



WYUNA  
P R E S E R V E

BY-LAWS

**BYLAWS OF  
WYUNA PRESERVE RESIDENTS ASSOCIATION INCORPORATED**

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**BACKGROUND:**

- A. Under the rules of the Constitution:
- (i) The Society may promulgate, amend and distribute to Members from time to time Bylaws for the use of the Communal Facilities (including any restrictions on use for security, maintenance or other reasons), Bylaws concerning the behaviour of Users of the Members' Developed Properties and Bylaws governing the use of Developed Properties.
  - (ii) Members are required to comply with any Bylaws made by the Society from time to time.
  - (iii) The Society may at any time:
    - 1) specify categories of Membership to recognise any category of usage that may be appropriate;
    - 2) introduce Bylaws applying to categories of Membership, those Bylaws to be distributed to Members and to form a part of the Constitution from such date of introduction.
- B. The Society has specified categories of Membership in accordance with the Constitution and has introduced Bylaws to apply to such category of Membership as detailed in clause 15 below.
- C. These Bylaws are the third Bylaws promulgated by the Society and are effective from 1 March 2013 ("**Acceptance Date**") being the date they were approved by the Society in accordance with clause 14.7 of the Constitution.
- D. From the Acceptance Date, the Second Bylaws are deemed to be repealed and substituted with these Bylaws.

**BYLAWS:**

**1. Definitions and Interpretation**

- 1.1 In these Bylaws, unless the context otherwise requires:

"**Authority**" means any local body government or other authority having jurisdiction or authority over or in respect of any part of Wyuna Preserve or its use.

"**Bylaws**" means these bylaws and any other bylaws made by the Society from time to time under the Constitution.

"**Committee**" means the committee members from time to time elected to manage the affairs of the Society pursuant to the Constitution.

"**Communal Facilities**" means all land, natural features, buildings, plant, equipment, facilities, and amenities including any Infrastructure, Utilities, private roads, private ways, trails and walkways within Wyuna Preserve owned, leased, licensed or otherwise held, levied or operated in whole or in part by the Society (and includes the benefit of any licence in favour of the Society in relation to the Recreation Area and the Trekking Area, and any improvements constructed on that servient land that are owned by the Society) from time to time including those facilities from time to time transferred to the Society by the Developer, by any other company which is directly or indirectly controlled by the Developer or by any company of which the Developer is a subsidiary (whether directly or indirectly).

"**Constitution**" means the Constitution of the Society as amended or added to, including all schedules to the Constitution (including these Bylaws).

"**Controlling Member**" has the same meaning as defined in the Constitution.

"**Design Guidelines**" means the design guidelines attached to these Bylaws at Schedule One as added to or amended from time to time by the Society.

**"Design Control Committee"** means the committee described in Bylaw 7.1.

**"Developed Property"** means a property within Wyuna Preserve:

- a. for which a separate title (including, without limitation, a unit title or a certificate of title for an estate in fee simple) has issued; and
- b. which either:
  - i. is a bare lot available for immediate development as a residential property, or any other use permitted within Wyuna Preserve including, in each case, a lot on which development/construction has commenced; or
  - ii. has been fully developed as a residential property or any other use permitted within Wyuna Preserve; but
- c. includes a bare section available for development which is owned by the Developer.

**"Developer"** means the unincorporated joint venture between Cabo Limited and Pisidia Holdings Limited promoting and carrying out the development (including maintenance) of Wyuna Preserve, including:

- a. any entity related to the joint venture or either joint venture partner that undertakes any part of the development or maintenance of the development at Wyuna Preserve; and/or
- b. any assignee and/or successor in title whether in whole or in part or parts of Wyuna Preserve, that continues promoting and carrying out such development, and is nominated by the joint venture.

**"District Plan"** means the Queenstown-Lakes District Plan.

**"First Bylaws"** has the same meaning as defined in clause 15.4 of the Constitution.

**"Homesite Area"** means that area on a Developed Property identified under the Consent Notice registered on the certificate of title to that Developed Property as a homesite or building platform area.

**"Invitee"** means any invitee of or any visitor to an Owner or Occupier.

**"Lots 31 to 34"** means Lot 31 to 34 DP402648 (inclusive)

**"Member"** means each person who shall from time to time be a member of the Society under the Constitution. For the avoidance of doubt, the term "Member" includes any member that is either a Non-Residential Member or a Residential Member pursuant to clause 15.

**"Membership"** means a membership of the Society.

**"Non-Residential Member"** means a Member under the Non-Residential Membership category.

**"Non-Residential Membership"** has the meaning as defined under clause 15.

**"Occupier"** means any person occupying any Developed Property under any lease, licence or other occupancy right and shall include the Owner and all members of an Owner's family.

**"Owner"** means each person registered as a proprietor (whether individually or with others) of a Developed Property.

**"Recreation Area"** means that area adjacent to Wyuna Preserve (as marked on the plan attached as Schedule Two) for which the Society will be granted an easement by the landowner for the use of that area for recreational purposes.

**"Residential Member"** means a Member under the Residential Membership category.

**"Residential Membership"** has the meaning as defined under clause 15.

**"Second Bylaws"** means the Bylaws that applied as at 1 January 2013.

**"Service Lines"** means underground power cables, underground telephone and electronic data and computer media services, underground gas supply lines (if any) and underground water supply lines.

**"Signage"** means any trade, business, professional or advertising sign (including, without limitation, "for sale" and "for rent" signs) or any notice, name board or plate.

**"Society"** means Wyuna Preserve Residents Association Incorporated.

**"Trekking Area"** means that track area surrounding and within Wyuna Preserve (as marked on the plan attached as Schedule Two) for which the Society will be granted an easement by the landowner for the use of that area for walking and horse trekking purposes.

