

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

IN THE MATTER

of the Resource Management Act 1991

AND

IN THE MATTER OF

Queenstown Lakes Proposed District Plan –
Hearing Stream 05 and specifically Chapter 36 –
Noise.

**STATEMENT OF EVIDENCE OF SEAN DENT
ON BEHALF THE FOLLOWING SUBMITTERS:**

**571 – Totally Tourism Limited
574 – Skyline Enterprises Limited**

02 September 2016

Introduction

1. My name is Sean Dent. I hold the qualifications of Bachelor of Resource Studies from Lincoln University which I obtained in 2005. I reside in Cromwell, Central Otago.
2. I have been employed as a resource management planning consultant with Southern Planning Group for approximately nine years. Prior to this I was employed as a resource consent processing planner and compliance officer with Lakes Environmental (formerly CivicCorp) for approximately two years.
3. Throughout my professional career, I have been involved in a range of resource consent and policy matters. I have made numerous appearances in front of various District and Regional Councils and the Environment Court.
4. Of specific relevance to Hearing Stream 05 I have been directly involved in numerous notified¹² and non-notified³ resource consent applications in the Queenstown Lakes District that have involved assessment of noise utilising NZS 6807:1994 *Noise Management and Land Use Planning for Helicopter Landing Areas*.
5. From the variety of working roles that I have performed as described in the preceding paragraphs, I have acquired a sound knowledge and experience of the resource management planning issues that are faced in the Queenstown area and the wider District.
6. Whilst I acknowledge that this is a Council hearing I confirm that I have read the Code of Conduct for Expert Witnesses outlined in the Environment Court's Consolidated Practice Note 2014 and have complied with it in preparing this evidence.
7. I have read the Section 32 reports and supporting documentation and the Section 42A reports and expert evidence prepared by the Council officers and experts with respect to the Noise Chapter of the Proposed District Plan ("PDP").
8. I was also involved in Hearing Stream 02 for the Rural Zone and specifically the provisions relating to Informal Airports and have read the Section 32 and Section 42A reports for that hearing stream along with the right of reply by Mr Craig Barr with specific relevance to informal airports.
9. I have considered the facts, opinions and analysis in this documentation when forming my opinions which are expressed in this evidence.

¹ RM100777 Retrospective application to approve helicopter flights at the Skyline Gondola Heli Pad.

² RM140704 Retrospective application to approve helicopter flights at Cedar Lodge, Makarora.

³ RM160512 Helicopter Flights from O'Connell's Landing Site on Coronet Peak Road

10. I also wish to disclose that Southern Planning Group (“SPG”) was engaged by the Council to undertake research and reporting on how to simplify and streamline the Operative District Plan (“ODP”) provisions relating to management of informal airports. I personally undertook this work for SPG.
11. This culminated in the preparation and submission of a report titled Queenstown Lakes District Council – Management of Informal Airports dated April 2012. In addition, I also undertook the drafting of proposed provisions for informal airports and associated noise rules followed by a Section 32 analysis on behalf of the Council in 2014.
12. I confirm that the matters addressed in this brief of evidence are within my area of expertise except where I advise otherwise and that I have not omitted to consider material facts known to me that might alter or detract from my opinions.

Scope of Evidence

13. I have been engaged by the following submitters to provide expert planning evidence on the proposed Noise Chapter (Chapter 36) of the Queenstown Lakes District Council’s PDP:
 - Totally Tourism Limited – Submission # 571;
 - Skyline Enterprises Limited –Submission # 574;
14. The concerns of submitters 571 and 574 relate specifically to the provisions in Chapter 36 which direct how assessment of helicopter noise shall be undertaken and the applicable limits which shall apply.
15. Both submitters support the retention of Rule 36.5.13 that specifies that sound from any helicopter must be measured in accordance with NZS 6807:1994 – *Noise Management and Land Use Planning for Helicopter Landing Areas* (“NZ S6807:1994”).
16. Notwithstanding the submitters support of this rule it was requested that a higher limit of acceptability than the currently prescribed 50dB L_{dn} noise limit should be applied to helicopter landing areas at the Skyline Gondola and Restaurant site on Bob’s Peak.
17. My brief of evidence is set out as follows:
 - a) Comment on the scope of submissions;
 - b) Comment on NZS 6807:1994;
 - c) Comment on the Skyline Helipad;
 - d) Comment on Objectives and Policies;
 - e) Summary of my opinions;
 - f) **Appendix [A]** Summary of submitters' submissions;

