

**QUEENSTOWN LAKES DISTRICT COUNCIL
DECISION: PLAN CHANGE 14
MAKARORA RURAL LIFESTYLE ZONE**

TITLE: Decision on Plan Change 14 – Makarora Rural Lifestyle Zone - Issued by the Hearings Commissioners for the Queenstown Lakes District Council.

DATED: 16 June 2008.

ADOPTED BY COUNCIL: 27 June 2008

DECISION NOTIFIED: 9 JULY 2008

CONTENTS

- 1.0 Executive Summary
- 2.0 Background
- 3.0 The Hearing
- 4.0 Reasoning and Recommendations
 - Attachment 1: Recommended Amendments to the District Plan
 - Attachment 2: Recommendations on Submission Points
 - Attachment 3: Note on updating the Natural Hazards Register

1.0 EXECUTIVE SUMMARY

This report sets out the considerations and recommendations of the Hearings Commissioners on submissions lodged to Plan Change 14 (Makarora Rural Lifestyle Zoning) to the Partially Operative District Plan.

The purpose of Plan Change 14, as detailed in the Section 32 evaluation prepared by Vivian + Espie Limited, is to review the District Plan provisions as they relate to the Makarora Rural Lifestyle Zone in respect of the following:

- (1) The effects of permitted (controlled) development on the landscape and visual amenity values of the Makarora valley.
- (2) The effect of natural hazards on permitted (controlled) development in light of the new natural hazard information prepared by the Otago Regional Council (ORC).
- (3) Consistency with the outcomes sought within the Makarora Community Plan.

A total of five original submissions and one further submission were lodged on this Plan Change. The submissions were wide ranging in scope – many questioning the appropriateness of Rural Lifestyle zoning and the amended zone provisions advanced by this Plan Change.

The Hearings Commissioners heard written and verbal evidence from a range of parties on 14 May 2008. Based on consideration of the Plan Change and all submissions and evidence received, the Hearings Commissioners recommend that the Plan Change is confirmed, subject to some minor changes as detailed in Appendix 1 to this decision.

2.0 BACKGROUND

This decision sets out the considerations and recommendations of the Hearings Commissioners lodged to Plan Change 14 (Makarora Rural Lifestyle Zone) to the Partially Operative District Plan.

The relevant provisions in the Queenstown Lakes District Plan (referred to as the Plan) which are affected by this plan change and recommendations are:

- Part 4.8 Natural Hazards
- Part 8.1.1 Rural Lifestyle Zone - Resource Management Issues
- Part 8.1.2 Rural Lifestyle Zone – Objectives and Policies
- Part 8.2.2.2 Controlled Activities
- Part 8.3.2 Assessment Matter (ii) Natural Hazards
- Part 15.1.2 Issues (iv) Land Subject to Natural Hazards
- Part 15.2.3.5 Assessment Matters for Resource Consents (b)
- Part 15.2.6.3 Zone Subdivision Standards – Lot Sizes and Dimensions (i) Lot Sizes (a) Table
- Part 15.2.7.1 Controlled Subdivision Activities – Subdivision Design
- Part 15.2.7.3 Assessment Matters for Resource Consents
- Part 15.2.10 Natural and Other Hazards
- Part 12.2.2.6 Non-Notification of Resource Consents

The background information to this plan change is contained within the Section 32 evaluation prepared by Vivian + Espie Limited at the time this Plan Change was notified and will not be repeated in this decision.

In making recommendations the Hearings Commissioners have:

- (a) been assisted by a report prepared by consultant planners and landscape architects. This report was circulated to all submitters prior to the hearing taking place; and

- (b) been assisted by legal advice where necessary; and
- (c) had regard to the matters raised by submitters and further submitters in their submissions and further submissions and at the Council hearing; and
- (d) had regard to the provisions of the Resource Management Act 1991, in particular section 32.

Attachment 1 provides the revised version of the relevant provisions of the Plan, updated to have regard to the recommendations within this report. If there is any inconsistency between the provisions contained in Attachment 1 and the text contained in the body of this report, then the provisions of Attachment 1 shall take precedence.

3.0 THE HEARING

The hearing to consider submissions and further submissions to Plan Change 14 (Makarora Rural Lifestyle Zone) commenced at 12.05 pm on Wednesday 14 May 2008 at the Makarora Community Centre (Primary School) in Makarora.

The Hearings Commissioners were Commissioner Andrew Henderson (Chairperson) and Commissioner Leigh Overton. In attendance at the hearing were Mr Carey Vivian (Consultant Planner), Ms Alyson Schuler (QLDC Senior Policy Analyst) and Ms Kate McDowell (QLDC Administrative Support).

