name of society
Tucker Beach Residents Incorporated Society

Date

We, the several persons whose names are subscribed hereto, being members of the above-mentioned society, hereby make application for the incorporation of the society under the foregoing rules, in accordance with the Incorporated Societies Act 1908.

8. Members 3, 4 and 5 (Note: Complete details for members 6, 7 and 8 on the next page)

3 Signature  

3 Signature


Witnessed by (to be completed if there is more than one witness)

3 Signature

Name ~~Patricia Anne~~ ~~William Fuzen~~ WILLIAM FUZEN

Address 162 Hansen Road

Occupation Queenstown


4 Signature 

4 Signature

Name Michael Dail

Address 310 Tucker Beach Rd

Occupation Queenstown

5 Signature 

5 Signature

Name STEVE COUPER

Address 130 TUCKER BEACH RD

Occupation QUEENSTOWN

Application to incorporate a society (continued)

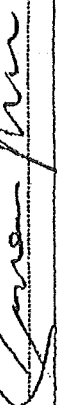
Name of society
Tucker Beach Residents Incorporated Society

Date

We, the several persons whose names are subscribed hereto, being members of the above-mentioned society, hereby make application for the incorporation of the society under the foregoing rules, in accordance with the Incorporated Societies Act 1908.

8. Members 6, 7 and 8 (Note - Complete details for members 9, 10 and 11 on the next page)

Witnessed by (to be completed if there is more than one witness)

6 Signature 

Name SIMON TISDALL PRICE.


Address 221 HANSEN RD
QUEENSTOWN.

6 Signature

Name

Address

Occupation

7 Signature 

Name RACHAEL CLAIRE PRICE

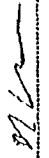
Address 221 HANSEN RD
QUEENSTOWN

7 Signature

Name

Address

Occupation

8 Signature 

Name Neale Underdown

Address 204 TUCKER BEACH RD

8 Signature

Name

Address

Occupation

Application to incorporate a society (continued)

Name of society
 Tucker Beach Residents Incorporated Society

Date

We, the several persons whose names are subscribed hereto, being members of the above-mentioned society, hereby make application for the incorporation of the society under the foregoing rules, in accordance with the Incorporated Societies Act 1908.

8. Members 9, 10 and 11 (Note - Complete details for members 12, 13 and 14 on the next page)

Witnessed by (to be completed if there is more than one witness)

9 Signature 

Name Alexander Douglas Reed

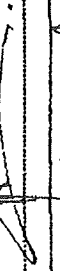
Address 273 Tucker Beach Road
Queensland

9 Signature

Name

Address

Occupation

10 Signature 

Name Ian John Atkinson


Address 241 Tucker Beach Road
Qtn.

10 Signature

Name

Address

Occupation

11 Signature 

Name ROSEMARY BARNETT

Address 280 TUCKER BEACH RD.
Qtn.

11 Signature

Name

Address

Occupation

Application to incorporate a society (continued)

Name of society
 Tucker Beach Residents Incorporated Society

Date

We, the several persons whose names are subscribed hereto, being members of the above-mentioned society, hereby make application for the incorporation of the society under the foregoing rules, in accordance with the Incorporated Societies Act 1908.

8. Members 12, 13 and 14 (Note: complete details for member 15 on the next page)

Robert D. Panty

12 Signature

Name
 ROBIN DESMOND MARTIN

Address
 361 Tucker Beach Rd
 QT 9371

12 Signature

Name

Address

Occupation

[Signature]

13 Signature

Name
 Martin Chertez

Address
 11 Graces Terrace
 QT 9371

13 Signature

Name

Address

Occupation

[Signature]

14 Signature

Name
 Madeline Healy

Address
 365 B
 Tucker Beach Rd

14 Signature

Name

Address

Occupation

Application to incorporate a society (continued)

Name of society
 Tucker Beach Residents Incorporated Society

Date

We, the several persons whose names are subscribed hereto, being members of the above-mentioned society, hereby make application for the incorporation of the society under the foregoing rules, in accordance with the Incorporated Societies Act 1908.

8. Member 15

Witnessed by (to be completed if there is more than one witness)

15 Signature 

15 Signature _____

Name
 KEVIN SMITH

Address
 230 TUCKER BEACH RD
 DUNEDIN STOWN 9371

Name

Address

Occupation

Application to incorporate a society (continued)

Page 8 of 9
Form IS1

Name of society

Tucker Beach Residents Incorporated Society

9. Certificate

The certificate must be completed by an officer of or solicitor for the society who should also sign the first page of the rules that are being submitted.