**"Users of the Member's Developed Property"** means any users of the Member's Developed Property including any mortgagee in possession of that Member's Developed Property, the Occupiers of such Member's Developed Property, the Invitees of such Occupier, the Invitees of such Member, and the purchaser of such Member's Developed Property.

**"Utilities"** means the following utilities and services:

- a. Sealed and metal vehicle access over all roading within Wyuna Preserve, including roading which is accessible to the general public connecting to the adjoining Queenstown-Glenorchy Road;
- b. Service Lines connecting all Developed Properties and Communal Facilities within Wyuna Preserve, to appropriate supply networks, which may supply Wyuna Preserve.
- c. Domestic and irrigation water systems (including storage tanks, treatment facilities, reticulation, etc) connecting all Developed Properties and Communal Facilities within Wyuna Preserve to water supply systems sourced from the water bore that supplies Wyuna Preserve with water;

and in each case includes the supply of services and utilities as applicable, and any other services (such as by way of example only rubbish collection services) that may be required at Wyuna Preserve.

**"Wyuna Preserve"** means the residential development and common land and facilities arising from the subdivision and development undertaken by the Developer, at Glenorchy, New Zealand (located adjacent to the Queenstown-Glenorchy Road), previously contained in Certificate of Title 356841 being Lot 4 DP386150, and as consented under Subdivision Consent RM020552 (and its variations, if any), including but not limited to the dwellings, roading, open spaces, pasture land and revegetation land and all other associated infrastructure on the site, and includes any additional land or facilities subsequently acquired by the Society for the benefit of the Owners.

- 1.2 In the event of any conflict between the provisions of the Constitution, and the provisions of these Bylaws, the provisions of the Constitution shall prevail and be given priority.
- 1.3 A reference to an act or omission by any Member shall include, without limitation, any act or omission by Users of the Members' Developed Properties.
- 1.4 An obligation to do something is also an obligation to permit or cause that thing to be done and an obligation not to do something is also an obligation not to permit or cause that thing to be done.

## **BYLAWS REGARDING COMMUNAL FACILITIES**

### **2. Use**

- 2.1 No Member shall make improper, offensive or unlawful use of any Communal Facilities, and each Member shall use the Communal Facilities only for the purposes for which they were designed.
- 2.2 No Member shall fetter, obstruct or impede the use of any Communal Facilities by any other Member.
- 2.3 No Member shall place anything in or on Communal Facilities without the approval of the Society.
- 2.4 No Member shall do any act which may prejudice or add to the premium payable in respect of any insurance of the Communal Facilities.

2.5 No Member shall do any act which detracts from the attractiveness or state of repair of any of the Communal Facilities. Any Member who discovers any damage to any of the Communal Facilities shall immediately report such damage to the Society.

2.6 No Member shall do any act which adversely affects any wetlands which form part of the Communal Facilities or deposit any material in or on any such wetland or allow any rubbish to escape from that Member's Developed Property into any such wetland.

### 3. **Prohibited Acts**

3.1 No Member shall operate any craft (whether motorised or not) on any body of water which forms part of the Communal Facilities without the prior approval of the Society, except for on any body of water in the Recreation Area, where the operation of non-motorised craft is permitted.

3.2 No Member shall swim, wade, paddle or bathe in, or carry out any like activity in or on, any body of water which forms part of the Communal Facilities (except for in the Recreation Area where such activities are permitted) without the prior approval of the Society.

3.3 No Member shall do anything whereby any obstruction, restriction or hindrance may be caused to any road, driveway and pathway (other than a driveway of that Member's Developed Property) or other parts of Wyuna Preserve or to persons lawfully using them unless otherwise approved by the Society.

3.4 No Member shall pollute or contaminate the Communal Facilities.

3.5 No Member shall discharge onto or into the Communal Facilities any poisonous, noxious, dangerous or offensive substance or thing.

### 4. **Closure of Communal Facilities**

4.1 Subject to clause 4.2, from time to time, at any time and for any length of time (including, without limitation, permanently) the Society shall be entitled to close or restrict access to any or all of the Communal Facilities as the Society considers necessary for any reason including (without limitation) for the purposes of maintenance, repair, grazing, recreational activity or security purposes, or for health and safety reasons.

4.2 The Society acknowledges that it may only temporarily close ("**Temporary Closure**") any vehicular access road that provides access to a Members' Developed Property. An alternative vehicular access route is to be provided to a Members' Developed Property if the Temporary Closure exceeds 4 hours in consecutive duration during any 24 hour period.

### 5. **Roads**

5.1 No Member shall park any vehicle on the roads or any other Communal Facilities, other than in spaces specified by the Society from time to time as suitable for that purpose.

5.2 No Member shall operate any vehicle, or otherwise act, on the roads or any other Communal Facilities in an unlawful manner, including (without limitation) over any speed limit or contrary to any Bylaw lawfully set and notified by the Society from time to time.

5.3 In addition to clause 5.1 and 5.2, except with the prior written consent of the Society, a Member can only operate a motorised vehicle (excluding a mobility scooter) on the Communal Facilities:

- a. that is registered with Land Transport New Zealand and holds a current warrant of fitness; and
- b. if the Member holds all required government licences to operate the motorised vehicle and only operates the motorised vehicle on the sealed roadways that form part of the Communal Facilities.