The following provides a summary of the verbal and written evidence presented to the Commissioners during the proceedings of the hearing.

Mr Paul Cooper

Mr Cooper made verbal submissions to the Commission. Mr Cooper considers half of Makarora Valley is protected under the National Park Act and therefore can not be subdivided. Mr Cooper considers given the extent of the hazards identified by the Otago Regional Council it seems pointless to have a Rural Lifestyle Zone as nothing will be able to be developed.

Mr Cooper is against clustering, even if it is better for the environment. Mr Cooper considers clustering is not what the people want as they are buying land in the rural area, not in a residential zone.

Mr Cooper agrees with the hazard side of things but pointed out to the Commission that the issue is not unique to Makarora, and that the entire region is subject to natural hazards. Hazards in Makarora are at the same level as Wanaka and Queenstown, just that there are different hazards to consider.

Mr Cooper questioned the appropriateness of the words "mass movement" in provision 8.3.2(ii)(g). Mr Cooper considered the meaning of these words to be too wide in the Makarora context.

Mr Gary Charteris

Mr Charteris made verbal submissions on two points. Firstly, it is Mr Charteris' preference that the entire valley floor is zoned Rural General. Mr Charteris stated that in New Zealand last year 137,000 hectares of land were turned into either residential, industrial or lifestyle zoning, and that amount of development has been occurring for 10 years or more. Mr Charteris considers this amount of development is not sustainable as it takes good land out of production leaving only the marginal land.

Mr Charteris agreed with the Kai Tahu Ki Otago submission that there should be an archaeological assessment of the valley.

Mr Tim Vial

Mr Vial read written submissions to the Commission on behalf of Kati Huirapa Ki Puketeraki (KHKP). Mr Vial submitted that preliminary consultation over the plan change was not followed through and there is now only a limited opportunity to address the issues and concerns of the Runaka through this plan change.

Mr Vial concurred with the Planner's recommendation that the Council should address the cultural significance of Makarora through a future plan change. In particular, Mr Vial submitted, the Council should consider updating Appendix 3 of the District Plan to include the archaeological sites recorded in the Makarora valley.

Ms Sarah Valk

Written evidence of Ms Valk was tabled at the hearing on behalf of the Otago Regional Council (ORC). Ms Valk's evidence addressed the following three issues.

Issue 1 - Provision 8.2.2.2(i)(c).

Ms Valk considered that this provision needed to be amended in order that both the effects of buildings on natural hazards, as well as the effects of natural hazards on buildings are considered. The Otago Regional Council requested that 8.2.2.2 (i)(c) was altered to read "the avoidance or mitigation of: adverse effects of natural hazards on use and development; and adverse effects of use and development on natural hazards in the Makarora Rural Lifestyle Zone".

Ms Valk noted the planner's report recommended that the Queenstown Lakes District Council reject the Otago Regional Council's submission on this provision stating that Rule 8.2.2 requires controlled activity resource consent when it is sought to build on an approved building platform identified at the time of subdivision.

"The planners report therefore considers that the location of the building platform with respect to natural hazards was already considered at the time of subdivision consent. The planners report then goes on to state that it is too late to consider the effects of the use and development of buildings in terms of natural hazards as the building platform and its subsequent use has already been approved."

Ms Valk stated that the Otago Regional Council disagrees. Although the use of the building platform has been approved, the effects of the building on natural hazards has not been assessed, as building design is not generally known until consent for the addition, alteration or construction of a building is applied for.

In summary Ms Valk concluded that the Otago Regional Council considers at the stage of obtaining consent for a building, the consenting authority needs to be able to assess whether there will be adverse effects of natural hazards on use and development, as well as adverse effects of use and development on natural hazards.

The Otago Regional Council considers this is necessary for the following reasons:

- Building platforms may have been approved in the past, and not assessed satisfactorily in terms of natural hazards (Council is aware of this situation occurring currently in Makarora)
- The natural hazards situation may have changed, or new information may have become available in relation to a particular natural hazard.
- Building design may not have been known at the time of subdivision, and therefore the effect of the development needs to be assessed in terms of exacerbation of hazards (e.g. earthwork effects, potential diversion of flood water etc).
- New development may have occurred near or adjoining the subject site that a building is proposed for and any potential effects on this new development may not have been considered.

Issue 2 - Provision 15.2.2.6(b)

Ms Valk noted that Plan Change 14 proposed the addition of clause (b) to provision 15.2.2.6. The ORC submitted that the addition of this provision does not add benefit.

The ORC's submission requested that provision 15.2.2.6(b) be deleted.