I certify that:

1. a majority of the members have consented to the application; and
2. the rules that are endorsed with the application are the rules of the society.

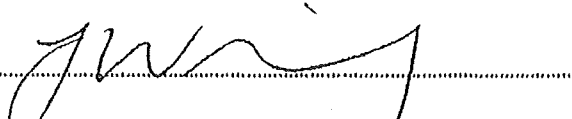
Name

Jessica Weinberg

Position

Solicitor

Signature



Date

7 June 2018

RULES CHECKLIST | What must be included in your rules?

Section 6, Incorporated Societies Act 1908 requires that a society's rules include the following:

- The name of the society (ending with the word Incorporated)*
- The objects for which the society is established*
- How people become members of the society and cease being members of the society*
- How meetings of the society will be called and held and how voting will take place*
- How officers of the society will be appointed*
- Control and use of the common seal*
- How the society's funds will be controlled and invested*
- The powers (if any) that the society has to borrow money*
- How any property of the society will be distributed in the event of the society being wound up*
- How the rules of the society can be altered.*

**Rules
of Tucker Beach Residents Society Incorporated**

We certify that this document is the Rules of Tucker Beach Residents Society
Incorporated

Juanth Stea

Members signature

Therese D. Pantin

Members signature

[Signature]

Members signature

5 June 2018,

Dated:

Rules of Tucker Beach Residents Society Incorporated

The Society

1 Name

- 1.1 The name of the society is Tucker Beach Residents Society Incorporated ("the Society").
- 1.2 The Society is constituted by resolution dated 5 June 2018.

2 Registered Office

- 2.1 The Registered Office of the Society is C/- Todd & Walker Law, Level 1, Aurum House, Terrace Junction, 1092 Frankton Road, Queenstown 9300.

3 Purposes of Society

- 3.1 The purposes of the Society are to:
 - a Maintain and preserve the character and landscape of Tucker Beach Road, Queenstown and the surrounding area for the benefit of the residents of the Tucker Beach area and those living in the locality of Tucker Beach Road;
 - b Do anything necessary or helpful to the above purposes.
- 3.2 Pecuniary gain is not a purpose of the Society.

MANAGEMENT OF THE SOCIETY

4 Managing Committee

- 4.1 The Society shall have a managing committee ("the Committee"), comprising the following persons:
 - a The Chair/President;
 - b The Secretary;
 - c The Treasurer; and
 - d Such other Members as the Society shall decide.
- 4.2 Only Members of the Society may be Committee Members.
- 4.3 There shall be a minimum of three Committee Members, in addition to the Officers.

5 Appointment of Committee Members

- 5.1 At a Society Meeting, the Members may decide by majority vote:
- a How large the Committee will be;
 - b Who shall be the Chair/President, Secretary, and Treasurer;
 - c Whether any Committee Member may hold more than one position as an officer;
 - d How long each person will be a Committee Member (" the Term").

6 Cessation of Committee Membership

- 6.1 Persons cease to be Committee Members when:
- a They resign by giving written notice to the Committee.
 - b They are removed by majority vote of the Society at a Society Meeting.
 - c Their Term expires.
- 6.2 If a person ceases to be a Committee Member, that person must within one month give to the Committee all Society documents and property.

7 Nomination of Committee Members

- 7.1 Nominations for members of the Committee shall be called for at least 28 days before an Annual General Meeting. Each candidate shall be proposed and seconded in writing by Members and the completed nomination delivered to the Secretary. Nominations shall close at 5pm on the fifth day before the Annual General Meeting. [See also rule 21.4(b)] All retiring members of the Committee shall be eligible for re-election.
- 7.2 If the position of any Officer becomes vacant between Annual General Meetings, the Committee may appoint another Committee Member to fill that vacancy until the next Annual General Meeting.
- 7.3 If the position of any Committee Member becomes vacant between Annual General Meetings, the Committee may appoint another Society Member to fill that vacancy until the next Annual General Meeting.
- 7.4 If any Committee Member is absent from three consecutive meetings without leave of absence the Chair/President may declare that person's position to be vacant.

