

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 Minute<sup>1</sup> 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 sheet<sup>2</sup>.
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 submissions<sup>3</sup> 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.

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<sup>1</sup> 1 May 2018

<sup>2</sup> See paragraph 27(f)

<sup>3</sup> 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 manner<sup>4</sup>. 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

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<sup>4</sup> Procedural Minute dated 1 May 2018, paragraph 6