Ms Valk noted that the planner's report recommended that the ORC's submission on this provision be rejected stating that the purpose of this addition is to ensure that any person undertaking a restricted discretionary subdivision because of natural hazards in the Makarora Valley consults with, and obtains written approval from the ORC. The planner's report goes on to state that this mechanism will ensure integrated and consistent decision making between the Otago Regional Council and the Queenstown Lakes District Council.

Ms Valk stated that the ORC is of the opinion that it can be consulted without there being a need to provide a written approval as an affected party. If the Otago Regional Council was to be considered a directly affected party in terms of natural hazards, then this could be considered as part of the determination to be made under section 94 of the Resource Management Act 1991 for each application received. Other parties who may also be affected would need to be considered at this stage also. Any application in this situation should probably be notified unless Section 94 was to apply. If an applicant has consulted the Otago Regional Council before lodging an application then there should be sufficient information in the application to determine whether the written approval of the Otago Regional Council is required.

Ms Valk also noted that the addition to this provision applies to the whole of the Queenstown Lakes District and not just the Makarora Valley.

Issue 3 - Natural Hazards Register

Ms Valk noted that the ORC's submission noted that currently the Queenstown Lakes District Natural Hazards Register does not contain all the natural hazard information provided by the Otago Regional Council and in particular the report titled "Natural Hazards at Makarora, April 2007".

The ORC's submission requests that a process be identified for updating the Queenstown Lakes District Natural Hazard Register when new natural hazards information is available.

The planner's report recommends that the Queenstown Lakes District Council accepts the Otago Regional Council's submission and suggests that an update to the Natural Hazard Register be done in consultation with the Otago Regional Council as a matter of urgency.

Although the Otago Regional Council accepts this recommendation, again it is requested that a process is identified between the Otago Regional Council and the Queenstown Lakes District Council for updating the Natural Hazards Register on a regular basis as new information becomes available.

Mr Doug Bray

A letter from Mr Doug Bray on behalf of the New Zealand Historic Places Trust was tabled at the hearing. The letter states:

"The NZHPT has considered the Planner's Report and agrees that its request for an archaeological assessment to be undertaken of the subject area cannot be imposed as part of this Plan Change. The NZHPT remains keen to see this and other areas of the District likely to be subject to more intense settlement archaeologically assessed, particularly when and where it is known that archaeological sites exist in significant numbers. Such initiatives will, however, be pursued by other means, such as the LTCCP process and discussions with Council's Policy and Planning Team, as recommended in the Planner's Report."

Mr Bruce Richards

A letter from Mr Bruce Richards on behalf of Transit NZ was tabled at the hearing. Mr Richards' letter stated the issues of concern to them can be addressed by the assessment matters and section 106 of the Resource Management Act 1991 (RM Act). Mr Richards further noted that Transit NZ has further discretion when the State Highway is declared a limited access road.

4.0 REASONING AND RECOMMENDATIONS

This part of the decision discusses the principal issues raised in submissions on Plan Change 14. From the outset the Hearings Commission noted the narrow purpose of the Plan Change and agreed with general intent of the Plan Change insofar as the operative provisions lacked adequate control over landscape and natural hazard issues.

To that extent the Hearings Commission decided that continuing with the Plan Change process would better serve the purpose and principles of the RM Act.

The principal issues raised in the submissions are as follows:

- Part 4.1 discusses submission issues which seek to retain the Rural Lifestyle Zone provision as operative, those which seek to delete Rural Lifestyle Zone all together and replace with Rural General zoning, and those which request Special Zoning specific to Makarora.
- Part 4.2 discusses submission issues which the Commission believe are beyond the narrow focus of this plan change.
- Part 4.3 discusses submission points which seek amendment to the provisions as notified.
- Part 4.4 discusses submission points on related issues.

4.1 Zoning

(a) No Change to Operative Provisions

A and P Cooper requested that no change be made to the operative Rural Lifestyle Zone provisions as they relate to Makarora.

The Hearings Commission noted that the Section 32 evaluation notified with the plan change considers five options to achieve the intended purpose of the plan change. The first option was to retain the Rural Lifestyle Zone provision in an un-amended state. The Hearings Commission agreed with the findings of the Council's section 32 evaluation – that this option fails to address the three issues that this plan change seeks to achieve – and these issues are important resource management issues that the District Plan should address.

The Cooper's submission states that the Rural Lifestyle zone provisions (in an un-amended state) have the ability to stop development with respect to natural hazards and amenity. The Hearings Commission considered that was questionable – given both subdivision and development is a controlled activity and section 104A of the RM Act requires controlled activity resource consents to be granted.