Scope of Submissions

18. As identified above my evidence is in support of the application of NZS 6807:1994 in the PDP Noise Chapter. Both submitters have clearly sought this outcome in their original submissions⁴⁵.
19. Skyline Enterprises Limited have also proposed a new Commercial Tourism and Recreation Sub-Zone over the developed area of Bob's Peak. As part of the re-zoning request an additional noise rule was proposed to be implemented into Chapter 36 to apply a specific and higher noise limit for helicopter landing areas in this proposed zone to recognise the existing environment including the consented Skyline heli pad⁶.
20. I acknowledge that hearings regarding the proposed re-zonings and amendments to the District Plan Maps will be heard during 2017 and are not within the scope of hearing stream 05.
21. However, it is my opinion that it is necessary to consider the noise limits that apply to the Skyline helipad in case the proposed re-zoning is not accepted.
22. It is also my opinion that the submissions of both Totally Tourism Limited and Skyline Enterprises Limited that refer to proposed Rule 36.5.13 afford them the scope to discuss this matter in Hearing Stream 05.

Comments on NZS 6807:1994

23. Based on my experience in a range of helicopter landing area resource consent applications it is my opinion that the inclusion of NZS 6807:1994 in the PDP is the most appropriate method by which to measure and assess noise emissions from helicopters.
24. I agree with the evidence of Dr Chiles at paragraphs 4.3 to 4.6 of his evidence where he describes the ODP rules as a compromised position arrived at as a result of mediation for the Council's Plan Change 27A.
25. Specifically, the ODP Zone Standards as amended by PC27A requires that the assessment of noise from a helicopter landing area is to be assessed in accordance with NZS 6801:2008 and NZS 6802:2008.

⁴ *Totally Tourism Limited Submission 571, paragraph 4.8.*

⁵ *Skyline Enterprises Limited Submission 574, paragraph 4.39.*

⁶ *Approved by QLDC Consent RM100777 and upheld on appeal pursuant to Environment Decision ENV-2011-CHC-130*

26. It is my opinion that the assessment of helicopter noise pursuant to NZS 6802:2008 is incorrect and that in effect, there are no applicable noise rules for assessing helicopter noise under the Operative District Plan.
27. I come to this conclusion based on the following expert acoustic advice of Vern Goodwin provided to Commissioners David Whitney and Sally Middleton at the Council hearing for RM100777 (Skyline Helipad):

“To the extent it applies because of an amended District Plan Rule, NZS 6802:2008 was never intended to be applied to assessment of helicopter noise. This is explicit in the scope of the standard.”

The scope of NZS 6802:2008 states:

*“1.2.1 This standard does not apply to the assessment of sound where the source is within the scope of and subject to, the application of other New Zealand Acoustical Standards, except as provided for in 1.2.3 and 1.2.4. In particular, assessment of specific sources of sound including road or rail transport, **flight operations of fixed or rotary winged aircraft associated with airports or helicopter landing areas**, construction, port noise, wind turbine generators and impulsive sound (such as gunfire and blasting), requires special techniques that generally are outside the scope of this Standard. This Standard covers air borne sound, but does not cover structure borne sound and vibration”. [My emphasis added].*

28. Zone Standard 5.3.5.2(v) of the Operative District Plan does not specifically state that this Section of NZS 6802 does not apply, is to be disregarded or read as subordinate to the District Plan rules.
29. So in effect, Zone Standard 5.3.5.2(v) incorrectly requires the assessment of helicopter noise via the general noise standards notwithstanding the express limitations of NZS 6802:2008.
30. My opinion that there is therefore no applicable noise rule in the ODP by which to assess helicopter noise has been confirmed in the past by Commissioners Matthews and Overton in their decision on the Arthurs Point helicopter landing area application RM080434.
31. Notwithstanding that the Zone Standard that applied at that time used NZS 6801 and 6802 1991 the same restriction in the scope of the NZS 6802:2008 detailed above in paragraph 23 was contained within the scope of NZS 6802:1991. As such the mandatory measuring standard stipulated in the District Plan was inapplicable and could not be used. The commissioners went on to state:

“It follows that there is no Zone Standard relating to noise which is of relevance, and accordingly, as the application complies with all other Zone Standards, it is to be treated as an application for a Discretionary Activity.”⁷

32. I note that this position has again been validated by Commissioner Henderson in his decision on RM140704⁸ for helicopter flights at Cedar Lodge in Makarora where he agreed with the same abovementioned arguments which this time were put forward by Mr Malcolm Hunt (acoustic consultant) and agreed upon by myself and the reporting planner for the Council Mr Richard Kemp.
33. Dr Chiles agrees with the abovementioned issues as outlined in Section 13 of his evidence on Hearing Stream 05.
34. In terms of the appropriate noise standard to utilise for assessment of helicopter noise I have worked with and/or been involved in the assessment of helicopter landing applications by a number of New Zealand’s practising acoustic consultants.⁹
35. I am not aware of any helicopter landing area application where these acoustic consultants have recommended the use of any other standard for the assessment of helicopter noise.
36. The standard is also widely accepted by the Environment Court¹⁰ and already in use by a number of other territorial authorities in their respective District Plans. Specifically, the following Council’s use NZS 6807:1994:
- Southland District Council¹¹;
 - Hamilton City District Council¹²; and
 - Hastings District Council.¹³
37. Notwithstanding that there are numerous examples of the application of NZS 6807:1994 within QLDC’s recent planning history, the Environment Court and other District Plans already utilise NZS 6807:1994 I acknowledge Dr Chiles expert evidence that NZS 6807:1994 does have its limitations. Particularly if applied to helicopter landing areas that have very few movements. In these cases there is potential for the noise results to be understated.

⁷ RM080434 Decision of Commissioners Matthew and Overton, page 3.

⁸ RM140704 Decision of Commissioner Henderson, Paragraphs 58 – 60, page 12

⁹ Jeremy Trevathan – Acoustic Engineering Services, Malcolm Hunt – Malcolm Hunt & Associates, Nevil Hegley – Hegley Acoustics Limited, Vern Goodwin - & Chris Day – Marshall Day Acoustics.

¹⁰ ENV-2011-CHC-130 – Skyline Enterprises Limited Helicopter Landing Area

¹¹ Southland Proposed District Plan Rule NZSE.6, Section 2.11 District Wide Provisions (not subject to appeal)

¹² Hamilton City Proposed District Plan, Rule 25.8.3.5 (not subject to appeal)

¹³ Operative Hastings District Plan, Noise Chapter Rule 14.2.9.7(a).

38. However, as noted within Dr Chiles evidence, the noise rule as notified in the PDP has been drafted in conjunction with the rules for informal airports in the other parts of the PDP. Specifically, in all the residential zones of the PDP informal airports will be a Non-Complying Activity regardless of the number of flights or the amount of noise that they emit.
39. In the Rural Residential, Rural Lifestyle and Gibbston Character Zones informal airports will be a fully Discretionary Activity consent.
40. As a result of the activity status for informal airports in these zones any applications made for resource consent will afford the Council full discretion in regards to the potential adverse noise effects. Therefore if a low number of flights are sought, the limitations of NZS 6807:1994 can be given consideration through the consent process.
41. For the Rural Zone in which the vast majority of all informal airports are located, the proposed noise limits work hand in hand with other Permitted Activity standards including maximum numbers of flights per day and per week and a 500m separation distance from residential units, residential building platforms or another Zone boundary.
42. Collectively, compliance with these standards and NZS 6807:1994 are considered to ensure an acceptable level of rural amenity by controlling the frequency/intensity of flights and the noise which they may emit.
43. Any breach of the standards for Permitted informal airports will however require a Discretionary Activity consent and again, this activity status will afford the Council discretion to consider if the flight numbers are likely to understate the effects of noise under NZS 6807:1994.
44. Given the above, it is my opinion that the inclusion of NZS 6807:1994 in conjunction with the Rules and Standards for informal Airports in the remainder of the PDP is the most efficient and effective method of measuring and assessing noise from helicopters.