## BYLAWS REGARDING DEVELOPED PROPERTIES

### 6. Members' Developed Property

#### 6.1

- a. Each Member shall keep that Member's Developed Property (including, without limitation, all improvements and fences) in good repair and condition and shall not permit the accumulation of unsightly rubbish or materials or in any other way permit the appearance of that Member's Developed Property to detract from the general standards established for Wyuna Preserve.
- b. The Society shall notify a Member in writing if in its opinion that Member's Developed Property is not being kept in such condition. If the Member has not brought its Developed Property up to the condition required by the Society within 14 days of notice being served on that Member (or such longer period as the Society deems appropriate at its sole discretion), the Member shall be deemed to allow the Society to access its Developed Property in order to bring that Member's Developed Property up to that condition, at the cost of the Member.
- c. Any cost(s) incurred by the Society under Bylaw 6.1b shall be payable to the Society by the Member immediately upon the Society serving notice of the same on that Member.

6.2 Each Member shall at all times duly and punctually pay all rates, taxes, charges and other outgoings payable in respect of that Member's Developed Property.

6.3 No Member shall erect on any Developed Property any aerials, satellite dishes or other communication receivers (except for those devices of a size and type that are commonly used in domestic residences), other than those approved by the Society which permission may in the Society's absolute discretion be withheld should it consider that these do not conform to the standards desirable for the development of Wyuna Preserve.

6.4 No Member shall erect any second-hand or relocatable building on that Member's Developed Property.

6.5 No Member shall use that Member's Developed Property for the storage or accumulation of any rubbish or materials other than building materials during the period of construction of any improvement on that Member's Developed Property. During construction that Member shall cause any excess building material and/or rubbish to be stored in a slightly manner and removed from that Member's Developed Property without undue delay and in any event at a minimum of every two weeks.

6.6 No Residential Member shall:

- a. provide less than a two-car garage on that Member's Developed Property.
- b. park boats, trailers, caravans, additional cars and trailer vehicles other than within a garage on that Member's Developed Property.

6.7 Each Member shall:

- a. provide screened areas on that Member's Developed Property for clothes drying.
- b. undertake all planting on that Member's Developed Property within the Homesite Area in accordance with:
  - i. any landscape plan approved by the Authority; and
  - ii. the Design Guidelines.
- c. within the Homesite Area, arrange for regular watering, fertilising and cutting of grass areas and watering, fertilising and pruning of trees and shrubs, removal of all weeds, rubbish and the maintenance of all driveways, footpaths and landscaping features on that Member's Developed Property.
- d. in all areas outside the Homesite Area ("Outside Area"), but within that Member's Developed Property, retain the grassland and/or regenerating native shrubland (subject to 6.7.e), AND shall eradicate Spanish Heath, broom, gorse and other noxious weeds.
- e. Reduce or remove vegetation in the Outside Area in the interests of reducing fire danger, to be completed within a reasonable time of such a direction by the Society.

- 6.8 No Member shall allow or install any open, solid fuel fires within any residential building or on any Developed Property other than:
- a. any internal or external barbecue fire being operated for cooking purposes (except that use of such a facility may be prohibited at the direction of the Society at certain times of year to reduce the risk of fire danger);
  - b. any external or internal burner or fire provided that it is contained completely within a fireplace or burner appliance that has been approved by the Design Committee for such use, and
- provided that at all times, such fire is in compliance with any restrictions of the Authority.
- 6.9 Except as provided in clause 16.3 in relation to Lots 31 to 34 only, no Member shall use its Developed Property for anything other than private residential accommodation and activities normally associated with private residential use. Business and commercial activities (with the exception of certain residential letting arrangements as permitted by bylaw 6.10) are not to be carried out on any Developed Property except with the prior written approval of the Society.
- 6.10 Except as provided in clause 16.3 in relation to Lots 31 to 34 only, short-term letting or the provision of visitors accommodation (being letting of accommodation for periods of less than one week) of a Developed Property is not permitted and to this end, no Member shall let or lease its Developed Property for any period that is less than one week.

## 7. DESIGN CONTROL COMMITTEE

- 7.1 The initial Design Control Committee shall comprise the following persons:
- a. a landscape architect registered by the New Zealand Institute of Landscape Architects ("**Landscape Architect**") or an Architect registered by the New Zealand Registered Architects Board ("**Architect**") appointed from time to time by the Developer until the Developer has sold all lots at Wyuna Preserve to third party purchasers or resigned from the Design Control Committee. When the Developer has sold all lots at Wyuna Preserve or resigned from the Design Control Committee, then the Landscape Architect or Architect will be appointed by the Committee;
  - b. a representative of the Controlling Member appointed by the Controlling Member, for so long as there is a Controlling Member. When there is no Controlling Member the Society shall appoint a representative to join the Design Control Committee to replace the Controlling Member;
  - c. a representative of the Developer appointed by the Developer until the date the Developer has sold all lots at Wyuna Preserve to third party purchasers or until the Developer elects in writing to the Society that it no longer requires a representative of the Developer on the Design Control Committee. From the date the Developer has sold all lots at Wyuna Preserve or elected not to have a representative on Design Control Committee, then the Society shall appoint a representative to join the Design Control Committee to replace the representative of the Developer;
  - d. from the date the Developer has sold and transferred 25 out of the 34 Developed Properties in Wyuna Preserve to third party purchasers, the Society shall appoint an additional representative to join the Design Control Committee.
- 7.2 The Design Control Committee may publish from time to time new Design Guidelines (or variations thereof) in respect of residential development within Wyuna Preserve. The first such Design Guidelines shall be those design guidelines attached to these Bylaws at Schedule One.
- 7.3 Before commencing:
- a. any building or development or other structure for which a consent is required from any Authority; or
  - b. obtaining any consent from any Authority to build; or
  - c. any alterations to the exterior of any building or other structure for which a consent is required from any Authority;
- within Wyuna Preserve, a Member must first submit the design of the proposed building/structure to the Design Control Committee for its written approval.