The Hearings Commission concluded that the Plan Change is appropriate in achieving the purpose and principles of the RM Act and is consistent with the Council's duties and functions under the RM Act.

(b) The Rural Lifestyle Zone be re-zoned Rural General

Mr Charteris requested that the entire Rural Lifestyle Zone in the Makarora Valley be re-zoned Rural General.

The Hearings Commission noted that the Section 32 evaluation notified with the plan change considers five options to achieve the intended purpose of the plan change. The fourth option was to delete the Rural Lifestyle Zoning from the Makarora Valley and replace it with Rural General Zoning. The Hearings Commission noted that this has the effect of applying the District Wide Landscape objectives, policies and assessment criteria to all development within the Valley (excluding Township zones) under a discretionary activity regime.

The Hearings Commission found that that this option did address all of the issues the plan change sought to achieve. However it was the Hearing Commission's opinion that changing the zoning from Rural Lifestyle to Rural General would result in significantly wider changes than this Plan Change needs or is anticipated to address. For example, changing from Rural Lifestyle to Rural General zoning adds a wide suite of discretionary, non-complying and prohibited activity rules and Site and Zone Standards that currently are not at issue with the Rural Lifestyle zoning.

To that extent the Hearings Commission found that amending the Rural Lifestyle Zone specific to Makarora as concluded in the notified Section 32 report is the most appropriate way to achieve the purpose of the Act and achieve the objectives of the District Plan.

(c) Special Zoning

Transit NZ submitted that their preferred option was to adopt a Makarora Special Zone.

The Hearings Commission noted that the Section 32 evaluation notified with the plan change considers five options to achieve the intended purpose of the plan change. The fifth option was to delete the Rural Lifestyle Zoning and replacement of it with a Makarora Special Zone. As detailed in the Section 32 evaluation this Option could achieve the desired results that this plan change seeks to achieve.

The Hearings Commission noted, however, the creation of a special zone over a site this large with various landowners would be a mammoth undertaking by the Council. Special zoning would result in the Council "picking winners".

The Hearings Commission found that restricted discretionary regime for subdivision in an area of natural hazard is the most appropriate method to

manage subdivision in the Makarora Valley. The Council have already made the decision that Rural Lifestyle zoning is appropriate throughout the valley, and this plan change does not intend to prevent that – only manage it with respect to natural hazards and landscape values.

In the Hearings Commission view the proposed plan change does not make a “mockery” of the Rural Lifestyle zoning as suggested by Transit NZ. The Hearings Commission found that a restricted discretionary regime is an appropriate technique to address the issue of natural hazards at the time of subdivision.

Recommendation

It is the recommendation of the Hearings Commission to proceed with Plan Change 14 as notified subject to specific amendments to proposed provisions as detailed below.

4.2 Jurisdictional Issues

(a) That Part of the Makarora Township Zone be re-zoned Rural General

Mr Charteris owns a number of sections held in certificate title 17C/323. Two of these sections are currently zoned Rural General. Three sections are zoned Township Zone. Mr Charteris seeks those zoned Township Zone be re-zoned Rural General.

The purpose of this plan change is to review the permissive nature of the Rural Lifestyle Zoning within the Makarora valley – in particular the effects of permitted (controlled) development on landscape and visual amenity values, the effect of natural hazards on permitted (controlled) development, and to achieve consistency with some of the outcomes of the Makarora Community Plan.

The Hearings Commission notes that Mr Charteris is seeking a zone change from Township Zone to Rural General. This plan change only addresses the Rural Lifestyle Zone provisions in the Makarora valley. As such the Hearings Commission finds it has no jurisdiction to accept the relief sought by this part of Mr Charteris's submission.

(b) New Standard – Protection of Archaeological Sites and Sites of Cultural Heritage

KHKP and HPT requested that a new site standard be inserted for the protection of archaeological sites and sites of cultural heritage. The Hearings Commission agreed that it may be appropriate to amend the District Plan should a section 32 evaluation find those resources are in need of protection. However the Hearings Commission found that it had no jurisdiction to do that under this narrow plan change. The Hearings Commission encouraged KHKP and the HPT to submit on the Council's Annual Plan so funding could be secured for a future plan change.

(c) Rule 8.2.4.1(x)(4) - Earthworks

Rule 8.2.4.1(x)(4) Earthworks reads as follows:

“4. Protection of Archaeological sites and sites of cultural heritage

- (a) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.*
- (b) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.”*

KHKP request that the applicable subdivision rules and assessment matters be extended to include non-listed sites and sites recorded by the New Zealand Archaeological Association.