Comments on the Skyline Helipad

45. As noted above Skyline Enterprises Limited seeks a new Commercial Tourism and Recreation Sub-Zone over the developed area at Bob's Peak inclusive of the existing heli pad. The proposed zoning sought the implementation of a new noise rule that specifically addressed the noise limits applied to the Skyline heli pad through the resource consent and subsequent Environment Court hearing.
46. As there is no certainty that this proposed re-zoning will be approved it is considered appropriate to address the applicable noise limits for the Skyline heli pad as part of the general noise rules that will

be applicable in the PDP as notified as helicopter activity at this location will continue regardless of the outcome of the PDP re-zoning hearings.

47. Further, the Skyline heli pad is unique. It is located within a part of the PDP's Rural Zone and ONL despite the level of built form, commercial and commercial recreation activities in this area being totally uncharacteristic of the ONL qualities generally anticipated by the PDP.
48. There are to my knowledge, no other heli pads located in such an environment anywhere else in the Queenstown Lakes District and therefore, I consider that it is appropriate that the noise limits of this heli pad are afforded specific recognition in the PDP. I note that this is in direct contrast to the opinion of Dr Chiles¹⁴ and Ms Evans¹⁵.
49. Dr Chiles also points out that the noise limit sought by Skyline Enterprises Limited (65 dB L_{dn}) being the limit of acceptability for commercial areas in NZS 6807:1994 is higher than that which the Environment Court ultimately considered appropriate in their final decision on the heli pad. In this regard, he is correct but it is important to note that this was the noise limit currently under consideration at the time I drafted Skyline Enterprises Limited submission and before the Environment Court issued their final decision.
50. The problem with the noise limits for the Skyline helipad during the course of the Environment Court proceedings was that the District Plan Zone Standard for noise was not applicable for the reasons outlined in paragraphs 19 – 24 of my evidence.
51. Further, the Skyline helipad was also located within Designation 248 of the ODP. Notwithstanding that Skyline Enterprises Limited were not the requiring authority nor are heli pads specifically provided for under the Designation, the noise limits set out within the Designation Conditions¹⁶ specified a noise limit of 55 dB L₁₀ which has the same issues of applicability outlined in paragraphs 19 – 24 of my evidence.
52. The Ben Lomond and Queenstown Hill Reserve Management Plan whilst specifically providing for helicopter operations at the subject site also does not specify an appropriate noise limit.
53. In addition, the limits of acceptability in NZS 6807:1994 do not provide a specific recommendation for helicopter noise within a commercial recreation area or Recreation Reserve. Specifically, NZS 6807:1994 provides for 50dB L_{dn} at residential areas and 65 dB L_{dn} at commercial areas.

¹⁴ Evidence of Dr Chiles, paragraph 13.3

¹⁵ Section 42A Report, Ms Evans Paragraph 8.48.

¹⁶ Operative Queenstown Lakes District Plan, Designations Chapter part (g) condition 9 page A1-88

54. Skyline Enterprises Limited expert witnesses considered that the area containing the heli pad and its immediate periphery were 'commercial' by nature and deserved the applicable 65 dB L_{dn} noise limit.
55. ZJV (NZ) Limited's (the appellant) experts considered that a noise limit between the residential and commercial limits were acceptable given the historical use of the site for the activity and proposed 60 dB L_{dn}. The section 274 parties –Arthurs Point Protection Society and Clive Manners-Wood sought an outright refusal of the consent and subsequently no helicopter noise.
56. The matter was the result of much disagreement and only second to the safety considerations of the heli pad. Ultimately, the Environment Court agreed that ZJV (NZ) Limited were most affected by the noise (and were the only commercial operator at Skyline opposed to the operation of the helipad) and imposed a more conservative 60 dB L_{dn} noise limit. Due to the proximity that Ziptrek constructed their top tree house to the existing heli pad this noise limit equates to four flights per day of an AS350 B2 squirrel.
57. Given that there is no other statutory document or relevant standard that provides specific guidance on the relevant noise limits that would apply to this unique heli pad it is my opinion that PDP should recognise the significant assessment of the Environment Court on this matter and apply the 60 dB L_{dn} noise limit. This will greatly assist administrators of the District Plan in considering any future resource consent application for an informal airport in this locality.
58. Accordingly, I recommend that the proposed noise rule 36.5.13 be amended as illustrated below.

