

BEFORE THE QUEENSTOWN LAKE DISTRICT COUNCIL
AT QUEENSTOWN

IN THE MATTER of the Resource Management Act 1991
("the Act")

AND

IN THE MATTER of the Queenstown Lakes District
Council Proposed District Plan

AND

IN THE MATTER Submission and Further Submissions of
Skyline Investments Limited and
O'Connells Pavilion Limited (1239,
606), Skyline Properties Limited and
Accommodation Booking Agents
Queenstown Limited (1241, 609),
Trojan Holdings Limited and Beach
Street Holdings Limited (1248,616)
Skyline Enterprises Limited (1238)

Submitters

**SYNOPSIS OF LEGAL SUBMISSIONS BY COUNSEL FOR THE SUBMITTERS
GRAEME MORRIS TODD, IN SUPPORT OF SUBMISSIONS**

Dated the 1ST December 2016

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LAWYERS & NOTARY PUBLIC

MAY IT PLEASE THE COMMISSIONERS

1. These submissions are made on behalf of Skyline Enterprises Limited, Skyline Investments Limited and O'Connells Pavilion Limited, Skyline Properties Limited and Accommodation Booking Agents Queenstown Limited and Trojan Holdings Limited and Beach Street Holdings Limited in relation to the proposals that have been suggested within the section 42(a) report to provide for the formalisation and the retention of, and in some cases, enhancement to, pedestrian links through various properties in the Queenstown Town Centre.
2. Evidence in support these submissions will be presented by Mr Timothy Williams who has qualifications in town planning and urban design and by Mr Jeff Staniland, CEO of Skyline Enterprises Limited, the parent of Skyline Investments Limited and O'Connells Pavilion Limited, Skyline Properties Limited and Accommodation Booking Agents Queenstown Limited, and by Mr Neil Johnston, the Chief Financial Officer for Trojan Holdings Limited the parent of Beach Street Holdings Limited.
3. Relevant to these submissions, an example of two such pedestrian walkways are those which are within the Trojan Holdings and Beach Street Holdings Limited building known as Stratton House located between Beach Street and Cow Lane and that which is known as the Skyline Arcade which again runs through the building owned by Accommodation Booking Agents Queenstown Limited between Cow Lane and the Mall.
4. Notwithstanding the issues identified in Mr Williams' evidence, it is my submission that the proposal to include rules require such linkages are in effect the imposition of de facto designations where the Council has not taken any financial responsibility or indeed offered any compensation for the setting-off of such links and the resulting potential loss of land available for development and subsequently leasing. It is my submission to you that such proposal is repugnant to sound resource management practice where no compensation or incentive is offered to the affected parties in return for something for which the public will benefit.
5. It might be suggested if it is intended that in proposing such rules, the Council is doing nothing more than formalising what is in existence. Again, it is my suggestion to you that it would be wrong for the Council to seek to take advantage of what is a public benefit from a developer who has chosen to provide such in particular designs of buildings.
6. I draw your attention to the decisions of the Environment Court in *Thurlow Consulting Engineers & Surveyors Limited v Auckland City Council (Decision No. [201] NZEnvC 082 and 097* where the Court found that it would be inappropriate to provide for what was effectively a designation over somebodies land providing for the identification of a future road without the Council using its designatory powers to take the land and compensate the land owner.

7. The second matter I wish to raise with you is whether or not there is any jurisdiction or basis for the rule proposed in the change to Rule 12.5.1.1 as proposed in the section 42(a) report which would trigger the need to comply with the maximum site coverage rule of 75% on new developments on sites over 1,400 square metres in area.
8. Ms Jones appears to suggest at paragraphs 14.3 and 14.8 of her report that jurisdiction for such proposal can be found in the submission of NZIA where she notes that organisation requests that all development over 80% of a site be discretionary to allow for permeability and connections to be made through sites.
9. She goes on the note at paragraph 14.8:

“... while submission 238.14 (NZIA), seeking 80% coverage throughout the whole QTTCZ, is couched in a zone-wide manner, in my opinion, there is a reasonable argument that it provides the scope to alter the notified coverage Rule 12.5.1 to enable it to be applied more widely.”
10. With the greatest respect for Ms Jones, one questions how a submission requesting all development in excess of 80% of a site be a discretionary activity can justify a more restrictive rule which in effect means that all development on sites over 1,400 square metres have maximum site coverage of 75%.
11. No party having read or received NZIA's submission would have been on notice that the Council would seek to use such to suggest a rule that proposes to reduce the site coverage of certain sites to a lower level.
12. To that end, it is my submission to you that there is no jurisdiction or scope for the imposition of such rule.



Graeme M Todd
Counsel for the Submitters