The Hearings Commission noted that this rule is not subject to the narrow focus of Plan Change 14. As such Hearings Commission found that it had no jurisdiction to amend this rule as requested.

(d) Provision 15.2.6.3(i)(f).

Provision 15.2.6.3(i)(f) reads:

“(f) Areas of Significant Indigenous Vegetation, Heritage Items and Archaeological Sites

Notwithstanding 15.2.6.2 and 15.2.6.3 i(a) above, there shall be no specified minimum lot sizes or dimensions in any zone for lots containing Areas of Outstanding Natural Conservation Value listed in Appendix 5 or Heritage Items or Archaeological Sites listed in Appendix 3, provided:

- (i) the area of the land contained within the lot shall only be that area sufficient for the protection of the listed area, site or item;*
- (ii) any balance area of land, which does not conform with the requirements of 15.2.6.2 and 15.2.6.3 i(a) above, shall be amalgamated with land in an adjoining Certificate of Title;*
- (iii) a certificate is provided to the Council from the Department of Conservation in the case of areas in Appendix 5 or the New Zealand Historic Places Trust in the case of sites or items in Appendix 3, certifying that the area, site or item is worthy of protection.”*

KHKP seek a requirement that an assessment or letter of support be obtained from Kaitaki Runanga for the subdivision of takata whenua archaeological sites under this rule.

The Hearings Commission noted that this rule is not subject to the narrow focus of Plan Change 14. As such Hearings Commission found that it had no jurisdiction to amend this rule as requested.

Recommendation

It is the recommendation of the Hearings Commission that all of the submission points in relation to the above be rejected on jurisdictional grounds.

4.3 Specific Amendments to Zone Provisions

(a) 8.1.1 Rural Lifestyle Resource Management Issues and 8.1.2 Objectives and Policies

Provisions 8.1.1 and 8.1.2 as amended by the plan change reads:

“8.1.1 Resource Management Issues

Discussion of additional relevant issues is found in the following Parts of the District Plan:

<i>Natural Environment</i>	<i>- Part 4.1</i>
<i>Landscape and Visual Amenity</i>	<i>- Part 4.2</i>
<i>Open Space and Recreation</i>	<i>- Part 4.4</i>
<i>Surface of Lakes and Rivers</i>	<i>- Part 4.6</i>
<i>Waste Management</i>	<i>- Part 4.7</i>
<i>Natural Hazards</i>	<i>- Part 4.8</i>
<i>Heritage</i>	<i>- Part 13.1</i>
<i>Hazardous Substances</i>	<i>- Part 16.1</i>

Rural lifestyle and rural residential living reflects a desire by some people to live on small holdings in a rural environment while undertaking only limited farming or no farming at all. It is important to balance the needs of rural living activities, sustainable management, amenity values and the life supporting capacity of water and soil.

...”

And:

“Additional relevant objectives and policies relating to the following matters are found in the corresponding Parts of the District Plan:

<i>Natural Environment</i>	<i>- Part 4.1</i>
<i>Landscape and Visual Amenity</i>	<i>- Part 4.2</i>
<i>Open Space and Recreation</i>	<i>- Part 4.4</i>
<i>Surface of Lakes and Rivers</i>	<i>- Part 4.6</i>
<i>Waste Management</i>	<i>- Part 4.7</i>
<i>Natural Hazards</i>	<i>- Part 4.8</i>

Heritage - Part 13
Hazardous Substances - Part 16

Objective 1 – Rural Living

Establishment of low density rural living managed and contained in both extent and location.

...”

KHKP request that this section be amended to include a link to section 4.3 of the plan relating to Takata Whenua. The Commission agrees that is an appropriate amendment.

Recommendation

It is the recommendation of the Hearings Commission that provisions 8.1.1 Rural Lifestyle Resource Management Issues and 8.1.2 Objectives and Policies are amended as follows:

“8.1.1 Resource Management Issues

Discussion of additional relevant issues is found in the following Parts of the District Plan:

<i>Natural Environment</i>	- Part 4.1
<i>Landscape and Visual Amenity</i>	- Part 4.2
<u><i>Takata Whenua</i></u>	<u>- Part 4.3</u>
<i>Open Space and Recreation</i>	- Part 4.4
<i>Surface of Lakes and Rivers</i>	- Part 4.6
<i>Waste Management</i>	- Part 4.7
<i>Natural Hazards</i>	- Part 4.8
<i>Heritage</i>	- Part 13.1
<i>Hazardous Substances</i>	- Part 16.1

Rural lifestyle and rural residential living reflects a desire by some people to live on small holdings in a rural environment while undertaking only limited farming or no farming at all. It is important to balance the needs of rural living activities, sustainable management, amenity values and the life supporting capacity of water and soil.