- 7.4 The approval of the Design Control Committee in relation to Developed Properties owned by Residential Members shall not be unreasonably withheld or delayed where the design complies with, in the following order of priority:
- a. the District Plan; and
  - b. any consent notice or covenant registered on the certificate of title for that Member's Developed Property; and
  - c. these Bylaws; and
  - d. the Design Guidelines.
- 7.5 The approval of the Design Control Committee in relation to Developed Properties owned by Non-Residential Members (being Lots 31 to 34) is at the discretion of the Design Control Committee, provided the Design Control Committee will not unreasonably withhold or delay such approval where the design complies with:
- a. any preliminary design plan previously approved by the Design Control Committee; and
  - b. any consent notice or covenant registered (or any variation of a consent notice or covenant or further consent notice or covenant required by an Authority) on the certificate of title for that Member's Developed Property. The Design Control Committee may provide its approval to any plan that contains structures that are outside a Homesite provided that such approval is conditional upon the Non-Residential Member (at its cost) obtaining any required Authority approval to allow such structures outside of the Homesite; and
  - c. these Bylaws; and
  - d. the objectives of the Design Guidelines (in the opinion of the Design Control Committee noting the objectives of the Design Guidelines may be applied differently to Lots 31 to 34 as those lots are not being developed as "residential properties").
- 7.6 All costs of the design approval process (including without limitation, any disbursements or professional charges of a member of the Design Control Committee) shall be met by the Member seeking the approval.
- 7.7 A refundable bond of \$2,000 (or such other amount as the Design Control Committee reasonably determines) will be required to be deposited with the Society by the Member at the time of lodging any design for approval. The bond paid by the Member minus any deductions and approval fees will be returned to the Member once the finished project matches the approved drawings to the satisfaction of the Design Control Committee.
- 7.8 A refundable bond of \$5,000 (or such other amount as the Design Control Committee reasonably determines) will be required to be deposited with the Society by the Member prior to commencement of any work on the Developed Property, to cover any damage to any services, private roading, kerbing or other facility/structure not owned by the Member.
- 8. Security Measures**
- 8.1 Each Member shall properly secure that Member's Developed Property when it is not occupied.
- 8.2 Each Member shall have any private security devices installed at that Member's Developed Property monitored so as to ensure:
- a. prompt and effective response when those devices are activated; and
  - b. deactivation by independent persons if a Member is absent from that Member's Developed Property.
- 8.3 Each Member may contract with a supplier of security services of that Member's choice for that Member's Developed Property provided that where the Society nominates a particular supplier of security services that Member must use that particular supplier in accordance with the Constitution. Each Member who contracts with a supplier of security services for that Member's Developed Property shall:



- a. provide the Society with all information required by the Society regarding that supplier; and
- b. comply with all guidelines for use of the security services imposed by that supplier.

**9. Sale of Developed Property**

- 9.1 If a Member intends to sell its Developed Property, it must immediately give the Society written notice of that intention and how the Member wishes to conduct the sale process including (without limitation) details of any real estate agent the Member wishes to engage. Such sale process must comply with any relevant Bylaws and/or instructions of the Society.
- 9.2 No Member shall hold any auction sale on any Developed Property without the prior written approval of the Society.

**10. Monitoring and Maintenance of Infrastructure**

- 10.1 Each Member acknowledges that any infrastructure related to the supply of potable water located on or under that Member's Developed Property shall be maintained in good order by the Society so that the potable water supply infrastructure available to other Members functions appropriately.
- 10.2 Each Member shall permit the Society to access that Member's Developed Property for the purposes of monitoring and maintaining any potable water supply infrastructure (including, without limitation, any water meters) on or under that Member's Developed Property.
- 10.3 Any maintenance or monitoring undertaken by the Society under Bylaw 10.2 shall be at the cost of the Member and payable immediately upon the Society serving notice of the same on that Member.

**OTHER BYLAWS**

**11. Animals, Pets etc.**

- 11.1 Notwithstanding any other Bylaw, no Member shall keep (or permit to be kept) any cat on its Developed Property.
- 11.2 Subject to Bylaw 11.1, no Member shall allow any animal, bird or pet (collectively "**Pet**") to cause a nuisance to any other Member.
- 11.3 Without limiting Bylaws 11.1 and 11.2, each Member shall ensure, in respect of that Member's Pets, that:
- a. the number and size of any Pets are reasonable given the size of that Member's Developed Property and the residential environment or neighbourhood within which that Developed Property is situated;
  - b. when Pets are outside the boundaries of that Member's Developed Property, those Pets are under control and supervision, and for this purpose, all dogs are on a leash;
  - c. all Pet droppings are immediately picked up and disposed of;
  - d. all Pets are maintained in a healthy and clean condition, and all laws and regulations relating to the keeping of such Pets are complied with;
  - e. no dangerous Pets are kept within Wyuna Preserve; and
  - f. no grazing Pets are kept within Wyuna Preserve without first obtaining the consent of the Society, at the Society's sole discretion.

The Members acknowledge that Society may allow Council animal/dog control rangers to have access to Wyuna Preserve for enforcement purposes.

- 11.4 Each Member shall be liable for the costs of repairing any damage to any Communal Facilities or another Member's Developed Property caused by that Member's Pets.
- 11.5 No Member shall allow any Developed Property or any Communal Facilities to become infested by pests including vermin or insects.