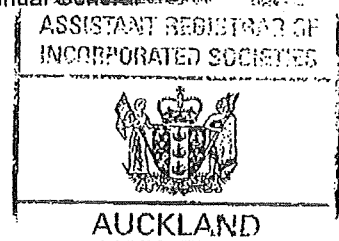
8 Role of the Committee

- 8.1 Subject to the rules of the Society ("The Rules"), the role of the Committee is to:
- a Administer, manage, and control the Society;
 - b Carry out the purposes of the Society, and Use Money or Other Assets to do that;

- c Manage the Society's financial affairs, including approving the annual financial statements for presentation to the Members at the Annual General Meetings;
 - d Set accounting policies in line with generally accepted accounting practice
 - e Delegate responsibility and co-opt members where necessary
 - f Ensure that all Members follow the Rules;
 - g Decide how a person becomes a Member, and how a person stops being a Member;
 - h Decide the times and dates for Meetings, and set the agenda for Meetings;
 - i Decide the procedures for dealing with complaints;
 - j Set Membership fees, including subscriptions and levies;
 - k Make regulations.
- 8.2 The Committee has all of the powers of the Society, unless the Committee's power is limited by these Rules, or by a majority decision of the Society.
- 8.3 All decisions of the Committee shall be by a majority vote. In the event of an equal vote, the Chair/President shall have a casting vote, that is, a second vote.
- 8.4 Decisions of the Committee bind the Society unless the Committee's power is limited by these Rules or by a majority decision of the Society.

9 Roles of Committee Members

- 9.1 The Chair/President is responsible for:
- a Ensuring that the Rules are followed;
 - b Convening Meetings and establishing whether or not a quorum (half of the Committee) is present;
 - c Chairing Meetings, deciding who may speak and when;
 - d Overseeing the operation of the Society;
 - e Providing a report on the operations of the Society at each Annual General Meeting.
- 9.2 The Secretary is responsible for:
- a Recording the minutes of Meetings;
 - b Keeping the Register of Members;
 - c Holding the Society's records, documents, and books except those required for the Treasurer's function;
 - d Receiving and replying to correspondence as required by the Committee;
 - e Forwarding the annual financial statements for the Society to the Registrar of Incorporated Societies upon their approval by the Members at an Annual General Meeting.



f Advising the Registrar of Incorporated Societies of any rule changes;

9.3 The Treasurer is responsible for:

- a Keeping proper accounting records of the Society's financial transactions to allow the Society's financial position to be readily ascertained;
- b Preparing annual financial statements for presentation at each Annual General Meeting. These statements should be prepared in accordance with the Societies' accounting policies (see 8.1.d).
- c Providing a financial report at each Annual General Meeting;
- d Providing financial information to the Committee as the Committee determines.

10 Committee Meetings

- 10.1 Committee meetings may be held via video or telephone conference, or other formats as the Committee may decide;
- 10.2 No Committee Meeting may be held unless more than half of the Committee Members attend;
- 10.3 The Chair/President shall chair Committee Meetings, or if the Chair/President is absent, the Committee shall elect a Committee Member to chair that meeting;
- 10.4 Decisions of the Committee shall be by majority vote;
- 10.5 The Chair/President or person acting as Chair/President has a casting vote, that is, a second vote;
- 10.6 Only Committee Members present at a Committee Meeting may vote at that Committee Meeting.
- 10.7 Subject to these Rules, the Committee may regulate its own practices;
- 10.8 The Chair/President or his nominee shall adjourn the meeting if necessary.
- 10.9 Adjourned Meetings: If within half an hour after the time appointed for a meeting a quorum is not present the meeting, if convened upon requisition of members, shall be dissolved; in any other case it shall stand adjourned to a day, time and place determined by the Chair/President/ of the Society, and if at such adjourned meeting a quorum is not present the meeting shall be dissolved without further adjournments. The Chair/President may with the consent of any Society Meeting adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

Society membership

11 Types of Members

- 11.1 Membership may comprise different classes of membership as decided by the Society.
- 11.2 Members have the rights and responsibilities set out in these Rules.

12 Admission of Members

- 12.1 To become a Member, a person ("the Applicant") must:
- a Complete an application form, if the Rules, Bylaws or Committee requires this; and
 - b Supply any other information the Committee requires.
- 12.2 The Committee may interview the Applicant when it considers Membership applications.
- 12.3 The Committee shall have complete discretion when it decides whether or not to allow the Applicant become a Member. The Committee shall advise the Applicant of its decision, and that decision shall be final.