Rule-Number	Standard				Non-compliance-status
	Activity-or-sound-source	Assessment-location	Time	Noise-limits	
36.5.13(a)	<p>Helicopters</p> <p>Sound from any helicopter landing area must be measured and assessed in accordance with NZ 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.</p> <p>Sound from helicopter landing areas must comply with the limits of acceptability set out in Table 1 of NZS 6807 with the exception of any helicopter landing area operated within the Ben Lomond Recreation Reserve or Ben Lomond Scenic Reserve.</p> <p>For the avoidance of doubt this rule does not apply to designated airports.</p>	<p>At any point within the notional boundary of any residential unit, other than residential units on the same site as the activity.</p> <p>*Note: The applicable noise limit in this rule and in rule 36.5.14 below for informal airports/landing strips used by a combination of both fixed-wing and helicopters shall be determined by an appropriately qualified acoustic engineer on the basis of the dominant aircraft type to be used.</p>	At all times	50 dB L _{dn}	NC
36.5.13(b)	<p>Sound from any helicopter landing area operated within the Ben Lomond Recreation Reserve or Ben Lomond Scenic Reserve must be measured and assessed in accordance with NZ 6807:1994 Noise Management and Land Use Planning for Helicopter Landing Areas.</p>	<p>5m West of the entrance to the Zip-Trek platform on the Skyline Access Road.</p>	At all times	60 dB L _{dn}	NC

59. The proposed changes afford certainty to the administrators of the District Plan and general users of the Ben Lomond Recreation Reserve as to what the expected noise limit at this locality will be and

assures Ziptrek that they will not receive any greater noise level than which is presently authorised by the Environment Court's decision.

60. I have referred to the Ben Lomond Recreation Reserve and Ben Lomond Scenic Reserve in the proposed rule because a specified area is needed to apply to my proposed rule. While the scope sounds large, the only place a helicopter landing area is presently enabled within the Ben Lomond Recreation Reserve is the existing Skyline Heli Pad by virtue of the Reserve Management Plan¹⁷.
61. Accordingly, there can be no proliferation of helicopter landing areas within this Reserve and well beyond the existing developed facilities on Bob's Peak unless authorised as part of the review of the Reserve Management Plan which requires public consultation pursuant to Section 119 of the Reserves Act 1977. It is my view that if an alternative heli pad site is identified through this review process it will result in the removal of rights to the current heli pad. Quite simply, in my experience in the litigation on this matter it is highly unlikely that a second heli pad would ever be approved due to public opposition.
62. The reference to the Bob's Peak Scenic Reserve is to enable Skyline Enterprises Limited flexibility to consider an alternative helicopter landing area to the present helipad on the periphery of their existing lease area.
63. Again, this is a potentially broad area but the Council can be assured that there is a separate statutory process required under the Conservation Act 1987 before such a facility could be constructed and operated. As such, the effects on this Scenic Reserve will be well considered by the Department of Conservation and again, as a result of the aircraft landing policies in the recently released Conservation Management Strategy it is my professional opinion that any more than one helicopter landing area in this recessive would be unlikely to be approved. At the same time Ziptrek is still assured of receiving no greater noise than is currently the case under the existing environment.

Comment on Objectives and Policies

64. I have reviewed the Objectives and Policies for the noise chapter as publicly notified on 26th August 2015. In light of the instructions in the Fourth Procedural Minute issued by the hearings Chairman¹⁸ it is my opinion that the Objective needs to be re-worded so that the provisions set the appropriate desired outcome and course of action.
65. The current Objective and Policy reads as follows:

¹⁷ *Ben Lomond & Queenstown Hill Reserve Management Plan, Policy 9.3.10 page 32.*

¹⁸ Fourth Procedural Minute Issued by Chairman Denis Nugent dated 8 April 2016 paragraphs 6 – 10.

36.2.1 Objective - Control the adverse effects of noise emissions to a reasonable level and manage the potential for conflict arising from adverse noise effects between land use activities.

Policies

36.2.1.1 *Manage subdivision, land use and development activities in a manner that avoids, remedies or mitigates the adverse effects of unreasonable noise.*

36.2.1.2 *Avoid, remedy or mitigate adverse noise reverse sensitivity effects.*

66. In my opinion the Objective is poorly worded and should be amended as has been recommended by the Council officer Ms Ruth Evans. Specifically, her proposed Objective states:

36.2.1 Objective - The adverse effects of noise emissions are controlled to a reasonable level and the potential for conflict arising from adverse noise effects between land use activities is managed.