12. **Conduct and noise**

- 12.1 Each Member shall at all times comply with the requirements of all statutes, regulations and requirements of Authorities (including, without limitation, all planning instruments and consents) within Wyuna Preserve.
- 12.2 No Member shall use any Developed Property or Communal Facility for any purpose which is illegal or may be injurious to the reputation of Wyuna Preserve.
- 12.3 Each Member shall comply with any instructions from time to time issued by the Society or any of its agents for the efficient safe and harmonious use of the Communal Facilities and to otherwise give effect to these Bylaws and the Constitution.
- 12.4 No Member shall make or permit any improper or unreasonable noise within Wyuna Preserve, nor act in any fashion so as to annoy, disturb or irritate any other Member or so as to breach any relevant planning instruments (including, without limitation, the District Plan) or any other requirements of any Authority.
- 12.5 No Member shall obstruct or interfere with or disturb or trespass upon the rights of any other Member in his or her quiet and uninterrupted occupation and enjoyment of that other Member's Developed Property.
- 12.6 Where intoxicating liquor is consumed within Wyuna Preserve, each Member shall ensure that all laws governing the consumption of intoxicating liquor are complied with.
- 12.7 The Society reserves the right to exclude or evict from Wyuna Preserve any person:
- a. who in the opinion of the Society is under the influence of intoxicating liquor or illegal substances, or
  - b. who in any manner acts in violation of the Constitution or these Bylaws, or
  - c. for health and safety reasons.

13. **Rubbish**

- 13.1 No Member shall:
- a. Dispose of any rubbish on any Developed Property or any Communal Facility except into bins or receptacles especially provided or designed for rubbish disposal.
  - b. Place any private rubbish bins or receptacles on any part of the Communal Facilities except on the day advised by the Society as being the day for rubbish collection, or on the day prior to that day, and shall remove the emptied rubbish bin or receptacle on the day following rubbish collection.
  - c. Place any private rubbish bins or receptacles on any part of that Member's Developed Property which is visible from any Communal Facility or neighbouring Developed Property.

14. **Signage**

- 14.1 No Member shall exhibit or put on any part of that Member's Developed Property or any Communal Facilities any Signage except:
- a. in accordance with any Bylaws relating to Signage promulgated by the Society from time to time; or
  - b. where no such Bylaws exist, with the prior consent of the Society or the Design Control Committee; and
  - c. that Signage complies with any requirements of the Queenstown Lakes District Council.

15. **Categories of Membership**

- 15.1 The Society has specified two categories of Membership pursuant to clause 4.5 of the Constitution.
- 15.2 The first category of membership is a "**Residential Membership**" category applying to Lots 1 to 13, 15 to 18, 20, 24 to 30 DP402648 and Lots 14, 19, 21 to 23 DP437485 (inclusive). All Bylaws contained in clause 1 to 15 and 17 apply to lots with Residential Membership.

15.3 The second category of membership is a "**Non-Residential Membership**" category applying to Lots 31 to 34. All Bylaws contained in clause 1 to 18 apply to lots with Non-Residential Membership. If there is any conflict between the Bylaws contained in clause 1 to 15 and the Bylaws contained in clause 16 to 18, then clause 16 to 18 prevail.

15.4 Notwithstanding clause 15.2 and 15.3, all of Lots 31 to 34 may cease to be included within the Non-Residential Membership category pursuant to clause 18.

16. **Non-Residential Membership relating to Lot 31 to 34**

16.1 For the purposes of this clause 16, the term "**Wellness Retreat**" means a single complex/operation to be carried out on Lots 31 to 34:

- a. to be used by fee paying guests/groups that value alternative health, and the benefits of self-sufficiency through partaking in programmes ("**Retreat Programme**") lead by local and international educators;
- b. that will offer Retreat Programmes that centre around massage, watsu, yoga, pilates, rolf movement, therapy, philosophy, dance, hiking, meditation permaculture and environmental sustainability; and
- c. that aims to recycle and harvest natural resources and run a permaculture programme.

16.2 For the purposes of this clause 16, the term "**Wellness Retreat Development**" is limited to the following activities and restrictions:

- a. the development and use of Lots 31 to 34 as a Wellness Retreat for guests enrolled in Retreat Programmes, operated by a single operator, which will include accommodation facilities on the below basis:
  - i. guest accommodation to be provided in 8 buildings ("**Guest Accommodation Buildings**") for up to a maximum of 32 guests as detailed below;
  - ii. each Guest Accommodation Building will be capable of sleeping up to a maximum of four people and will contain one bathroom that is to be shared by the occupants of that Guest Accommodation Building;
  - iii. subject to clause 16.2(iv), accommodation on Lots 31 to 34 is only to be provided to people enrolled in Retreat Programmes at the Wellness Retreat;
  - iv. accommodation can be provided on Lots 31 to 34 to staff who are employed by the operator of the Wellness Retreat;
  - v. all attendees enrolled in Wellness Programmes are to be accommodated within the Guest Accommodation Buildings unless prior written approval has been obtained from the Society.

For the avoidance of doubt, in addition to the Accommodation Buildings, there will be other buildings constructed on Lots 31 to 34 for the Wellness Retreat (for example buildings for kitchen, dining and meeting rooms). All buildings and structures require Design Control Committee approval as provided under these Bylaws.

- b. the development and use of Lots 31 to 34 in accordance with plans as approved by the Design Control Committee.
- c. subject to clause 16.2(d) and the remainder of this clause 16.2(c), each Retreat Programme is to be for a consecutive 7 to 14 day duration. Retreat Programmes can be offered for shorter duration periods provided such shorter duration Retreat Programmes:
  - i. are no less than 3 consecutive days (2 nights) in duration; and
  - ii. make up less than the majority of the total number of Retreat Programmes held during any 12 month period.
- d. up to a maximum of 10 single day Retreat Programmes during any 12 month period subject to obtaining prior written consent from the Society (such consent to be at the Society's sole discretion and/or on terms and conditions as the Society requires).