13 The Register of Members

- 13.1 The Secretary shall keep a register of Members ("the Register"), which shall contain the names, the postal and email addresses and telephone numbers of all Members, and the dates at which they became Members.
- 13.2 If a Member's contact details change, that Member shall give the new postal or email address or telephone number to the Secretary.
- 13.3 Each Member shall provide such other details as the Committee requires.
- 13.4 Members shall have reasonable access to the Register of Members.

14 Cessation of Membership

- 14.1 Any Member may resign by giving written notice to the Secretary.
- 14.2 Membership terminated in the following way:
- a If, for any reason whatsoever, the Committee is of the view that a Member is breaching the Rules or acting in a manner inconsistent with the purposes of the Society, the Committee may give written notice of this to the Member ("the Committee's Notice"). The Committee's Notice must:
 - i Explain how the Member is breaching the Rules or acting in a manner inconsistent with the purposes of the Society;
 - ii State what the Member must do in order to remedy the situation; or state that the Member must write to the Committee giving reasons why the Committee should not terminate the Member's Membership.
 - iii State that if, within 14 days of the Member receiving the Committee's Notice, the Committee is not satisfied, the Committee may in its absolute discretion immediately terminate the Member's Membership.
 - iv State that if the Committee terminates the Member's Membership, the Member may appeal to the Society.

- b Fourteen days after the Member received the Committee's Notice, the Committee may in its absolute discretion by majority vote terminate the Member's Membership by giving the Member written notice ("Termination Notice"), which takes immediate effect. The Termination Notice must state that the Member may appeal to the Society at the next Meeting by giving written notice to the Secretary ("Member's Notice") within 14 days of the Member's receipt of the Termination Notice.
- c If the Member gives the Member's Notice to the Secretary, the Member will have the right to be fairly heard at a Society Meeting held within the following 28 days. If the Member chooses, the Member may provide the Secretary with a written explanation of the events as the Member sees them ("the Member's Explanation"), and the Member may require the Secretary to give the Member's Explanation to every other Member within 7 days of the Secretary receiving the Member's Explanation. If the Member is not satisfied that the other Society Members have had sufficient time to consider the Member's Explanation, the Member may defer his or her right to be heard until the following Society Meeting.
- d When the Member is heard at a Society Meeting, the Society may question the Member and the Committee Members.
- e The Society shall then by majority vote decide whether to let the termination stand, or whether to reinstate the Member. The Society's decision will be final.

15 Obligations of Members

- 15.1 All Members (and Committee Members) shall promote the purposes of the Society and shall do nothing to bring the Society into disrepute.

Money and other assets of the society

16 Use of Money and Other Assets

- 16.1 The Society may only Use Money and Other Assets if:
 - a It is for a purpose of the Society;
 - b It is not for the sole personal or individual benefit of any Member; and
 - c That Use has been approved by either the Committee or by majority vote of the Society.

17 Joining Fees, Subscriptions and Levies

- 17.1 If any Member does not pay a Subscription or levy by the date set by the Committee or the Society, the Secretary will give written notice that, unless the arrears are paid by a nominated date, the Membership will be terminated. After that date, the Member shall (without being released from the obligation of payment of any sums due to the Society) have no Membership rights and shall not be entitled to participate in any Society activity.

18 Additional Powers

18.1 The Society may:

- a Employ people for the purposes of the Society;
- b Exercise any power a trustee might exercise;
- c Invest in any investment that a trustee might invest in;
- d Borrow money and provide security for that if authorised by Majority vote at any Society Meeting.

19 Financial Year

19.1 The financial year of the Society begins on 1 April of every year and ends on 31 March of the next year.

20 Assurance on the Financial Statements

20.1 No review or audit of the annual financial statements is required unless a review or audit is requested by 5% of the Members at any properly convened Society Meeting.

Conduct of meetings**21 Society Meetings**

21.1 A Society Meeting is either an Annual General Meeting or a Special General Meeting.

21.2 The Annual General Meeting shall be held once every year no later than five months after the Society's balance date. The Committee shall determine when and where the Society shall meet within those dates.