...

And:

“Additional relevant objectives and policies relating to the following matters are found in the corresponding Parts of the District Plan:

<i>Natural Environment</i>	<i>- Part 4.1</i>
<i>Landscape and Visual Amenity</i>	<i>- Part 4.2</i>
<i><u>Takata Whenua</u></i>	<i>- Part 4.3</i>
<i>Open Space and Recreation</i>	<i>- Part 4.4</i>
<i>Surface of Lakes and Rivers</i>	<i>- Part 4.6</i>
<i>Waste Management</i>	<i>- Part 4.7</i>
<i>Natural Hazards</i>	<i>- Part 4.8</i>
<i>Heritage</i>	<i>- Part 13</i>
<i>Hazardous Substances</i>	<i>- Part 16</i>

Objective 1 – Rural Living

Establishment of low density rural living managed and contained in both extent and location.

...”

(b) Provision 15.2.2.6

Provision 15.2.2.6 as amended by the plan change reads:

“15.2.2.6 Non-Notification of Applications

- (a) Any application for resource consent under the Subdivision Rules for Controlled Subdivision Activities and Discretionary Subdivision Activities where the exercise of the Council’s discretion is limited, need not be notified and the written approval of affected persons need not be obtained. If the Council considers special circumstances exist it may require the application to be notified.*
- (b) Prior to any application for resource consent being processed under Rule 15.2.10.2 on a non-notified basis pursuant to section 94(2) of the Resource Management Act 1991 written approval of the Otago Regional Council must be provided to the Queenstown Lakes District Council.”*

KHKP have requested that the Papatipu Runaka be identified in this section as an affected party where a subdivision includes takata whenua archaeological sites and areas of cultural significance. The ORC requested Part (b) of the rule be deleted.

With respect to KHKP submission the Hearings Commission noted that the purpose of this provision is not to identify affected persons – but to specify the basis on which non-notification may be obtained. The identification of affected persons is specified in section 94B of the RM Act. To that extent the Hearings Commission considered there was no need to list Papatipu Runaka as an affected party where a subdivision includes takata whenua archaeological sites and areas of cultural significance.

With respect to the ORC's submission the Hearings Commission noted that part (b) of the provision was to ensure that any person subdividing under a restricted discretionary regime because of natural hazards in the Makarora Valley consulted with and obtained the ORC's written approval to the subdivision. The Hearings Commission considered such a provision ensured the integrated and consistent decision making between the ORC and the QLDC with respect to natural hazards in the Makarora Valley. The Hearings Committee also noted this rule was specific to Makarora Rural Lifestyle Zone (by reference to 15.2.10.2) and not every zone in the District as submitted by the ORC. However an improvement to this wording could include subclause (i) after the reference 15.2.10.2. As such, the Hearings Commission found that the provision should be retained in its slightly amended form.

Recommendation

It is the recommendation of the Hearings Commission to adopt Provision 15.2.2.6 as amended by Plan Change 14 with the following amendment:

“15.2.2.6 Non-Notification of Applications

- (a) Any application for resource consent under the Subdivision Rules for Controlled Subdivision Activities and Discretionary Subdivision Activities where the exercise of the Council's discretion is limited, need not be notified and the written approval of affected persons need not be obtained. If the*

Council considers special circumstances exist it may require the application to be notified.

- (b) *Prior to any application for resource consent being processed under Rule 15.2.10.2(i) on a non-notified basis pursuant to section 94(2) of the Resource Management Act 1991 written approval of the Otago Regional Council must be provided to the Queenstown Lakes District Council.”*

(c) Provision 15.2.3.5(b)

Provision 15.2.3.5(b) as amended by the plan change reads:

- “(b) Subdivisions of Land in the Rural General, Rural Lifestyle, Gibbston Character, Bendemeer Zones the Rural Residential area at the north of Lake Hayes, and the Quail Rise Zone (Activity Area R2)*
- (i) The extent to which subdivision, the location of Residential Building Platforms and proposed development maintains and enhances: ...*
- (iv) The extent to which subdivision, the location of residential building platforms and proposed redevelopment may be adversely affected by natural hazards or exacerbate a natural hazard situation, particularly within the Rural Lifestyle Zone at Makarora.*

Also refer to Part 15.2.10.1.

- (v) Consideration of the long term development of the entire property.*

...