- e. the prior written consent of the Society is required to erect any structures on Lots 31 to 34 that do not require Design Control Committee approval under these Bylaws. Such consent is to be at the Society's sole discretion and/or on terms and conditions as the Society requires.
- f. the registered proprietor(s) of Lots 31 to 34 is to (at its cost):
  - i. obtain and comply with any required territorial, regional or other statutory approvals; and
  - ii. give reasonable consideration and take all reasonably required actions to minimise any disruption to the enjoyment of the Communal Facilities by any other Occupier,for any development and activities to be carried out on Lots 31 to 34.
- g. up to a maximum of 26 vehicles can be parked on Lots 31 to 34 at any time, made up as follows:
  - i. up to 13 vehicles that belong to guests/visitors of the Wellness Retreat ("**Guest Vehicles**");
  - ii. up to 13 vehicles that relate to the operation of the Wellness Retreat (including staff vehicles, service vehicles and guest transport vehicles)("**Staff Vehicles**").
- h. All carparking on Lots 31 to 34 are to be screened by landscaping as required by the Design Control Committee (acting reasonably).

16.3 Notwithstanding clause 6.9 and 6.10, Lot 31 to 34 can be developed and operated as a Wellness Retreat Development subject to the terms as set out below:

- a. Subject to clause 18, the Wellness Retreat Development is the only development and activity permitted on Lots 31 to 34. Any proposed change to the use of Lots 31 to 34 from the Wellness Retreat Development will require the approval by the Society by way of a special resolution in accordance with clause 14 of the Constitution.
- b. The registered proprietor(s) of Lots 31 to 34 is responsible for the cost of any required construction, installation, upgrade, enhancement, repairs and maintenance for any Communal Facilities that are required as the sole result of the Wellness Retreat Development.
- c. Any breach of the restrictions relating to the Wellness Retreat Development contained in this clause 16 will be deemed to be a breach of the Constitution and Bylaws under clause 8 of the Constitution.
- d. The Society (at its discretion) may permit the registered proprietor(s) of Lots 31 to 34 (at its cost) to construct a new walking track between Lots 31, 32, 33 and 34 on Society owned land ("**Track**"). The registered proprietors of Lots 31 to 34 will be jointly and severally liable for the maintenance, repair and upkeep of the Track. If in the Society's opinion (acting reasonably), the registered proprietors of Lot 31 to 34 are not maintaining, repairing and keeping the Track to a reasonable standard, then Society may carryout such maintenance, repair and upkeep of the same and recover such cost in doing so, jointly or severally, from the registered proprietor(s) of Lots 31 to 34.
- e. The Wellness Retreat can only be operated and managed by an entity ("**Operator**") that has first been approved by the Society in writing ("**Society Approval**"). Before the initial establishment and any sale (including any sale by a chargeholder), transfer, assignment, disposal or otherwise ("**Transfer**") of the Wellness Retreat operation/business, the "Transferor" of the Wellness Retreat must obtain the Society Approval. The Society Approval will be provided if the following conditions are met:
  - i. the Transferor proves to the satisfaction of the Society that the proposed new Operator ("**Transferee**") is (and in the case of a company that the shareholders of the proposed Transferee are) respectable, responsible and have the financial resources and prior business experience and acumen to run the Wellness Retreat and meet the requirements of the Constitution.

- ii. in the case of the Transferee being a company, a deed of guarantee of the Transferee's obligations under the Constitution in a form as prepared by the Society is duly executed by the directors of the Transferee.
  - iii. the Transferee signs a deed of covenant to be prepared by the Society (at the cost of the Transferor) agreeing to be bound by the Constitution.
  - iv. there is no subsisting breach of the Constitution in relation to Lot 31 to 34 by either the registered proprietor of Lot 31 to 34 or the Transferor.
  - v. the Transferor meeting the Society's reasonable costs and disbursements incurred in respect of the Society Approval and the preparation of the deed of covenant and any guarantee referred to in clause 16.3(e)(ii and iii) and all fees and charges reasonably incurred in respect of all of any reasonable inquiries made by or on behalf of the Society concerning the proposed Transferee. All such costs shall be payable whether or not the Transfer proceeds.
  - vi. where the Operator is an unlisted company then any change in the legal or beneficial ownership of any of its shares, issue of new capital or amalgamation which results in a change of effective management or control of the Wellness Retreat operator is deemed to be a transfer under this clause 16.3(e) requiring Society Approval.
  - vii. for the avoidance of doubt, the above Society Approval arrangements apply to any proposed transfer of Lots 31 to 34 by the registered proprietor(s) of Lots 31 to 34 if the registered proprietor(s) is also the Operator of the Wellness Retreat.
- f. The registered proprietor(s) and Users of the Member's Developed Property on Lots 31 to 34 (including all employees and guests on Lots 31 to 34):
- i. have no right to use the clubhouse and boat house located on Lot 202 DP437485 (which forms part of the Communal Facilities) for any purpose ("**Society Club/Boathouse**");
  - ii. only have access to Lake Fyfe (which forms part of the Communal Facilities) to launch kayaks and other permitted recreational devices within the area as marked on the plan attached in Schedule Two.
- g. The Operator will on 30 April of every year, provide a letter from a New Zealand registered chartered accountant addressed to the Society detailing the duration of all Retreat Programmes held on Lots 31 to 34 during the immediately preceding 1 April to 31 March period ("**Letter**"). This Letter is to ensure compliance with clause 16.2(c and d) above. If the Letter shows any non-compliance with clause 16.2(c and d), then the Operator is:
- i. deemed to be in breach of the Bylaws and Constitution in accordance with clause 16.3(c); and
  - ii. required to provide a Letter within 15 days from the end of each month (for the next 12 consecutive months) providing the details of all Retreat Programmes held on Lots 31 to 34 during the immediately preceding month.
- h. The registered proprietor(s) of Lot 31 to 34 (at its cost) will only develop and operate Lots 31 to 34 as the Wellness Retreat Development in compliance with all required Authority approvals and consents and will provide copies of the same to Society on written request.
- 16.4 For the avoidance of doubt:
- a. Lots 31 to 34 are "Developed Properties"; and
  - b. the Operator, agents, guests, invitees, work persons and employees of the Wellness Retreat Development are included within the definition of "User of the Members' Developed Property",
- as those terms are defined in the Constitution.
17. **Alternative Access to Wyuna Preserve and Levies**
- 17.1 As part of the Wellness Retreat Development, it is possible that Lots 31 to 34 may create and use an alternative accessway from Glenorchy – Queenstown Road to the southern boundary of the Wyuna