21.3 Special General Meetings may be called by the Committee. The Committee must call a Special General Meeting if the Secretary receives a written request signed by at least 10% of the Members.

21.4 The Secretary shall:

- a Give all Members at least 14 days Written Notice of the business to be conducted at any Society Meeting
- b Additionally, the Secretary will provide, appropriate:
 - i A copy of the Chair/President's Report on the Society's operations and of the Annual Financial Statements as approved by the Committee,
 - ii A list of Nominees for the Committee, and information about those Nominees if it has been provided. (The Secretary must not provide Members with Information exceeding one side of an A4 sheet of paper per Nominee)

- iii Notice of any motions and the Committee's recommendations about those motions.
- iv If the Secretary has sent a notice to all Members in good faith, the Meeting and its business will not be invalidated simply because one or more Members do not receive the notice.

- 21.5 All Members may attend and vote at Society Meetings.
- 21.6 No Society Meeting may be held unless at least 20% of eligible Members or 20 eligible Members, whichever is lower, attend. (This will constitute a quorum.)
- 21.7 All Society Meetings shall be Chaired by the Chair/President. If the Chair/President is absent, the Society shall elect another Committee Member to Chair that meeting. Any person Chairing a Society Meeting has a casting vote.
- 21.8 On any given motion at a Society Meeting, the Chair/President shall in good faith determine whether to vote by:
- a Voices;
 - b Show of hands; or
 - c Secret ballot.

However, if any Member demands a secret ballot before a vote by voices or show of hands has begun, voting must be by secret ballot. If a secret ballot is held, the Chair/President will have a casting, that is, second vote.

- 21.9 The business of an Annual General Meeting shall be:
- a Receiving any minutes of the previous Society's Meeting(s);
 - b The Chair/President's report on the business of the Society;
 - c The Treasurer's report on the finances of the Society, and the Annual Financial Statements;
 - d Election of Committee Members;
 - e Motions to be considered;
 - f General business.

21.10 The Chair/President or his nominee shall adjourn the meeting if necessary.

21.11 Adjourned Meetings: If within half an hour after the time appointed for a meeting a quorum is not present the meeting, if convened upon requisition of members, shall be dissolved; In any other case it shall stand adjourned to a day, time and place determined by the Chair/President of the Society, and if at such adjourned meeting a quorum is not present the meeting shall be dissolved without further adjournments. The Chair/President may with the consent of any Society Meeting adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

22 Motions at Society Meetings

- 22.1 Any Member may request that a motion be voted on ("Member's Motion") at a particular Society Meeting, by giving written notice to the Secretary at least 28 days before that meeting. The Member may also provide information in support of the motion ("Member's Information"). The Committee may in its absolute discretion decide whether or not the Society will vote on the motion. However, if the Member's Motion is signed by at least 75% of eligible Members:
- a It must be voted on at the Society Meeting chosen by the Member; and
 - b The Secretary must give the Member's Information to all Members at least 14 days before the Society Meeting chosen by the Member; or
 - c If the Secretary fails to do this, the Member has the right to raise the motion at the following Society Meeting.
- 22.2 The Committee may also decide to put forward motions for the Society to vote on ("Committee Motions") which shall be suitably notified.

Common seal

23 Common seal

- 23.1 The Committee shall provide a common seal for the Society and may from time to time replace it with a new one.
- 23.2 The Secretary shall have custody of the common seal, which shall only be used by the authority of the Committee. Every document to which the common seal is affixed shall be signed by the President and countersigned by the Secretary or a member of the Committee.

Altering the rules

24 Altering the Rules

- 24.1 The Society may alter or replace these Rules at a Society Meeting by a resolution passed by a two-thirds majority of those Members present and voting.
- 24.2 Any proposed motion to amend or replace these Rules shall be signed by at least 75% of eligible Members and given in writing to the Secretary at least 28 days before the Society Meeting at which the motion is to be considered and accompanied by a written explanation of the reasons for the proposal.
- 24.3 At least 14 days before the General Meeting at which any Rule change is to be considered the Secretary shall give to all Members written notice of the proposed motion, the reasons for the proposal, and any recommendations the Committee has.
- 24.4 When a Rule change is approved by a General Meeting no Rule change shall take effect until the Secretary has filed the changes with the Registrar of Incorporated Societies.

