

4. The Hearing was adjourned on 26th November 2018 pending consideration of the Middleton Family Trust request.

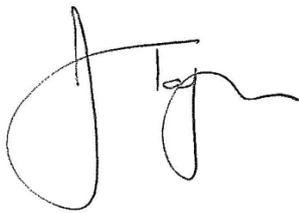
5. It may be helpful to record that having heard the case for the Objector, TBRS Inc., and also having considered the submissions made on behalf of the Middleton Family Trust to the Chair of the Hearing Panel, I have come to the interim view that the Objection be upheld and that Submission 2802 be reinstated on the basis that the additional affidavit evidence before me, supplemented by the oral evidence of Mr Hodgson at the hearing, establishes that:
 - At the time Submission 2802 was filed, the Tucker Beach Residents comprised a group of two or more people who had a similar and related purpose who agreed to move in concert, and accordingly comprises a legal person as defined by the Act; and

 - The TBRS Inc. is a valid legal successor to the Tucker Beach Residents, as it is composed of substantially the same members.

6. There is no provision in the statutory process for a third party, notwithstanding that the party may have originally applied for the strike out action under Section 41D, to be heard on an objection under Section 357(2). Accordingly, there was no requirement that third parties be notified of the Notice of Objection, or the hearing date and time. Further, Section 358 does not confer appeal rights on third parties, irrespective of whether or not they have participated in the objection process.

7. Notwithstanding the strict statutory position in relation to Section 357(2) objections, Section 39 of the Act requires me to establish a process that is appropriate and fair to all of the parties. Accordingly, having considered Ms Macdonald's request, I am prepared to grant leave for the Middleton Family Trust to provide a written response to Mr Todd's submissions, which is to be received no later than **5pm on Friday 7th December**. Mr Todd will then have an opportunity to reply by **5pm on Wednesday 12th December**.

8. I note that Mr Todd's submissions do not raise any additional matters of law (which are not in dispute); rather, the evidence gaps that were apparent in the Chair of the Hearing Panel's decision have been addressed. Given my interim conclusion in paragraph 5 above, it would be appreciated if Ms Macdonald could advise whether she wishes to proceed with the filing of a response at her earliest convenience, notwithstanding that leave has been granted on the basis set out above.

A handwritten signature in black ink, appearing to be 'Jane Taylor', written in a cursive style.

Jane Taylor

Commissioner

28 November 2018