Preserve adjoining Lot 34 DP 402648 ("**Alternative Accessway**"). The registered proprietor(s) of Lots 31 to 34 will use reasonable endeavours to secure and use such Alternative Accessway during the construction of the Wellness Retreat Development to reduce the amount of construction related traffic passing through the Wyuna Preserve. The Alternative Accessway may provide permanent access to Lots 31 to 34 as provided in clause 17.2.

- 17.2 Subject to the Alternative Accessway providing permanent registered easement protected access to Lots 31 to 34 to the satisfaction of the Society (acting reasonably), the registered proprietor(s) of Lots 31 to 34 will:
- a. (including the Users of the Member's Developed Property on Lots 31 to 34), have no right (except in the event of emergency) to use that portion of Lot 100 DP437485 from the Glenorchy-Queenstown Road to the point as approximately shown on the plan attached in Schedule Two for motorised vehicular access.
  - b. jointly and severally be responsible for the cost of all Society's maintenance, repair and upkeep of the gravel section ("**Gravel Road**") of Lot 100 DP437485 south of the point as shown as "Gate Turn Around Area" on the plan attached in Schedule Two.
  - c. install (at its cost) a gate, turning circle and associated landscaping ("**Gate/Turning Area**") in approximately the area as shown on the plan attached in Schedule Two. The Gate/Turning Area is to prevent motorised vehicular access through the Gate (except in the event of emergency) and to allow an appropriate vehicular turning area. The Gate is to allow pedestrian and non motorised vehicle access (including bicycles) through the Gate. The registered proprietor(s) of Lot 31 to 34 will be responsible (at its cost) for all matters relating to, and obtaining, Design Control Committee approval to the construction of the Gate/Turning Area. This Design Control Committee approval is required prior to the registered proprietor(s) of Lot 31 to 34 undertaking any installation or construction works for the Gate/Turning Area. From the date ("**Vesting Date**") the Gate/Turning Area has been constructed to the satisfaction of the Society (acting reasonably), the Gate/Turning Area will be deemed to vest in Society (at no cost) as a Communal Facility. From the Vesting Date, Society will carryout maintenance of the Gate/Turning Area. Notwithstanding the Gate/Turning Area will be deemed to be a Communal Facility and available for use by all Members, Occupiers and Invitees, the registered proprietors of Lots 31 to 34 will be jointly and severally liable for all Society's costs in relation to the maintenance, repair and upkeep of the Gate/Turning Area.
- 17.3 In the event a Gate is installed pursuant to clause 17.2(c), and in recognition that registered proprietors of Lots 31 to 34 are responsible for the cost of Society's maintenance of the Gravel Road, the owners of all other lots in Wyuna Preserve will not have motorised vehicular access to the south of the Gate (except in the event of emergency).
- 17.4 The Members acknowledge that the specific usage charge component of the levies payable under clause 6(b)(ii) of the Constitution will be calculated on a different basis as between the Residential Membership and Non-Residential Membership categories. This is to recognise that:
- a. Non-Residential Members will not be levied in relation to expenses relating to the Society Club/Boathouse as they have no right to use the Society Club/Boathouse.
  - b. if the Alternative Accessway provides permanent access to Lots 31 to 34 as provided in clause 17.2, then:
    - i. Residential Members will not be levied to contribute to Society's costs for the maintenance, repair and upkeep the Gravel Road and Gate/Turning Area. These costs will be levied from Non-Residential Use Members;
    - ii. Non-Residential Members will not be levied to contribute to Society's cost for the maintenance, repair and upkeep of the sealed roads and gravel roads north of the Gate/Turning Area and the gate house at the entrance to Wyuna Preserve. These costs will be levied from Residential Use Members.
  - c. Residential Members will not be levied for any Society maintenance, repair or upkeep of the Track under clause 16.3(d). These costs will be levied from Non-Residential Members if required under clause 16.3(d).
  - d. subject to clause 17.4(a, b and c) the Society (acting reasonably) will levy Non-Residential Members to ensure that any increase in Society costs (for example, but not limited to, capital

expenditure and operating costs in relation to the increased use of Communal Facilities and costs as provided under clause 16.3(b)) due to Lots 31 to 34 being used as a Wellness Retreat Development and not as four residential lots are recoverable from the registered proprietors of Lot 31 to 34 as Non-Residential Members.

- e. noting the above levy arrangements, the Society will set the levies payable by Non-Residential Members in a way that is fair and equitable to the Society and all Members (including Non-Residential Members) but the Non-Residential Members acknowledge and agree that the Society will have final discretion and approval as the setting of the levies as provided under clause 6 of the Constitution.