- (ix) In considering the appropriateness of the form and density of development in the Makarora Rural Lifestyle Zone the following matters shall be taken into account:*
- (i) whether and to what extent there is the opportunity for the aggregation of built development to utilise common access ways including pedestrian linkages, services and commonly-held open space (ie. open space held in one title whether jointly or otherwise).*
- (ii) whether and to what extent development is concentrated/clustered in areas with a high potential to absorb development while retaining areas which are more sensitive in their natural state.”*

KHKP request that the explanation for assessment matter 5.2.3.5(b) be extended to include reference to the protection of cultural landscapes.

The Hearings Commission noted that the Council has recently undertaken a Plan Change, which was recently confirmed by the Environment Court, identifying a number of cultural landscapes in the District. The Hearings Commission notes that no cultural landscape was identified in the Makarora Valley as part of that Plan Change. Adding a reference to cultural landscapes in this provision would be confusing. A more appropriate method to achieve this would be for KHKP to discuss with the Council the possibility of identifying other cultural landscapes through future related plan changes (which the Hearings Commission understands the Council intends to do).

Recommendation

It is the recommendation of the Hearings Commission to adopt Provision 15.2.3.5(b) as amended by Plan Change 14 with no further amendment.

(d) Provision 15.2.7.1

Rule 15.2.7.1 as amended by the plan change reads:

“Except where specified as Discretionary or Non-Complying Subdivision Activities in Rules 15.2.3.3 and 15.2.3.4, any subdivision of land in any zone, which complies with all of the Site and Zone Subdivision Standards, is a Controlled Subdivision Activity, with the Council reserving control in respect of the following matters:

- *The location of pedestrian access;*
- *The location of building platforms;*
- *The provision and/or use of open stormwater channels and wetland areas;*
- *Orientation of lots to optimise solar gain for buildings and developments;*
- *The effect of potential development within the subdivision on views from surrounding properties;*
- *The design, dimensions and location of, and access to, lots in Residential or Rural-Residential Zones, which adjoin Rural Zones;*
- *The scale and nature of earthworks and the disposal of excess material.*

- *The concentration or clustering of built form in the Makarora Rural Lifestyle Zone to areas with high potential to absorb development while retaining areas which are more sensitive in their natural state.”*

KHKP request that the management of all stormwater run-off be included as a matter for which control is reserved under rule 15.2.7.1. At present only the “provision and/or the use of open stormwater channels and wetland areas” is covered by this control.

KHKP also request that two new standards be included in the District Plan as follows:

- Require applicants to provide information on the methods that will be used to minimize the volume of stormwater discharged during subdivision earthworks, and the level of contaminants, including the identification of secondary flow paths.
- That a site specific assessment matter be included to address the management of stormwater run-off during all stages of subdivision site disturbance.

The Hearings Commission notes that Part 15.2.12.1 requires a controlled activity resource consent with respect to stormwater disposal. This rule reads:

*“Except where specified as Discretionary or Non-Complying Activities in Rules 15.2.3.3 and 15.2.3.4, any subdivision of land in any zone, which complies with all of the Site and Zone Standards, is a **Controlled Subdivision Activity**, with the Council reserving control of the following matters:*

- *The capacity of existing and proposed stormwater systems;*
- *The method, design and construction of the stormwater collection, reticulation and disposal systems, including connections to public reticulated stormwater systems;*
- *The location, scale and construction of stormwater infrastructure;*

- *The effectiveness of any methods proposed for the collection, reticulation and disposal of stormwater run-off, including the control of water-borne contaminants, litter and sediments, and the control of peak flow;*
- *Any requirements for financial contributions required in respect of stormwater disposal.”*

The Hearings Commission considers this rule adequately caters for the concerns expressed by KHKP in their submission. The addition of new provisions is unnecessary duplication.

(e) Provision 8.2.2.2(i)(c)

Provision 8.2.2.2(i)(c) as amended by the Plan Change reads:

“8.2.2.2 Controlled Activities

The following shall be Controlled Activities provided that they are not listed as a Prohibited, Non-Complying or Discretionary Activity and they comply with all the relevant Site and Zone Standards. The matters in respect of which the Council has reserved control are listed with each Controlled Activity.

i Buildings

The addition, alteration or construction of buildings, including Residential Units added to, altered or constructed within Residential Building Platforms approved pursuant to Rule 15.2.6.3, in respect of:

- (a) the location and external appearance of the buildings and associated earthworks, access and landscaping, to avoid or mitigate adverse effects on landscape and visual amenity values, nature conservation values and the natural character of the rural environment; and*
- (b) the provision of water supply, sewage treatment and disposal, electricity and telecommunication services.*
- (c) the avoidance or mitigation of effects of natural hazards in the Makarora Rural Lifestyle Zone.”*

The ORC request that this provision (c) be amended as follows:

“(c) the avoidance or mitigation of: adverse effects of natural hazards on use and development; and adverse effects of use and development on natural hazards in the Makarora Rural Lifestyle Zone”.