Bylaws

25 Bylaws to govern the Society

- 25.1 The Committee may from time-to-time make, alter or rescind bylaws for the general management of the society, so long as these are not repugnant to these rules or to the provisions of law. All such bylaws shall be binding on members of the Society. A copy of the bylaws for the time being, shall be available for inspection by any member on request to the Secretary.

Winding up

26 Winding up

- 26.1 If the Society is wound up:
- a The Society's debts, costs and liabilities shall be paid;
 - b Surplus Money and Other Assets of the Society may be disposed of:
 - i By resolution; or
 - ii According to the provisions in the Incorporated Societies Act 1908; but
 - c The surplus Money and Other Assets shall be distributed to: [see S.27 of the Act] pro rate to Members in proportion to their contributions to the Society.

Definitions

27 Definitions and Miscellaneous matters

- 27.1 In these Rules:
- a "Majority vote" means a vote made by more than half of the Members who are present at a Meeting and who are entitled to vote and voting at that Meeting upon a resolution put to that Meeting.
 - b "Money or Other Assets" means any real or personal property or any interest therein, owned or controlled to any extent by the Society.
 - c "Society Meeting" means any Annual General Meeting, or any Special General Meeting, but not a Committee Meeting.
 - d "Use Money or Other Assets" means to use, handle, invest, transfer, give, apply, expend, dispose of, or in any other way deal with, Money or Other Assets.
 - e "Written Notice" means communication by post, electronic means (including email, and website posting), or advertisement in periodicals, or a combination of these methods.
 - f It is assumed that
 - i Where a masculine is used, the feminine is included
 - ii Where the singular is used, plural forms of the noun are also inferred

- g Headings are a matter of reference and not a part of the rules
Matters not covered in these rules shall be decided upon by the Committee.

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of an objection under section 357 of the Act
BY **TUCKER BEACH RESIDENTS SOCIETY INCORPORATED**

AFFIDAVIT OF BEN FARRELL IN SUPPORT OF A NOTICE OF OBJECTION

Dated: 28 August 2018

TODD & WALKER law
LAWYERS | NOTARY PUBLIC

Solicitors:

G M Todd/B B Gresson
PO Box 124
Queenstown 9348
P 03 441 2743
F 03 441 2976
graeme@toddandwalker.com;
ben@toddandwalker.com

I, **Ben Farrell** of Queenstown, swear/affirm as follows:

1. I am an independent environmental planning consultant based in Queenstown. From 2015 to June 2018 I was employed as a planner by John Edmonds and Associates. I am currently a Director of Cue Environmental Limited.
2. On 17 May 2018 between 2.30pm and 3.30pm I met with John Edmonds, principal of John Edmonds & Associates, and William Hodgson, at John Edmonds & Associates' office at 36 Shotover Street, Queenstown. The purpose of the meeting was to discuss the rezoning sought by the Middleton Family Trust ("**Middletons**") in its submission to Stage 2 of the Queenstown Lakes Proposed District Plan.
3. Mr Hodgson advised Mr Edmonds and me that he had been in some discussions with other residents of Tucker Beach who had learned of the Middletons' proposal, were concerned about the proposal, and wanted to object to the proposal.
4. Mr Hodgson sought advice as to the residents' options for opposing the Middleton proposal. I suggested to him an option was to form a residents group and for that group to file a further submission in opposition to the Middleton submission. Mr Hodgson confirmed to us that he agreed with this approach and that he would form the group.
5. During the meeting (around 3pm) I called Mr Bryan Hutchins to advise him of the Middleton submission and asked him, on behalf of Mr Hodgson, if he wished to be part of the residents group. Mr Hutchins confirmed to me that he and his wife Penny wished to be a part of that group.

Sworn/Affirmed at

By Ben Farrell _____

This 28 day of August 2018

Before me:

A Solicitor of the High Court of New Zealand/Deputy Registrar/Justice of the Peace

Y Kosick
Deputy Registrar
District Courts, Queenstown

**APPENDIX 7
ROBIN MARTIN AFFIDAVIT
23 FEB 2018**

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991
AND
IN THE MATTER of an objection under section 357 of the Act
BY **TUCKER BEACH RESIDENTS SOCIETY
INCORPORATED**

AFFIDAVIT OF ROBIN DESMOND MARTIN

Dated: 23 October 2018

TODD & WALKER law
LAWYERS | NOTARY PUBLIC

Solicitors:

G M Todd/B B Gresson
PO Box 124
Queenstown 9348
P 03 441 2743
F 03 441 2976
graeme@toddandwalker.com;
ben@toddandwalker.com

I, **Robin Desmond Martin** of Queenstown, Consultant, swear/affirm as follows:

1. I am the Secretary of the Tucker Beach Residents Society Incorporated ("**Society**").
2. I make this affidavit in response to the direction of the Commissioner on 5 October 2018 that the Register of Members of the Society be entered into evidence either by my appearance at the hearing or by way of a sworn affidavit.
3. The Register of Members has been prepared and maintained by McClean and Co Chartered Accountants and Business Advisors ("**McCleans**").
4. A letter from Lindsay McClean principal of McCleans to me dated 18 October 2018 along with the current Register of Members for the Society are attached to this affidavit and marked "**A**".

Robin D. Martin

~~Sworn~~/Affirmed at Queenstown
By Robin Desmond Martin
This 23 day of October 2018
Before me:

Y Kosick

A Solicitor of the High Court of New Zealand/Justice of the Peace for New Zealand/Deputy Registrar

Y Kosick
Deputy Registrar
District Courts, Queenstown

"A"


68

WH/LM

18 October 2018

The Secretary – Mr. R Martin
Tucker Beach Residents Society

Exhibit Note:
This is the exhibit marked "A"
referred to in the annexed affidavit/declaration of
Robin Desmond Martin
and sworn/declared before me this 23 day of
October 2018

 Deputy Registrar

Y Kosick
Deputy Registrar
District Courts, Queenstown

Dear Mr. Secretary,

Membership Listing Tucker Beach Residents Society

We have been instructed to hold and maintain the membership database for the Tucker Beach Residents Society.

We can confirm the following individuals (attached) have joined the society by completing a membership application form.

Please feel free to contact us if you have any further queries.

Your Sincerely
MCCLEAN & CO LTD



Lindsay McClean
Principal

Email: Lindsay@mcclean.co.nz
Cellphone: 027 433 5806

This is the exhibit marked "A" referred to in the
annexed affidavit of Robin Desmond Martin
sworn at Queenstown before me this
day of 2018