**18. Revocation of Non-Residential Use Membership**

- 18.1 Subject to the provisions contained in clause 18.3, the registered proprietor(s) of all of Lot 31 to 34, acting collectively and unanimously can on irrevocable written notice to the Society ("**Revocation Notice**") elect for all of Lots 31 to 34 to cease to be used as a Wellness Retreat Development.
- 18.2 From the date the Revocation Notice is received by the Society, clause 16 and 17 will be deemed to be deleted from these Bylaws. Accordingly, all of Lots 31 to 34:
  - a. will be deemed to have a Residential Membership (and be subject to clause 6.9 and 6.10 above).
  - b. will be treated under the Constitution and levied as other lots within the Residential Membership category, including in relation to Society's costs for the Communal Facilities (which includes all road ways within Wyuna Preserve and the gatehouse at the entrance to Wyuna Preserve). This is regardless of whether Lots 31 to 34 have easements rights to allow their continued use of the Alternative Accessway.
- 18.3 A Revocation Notice can only be served if the registered proprietor(s) of all of Lot 31 to 34, acting collectively and unanimously, has first obtained and provided to the Society all Authority consents and approvals required to allow all Lots 31 to 34 to be used as single residential lots on the same terms and conditions as applied to Lots 31 to 34 on 8 April 2011 (except the approved building platforms for Lots 31 to 34 can be the building platforms as established as part of the resource consent for the Wellness Retreat Development).
- 18.4 If a Revocation Notice is served, then the registered proprietor(s) of Lots 31 to 34, jointly and severally, will immediately (at its cost):
  - a. remove the Track;
  - b. reinstate the land affected by the Track, and the removal of the Track, to its pre-Track condition; and
  - c. complete native planting as reasonably required by the Society's landscape consultant in the vicinity of the Track,together called "**Track Reinstatement Works**".
- 18.5 If in the Society's opinion (acting reasonably), the registered proprietors of Lot 31 to 34 do not carry out the Track Reinstatement Works, then Society may carryout the Track Reinstatement Works and recover all costs in doing so, jointly or severally, from the registered proprietor(s) of Lots 31 to 34.

**APPENDIX 1: 'Homesite', 'Openspace' and 'Preserve Open Space' Concepts**





**APPENDIX 2: Typical Lot Layout**



**APPENDIX 3: Approved Native Plant Species List**

**RECOMMENDED PLANT SPECIES**

Species	Common name	Habitat	Rushland	Matagouri Shrubland	Manuka Shrubland	Forest	Rush Tussock Sedge	Shrub	Small Tree	Tree
<i>Carex coriacea</i>	Rautahi	Edge and moist	✓				✓			
<i>Carex secta</i>	Purei	Edge	✓				✓			
<i>Carex virgata</i>		Edge	✓	✓			✓			
<i>Carpodetus serratus</i>	Marble leaf	All			✓				✓	
<i>Chionochloa rubra</i>	Red tussock	Moist ground	✓				✓			
<i>Coprosma propinqua</i>	Mikimiki	All	✓	✓	✓			✓		
<i>Coprosma rugosa</i>		Dry and moist ground	✓					✓		
<i>Cordylina australis</i>	Cabbage tree	All		✓	✓					✓
<i>Coriaria samentosa</i>	Tutu	Dry and moist ground	✓					✓		
<i>Cortaderia richardii</i>	Toetoe	Dry and moist ground	✓				✓			
<i>Dacrycarpus dacrydioides</i>	Kahikatea	Moist, fertile, recent		✓						✓
<i>Discaria toumatou</i>	Matagouri	Well-drained ground	✓					✓		
<i>Fuchsia excorticata</i>	Fuchsia	Moist sheltered sites		✓					✓	
<i>Griselinia littoralis</i>	Broadleaf	All		✓	✓	✓				✓
<i>Hebe salicifolia</i>	Koromiko	Moist sheltered sites		✓				✓		
<i>Juncus gregiflorus</i>		Edge and moist	✓				✓			
<i>Juncus pallidus</i>		Edge	✓				✓			
<i>Leptospermum scoparium</i>	Manuka	Moist ground	✓			✓		✓		
<i>Meliccytus ramiflorus</i>	Mahoe	All		✓	✓	✓			✓	
<i>Metrosideros umbellata</i>	Rata	Bluffs and outcrops		✓						✓
<i>Myrsine australis</i>	Mapou	Moist sheltered sites		✓					✓	
<i>Nothofagus fusca</i>	Red beech	All		✓	✓	✓				✓
<i>Nothofagus solandri var. cliffortioides</i>	Mountain beech	All		✓	✓	✓				✓
<i>Phormium tenax</i>	Mountain flax	Moist ground	✓				✓			
<i>Pittosporum tenuifolium</i>	Kohuhu	All		✓	✓	✓			✓	
<i>Prumnopitys taxifolia</i>	Matai	Moist, fertile, recent		✓						✓
<i>Pseudopanax colensoi</i>	Three finger	All		✓	✓	✓				✓
<i>Pseudopanax ferox</i>	Fierce lancewood	All		✓					✓	
<i>Sophora microphylla</i>	Kowhai	Bluffs and outcrops		✓						✓

**SCHEDULE TWO**

Plan showing Trekking Area and Recreation Area



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**SCHEDULE 2**

**(Constitution)**

**First Members**

The Joint Venture

Stoney Creek Cattle Co (2) Limited  
Stoney Creek Cattle Co (3) Limited  
Stoney Creek Cattle Co (4) Limited  
Stoney Creek Cattle Co (5) Limited

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**SCHEDULE 3**

**(Constitution)**

**Access & Recreation Plan**