67. It is my view that the proposed Objective wording by Ms Evans and the existing Policies appropriately inform and relate to my proposed amendments to Rule 36.5.13.
68. Specifically, the noise limits for helicopter use contained within NZS 6807:1994 and the limit imposed by the Environment Court for the Skyline helicopter landing area are in my opinion 'reasonable' noise limits.
69. The noise limit of 50 dB L_{dn} will in association with the standards for informal airports in Chapter 21 of the PDP ensure that potential conflict between land use activities is appropriately managed. In regards to the proposed noise limit for a helicopter landing area at Skyline the Environment Court has heard a substantial amount of expert planning, acoustic and safety evidence to arrive at a conclusion that a noise limit of 60 dB L_{dn} is a 'reasonable' noise limit for the Ben Lomond Recreation Reserve.
70. It is therefore my opinion that helicopter operations that comply with the noise limits as proposed in my evidence will achieve the intent of the re-worded Objective and its two supporting Policies.

Summary

71. Overall, in my opinion the inclusion of NZS 6807:1994 into the Proposed District Plan along with my suggested amendments to the provisions of the Noise Chapter as outlined above will result in a more efficient and effective regulatory environment for aviation tourism operators and the Council alike.

72. The increase in efficiency and effectiveness that I support is not at the expense of important characteristics, values and features of amenity in the environment. Specifically, the support given for the PDP Noise provisions and the amendments I have suggested are based upon credible expert acoustic advice and deliberation of the Environment Court.

73. In my opinion the amendments outlined above resolve a significant amount of ambiguity with the current rules derived from Council's Plan Change 27A and implement an easily understood regime for the management of noise from helicopters.



Sean Dent

02nd September 2016

APPENDIX [A] – Summary of Submitters

Totally Tourism Limited (Submission No. 571)

1. Totally Tourism Limited (“TTL”) is a tourism based company operating in the South Island of New Zealand. It offers scenic and adventure activities to both international visitors to New Zealand and domestic travellers.
2. TTL was established in 1999, and is the umbrella company for a group of tourism operations. These operations include The Helicopter Line, Mitre Peak Cruises, Milford Sound Scenic Flights, Glacier Helicopters. Queenstown Combos, Challenge Rafting, Harris Mountains Heli-Ski, Air Fiordland, Wanaka Flightseeing, The Station and Queenstown Information Centres.
3. TTL’s submission was largely directed towards simplifying and streamlining the PDP provisions for commercial recreation activities such as heli skiing and informal airports.
4. Part of the relief sought was the insertion of the most applicable and relevant standard for the measurement of noise from helicopters.
5. To achieve the relief sought in their submission it is my opinion that the Noise Chapter of the PDP should include the noise standard NZS 6807:1994 and the appropriate limits of acceptability from that standard should be applied particularly to Queenstown’s most unique helicopter landing area at the Skyline Gondola.

Skyline Enterprises Limited (Submission No. 574)

6. Skyline Enterprises Limited (“Skyline”) is the leaseholder of Section 1 SO Plan 24832 and Section 1 SO Plan 22971. In combination with an easement for the gondola cableway over Pt Section 110 BLK XX Shotover SD Skyline provides and operates the Skyline Gondola, Restaurant and associated commercial recreation facilities on Bob’s Peak, Queenstown. The 4.1 Ha area containing the restaurant and associated commercial recreation activities sees over 700,000 visitors annually.
7. The majority of the abovementioned facilities operated by Skyline are proposed to be located within the Rural Zone (Outstanding Natural Landscape) of the PDP.

8. Skyline's primary submission seeks re-zoning of the subject site in recognition of its iconic tourism status.
9. Notwithstanding the above, Skyline Enterprises Limited is also the 'parent company' to Totally Tourism Limited and supports the inclusion of the noise standard NZS 6807:1994. Further, they also sought a specific and higher noise limit for the operation of the unique Skyline Helipad.
10. To achieve the relief sought in their submission it is my opinion that the Noise Chapter of the PDP should include the noise standard NZS 6807:1994 and the appropriate limits of acceptability from that standard should be applied particularly to Queenstown's most unique helicopter landing area at the Skyline Gondola.