A Solicitor of the High Court of New Zealand

Surname	First Name	Address	Email
Adamson	Ian	241 Tucker Beach Road, Queenstown	ian.nicola@xtra.co.nz
Adamson	Nicola	241 Tucker Beach Road, Queenstown	ian.nicola@xtra.co.nz
Barnell	Rose	280 Tucker Beach Road, Queenstown	rosebarnell61@gmail.com
Boons	Koen	Lower Sholover Queenstown 9371	koen@indiqode.com
Brown	Chris	246 Tucker Beach Road, Queenstown	chris@chrisbrown.co.nz
Buchanan	Nigel	306 Tucker Beach Road, Queenstown	nigel@nigelbuchanan.com
Buckley	Tom	280 Tucker Beach Road, Queenstown	tom.buckley54@gmail.com
Calder	Ros	150 Tucker Beach Rd, RD 1 Queenstown	roz@caldercook.com
Callaghan	John	2 Healecole Lane, Lower Sholover	ldmp@ldmp.com.au
Chelfetz	Jo	11 Graces Terrace, Lower Sholover	jocheifetz@googlemail.com
Chelfetz	Martin	11 Graces Terrace, Lower Sholover	martin.chelfetz@gmail.com
Close	Felicly	29 Graces Terrace, Lower Sholover	flsscose@gmail.com
Cook	Michael	150 Tucker Beach Road, Queenstown	michael@caldercook.com
Couper	Steve	130 Tucker Beach Road, Queenstown	steve@stealthfilms.co.nz
Dalsh	Mike	310 Tucker Beach Road, Queenstown	mike.dalsh@hotmail.com
Dalsh	Samantha	310 Tucker Beach Road, Queenstown	lucasamichaelochie@hotmail.com
Deasy	Lisa	232 Hansen Road, Queenstown	llsasulamer@yahoo.co.nz
Dennison	Emily	289 Tucker Beach Road, Queenstown	emily@e-scape.co.nz
Green	Michael	238 Tucker Beach Road, Queenstown	michaelgreen@mac.com
Hanrahan	Vicki	130 Tucker Beach Road, Queenstown	vhan@xtra.co.nz
Healy	Harry	365B Tucker Beach Road, Queenstown	harryhealy@gmail.com
Healy	Madeline	365B Tucker Beach Road, Queenstown	ms.healy@outlook.com
Healy	Ross	365B Tucker Beach Road, Queenstown	ross@phillimore.co.nz
Healy	Nicholas	365B Tucker Beach Road, Queenstown	nick@altuneam.com
Herron	Jason	170 Lillies Road, Queenstown	jason@herronca.co.nz
Herron	Bridget	170 Lillies Road, Queenstown	jason@herronca.co.nz
Hodgson	Will	162 Hansen Road, Queenstown	hodgsonwill@yahoo.co.nz
Hutchins	Bryan	393 Tucker Beach Rd Queenstown	bryan.hutchins@gmail.com
Hutchins	Penny	331 Tucker Beach Road, Queenstown	bpulch@xtra.co.nz
Ingham	Phil	365D Tucker Beach Road, Queenstown	bpfngham@cloud.com
Jameson	Anna	339 Tucker Beach Road, Queenstown	annam339@gmail.com
Lanuel	Shal	10 Abbotswood Lane, Quail Rise	shal@skytrek.co.nz
Lanuel	Kathryn	10 Abbotswood Lane, Quail Rise	kathlanuel@gmail.com
Martick	Dean	193 Tucker Beach Rd, Queenstown	dmbuilders@xtra.co.nz
Martin	Amy	361 Tucker Beach Road, Queenstown	amymartin.nz@gmail.com
Martin	Robin	361 Tucker Beach Road, Queenstown	robinmartin.nz@gmail.com
Martin	Prue	361 Tucker Beach Road, Queenstown	pruemartin@gmail.com
Mathews	Laurie	Lower Sholover, Queenstown 9371	laurie@indiqode.com
Miller	Bruce	184 Hansen Road, Queenstown	bruce@m@xtra.co.nz
Mingaye	Sally	259 Tucker Beach Road, Queenstown	sally.mingaye@xtra.co.nz
Onlons	Vicki	172 Hansen Road, Queenstown	vicki@cookiecutter.co.nz
Owen	Tom	27 Moorhill Road, RD 1 Queenstown	owentom@me.com
Price	Simon	221 Hansen Road, Queenstown	simon@pricelandscapingltd.co.nz
Price	Rachel	221 Hansen Road, Queenstown	simon@pricelandscapingltd.co.nz
Recordon	Anne	171 Hansen Rd, Queenstown	anne@neurorehabsouth.co.nz
Recordon	Chas	171 Hansen Rd, Queenstown	chas@remarkabledental.co.nz
Rees	Grant	420 McIvor Road, RD 6 Invercargill	grees@gmail.com
Rees	Valma	420 McIvor Road, RD 6 Invercargill	grees@gmail.com
Reld	Doug	273 Tucker Beach Road, Queenstown	doug.reld@collers.com
Reld	Jacinda	273 Tucker Beach Road, Queenstown	jacindareld1@gmail.com
Romero	Joshua	107 Moorhill Road, Dalefield	joshryanromero@yahoo.com
Romero-Hernando	Juan	107 Moorhill Road, Dalefield	juanromerouk@yahoo.com
Rudd	Michelle	162 Hansen Road, Queenstown	michelle.ann.ridd@gmail.com
Shea	Judith	330 Tucker Beach Road, Queenstown	judithshea40@hotmail.co.nz
St John	Richard	389 Lillies Road, Dalefield	frsaints@gmail.com
Smith	Donna	193 Tucker Beach Road, Queenstown	donna@psb.net.nz
Smith	Keryn	330 Tucker Beach Road, Queenstown	kms@kerynsmith.com
Stevenson	John	365E Tucker Beach Road, Queenstown	admin@silsteel.co.nz
Stevenson	Keryn	365E Tucker Beach Road, Queenstown	admin@silsteel.co.nz
Swain	Kenneth	183c Tucker Beach Rd, Queenstown	kenswain@xtra.co.nz
Swigert	Mindy	7 Rastus Burn Lane, Frankton	mindy@maglcmemories.com
Underdown	Neale	204 Tucker Beach Road, Queenstown	neale@thebluewave.com
Walker	Diane	107 Moorhill Road, Dalefield	dianeromero@yahoo.co.uk