The Hearings Commission noted that Rule 8.2.2.2 requires a controlled activity resource consent when a person seeks to build on an approved building platform which was identified at the time of subdivision. To that extent the Council has already assessed the location of the building platform with respect to natural hazards as part of its general consideration under a controlled activity subdivision consent. The proposed plan change strengthens such consideration into the future.

The Hearings Commission considered it was too late to consider the effect of the use and development of buildings within that building platform in terms of natural hazards as requested by the ORC as a building platform (and its use) had already been approved.

Recommendation

It is the recommendation of the Hearings Commission to adopt Provision 8.2.2.2(i)(c) as amended by Plan Change 14 with no further amendment.

(f) Provision 8.3.2(ii)(g)

Provision 8.3.2(ii)(g) as amended by the plan change reads:

- “(g) In relation to erosion, falling debris, slope instability or slippage:*
- (i) The need for certification by a Registered Engineer that any building site is suitable for the erection of buildings designed in accordance with NZS 3604;*
 - (ii) Any need for registration of covenants on the Certificate of Title;*
 - (iii) Any need for conditions relating to physical works to limit the instability potential.”*

The ORC requested that this be amended (underlined) to read:

“(g) In relation to any natural hazard, including erosion, debris flow, mass movement (including rock fall) or slope instability:
...”

The Hearings Commission noted that the requested amendment significantly widens the intent of the assessment by the addition of the words “any natural hazard”. The Hearings Commission also notes the concerns Mr Cooper expressed at the hearing about the wide meaning of the words “mass movement”. The Hearings Commission considered the wording as requested by the ORC to be inappropriate.

Recommendation

It is the recommendation of the Hearings Commission to adopt Provision 8.3.2(ii)(g) as amended by Plan Change 14 with no further amendment.

4.4 Other Issues:

(a) Recognition of the principles in sections 6, 7 and 8 of the Resource Management Act and the objectives and policies in the Kai Tahu Ki Otago Natural Resources Management Plan

The general thrust of the submission by KHKP is that the plan change fails to take into account the natural resource values and concerns of Ngai Tahu Whanui due to a failure to take into account the relevant provisions of sections 6, 7, and 8 of the RM Act and the objectives and policies in the Kai Tahu Ki Otago Natural Resources Management Plan.

The Hearings Commission did not agree with the proposition that this plan change fails to take these matters into account. The Hearings Commission considered these matters have been taken into account where relevant for the following reasons:

- The Kai Tahu Ki Otago Natural Resources Management Plan does not identify any Statutory Acknowledgement Areas, nohoaka sites, or Topuni in the Makarora Rural Lifestyle Zone.
- The issues, objectives and policies relating to Otago and Clutha Mata-Au Catchment (Wai Maori, Waahi Tapu, Mahika Kai and Biodiversity, Cultural Landscapes, Air and Atmosphere, Pounamu) are not directly related to this plan change which is looking specifically at visual amenity and hazard issues.
- The identification of Waahi Tapu areas and archaeological sites is provided for under the Historic Places Act and Part 13 and Appendix 3 of the District Plan relating to Heritage. No Waahi Tapu or other archaeological sites have been identified in the Makarora Rural Lifestyle Zone, nor are the relevant provisions of the District Plan that seek to protect these areas subject to this plan change.
- The submitter has identified the following provisions as being relevant in sections 6, 7 and 8 of the RM Act, - 6(a), 6(e), 6(g), 7(a), 7(aa) and 8. The Commission noted that the District Plan provides for the relationship of Maori culture, tradition and values (including the principles of the Treaty of Waitangi) via the existing Heritage provisions, Appendix 3 and Part 4.3 of the Plan. Other than cross references to part 4.3 (addressed below) none of these plan provisions are subject to this plan change, nor does this plan change adversely alter the recognition of these matters in the relevant provisions.

Recommendation

It is the recommendation of the Hearings Commission to adopt Plan Change 14 with no further amendment.

(b) Recognition of the Community Plan

The Coopers submitted that basing the plan change on comments in the Community Plan was inappropriate as it is not a statutory document, there was no opportunity to challenge that process, and by contrast the District Plan is a statutory document which follows due process. The Hearings Commission noted that Community Plans are strategic documents which are given statutory weight through the Plan Change process and consultation under the first schedule to the Resource Management Act. The Hearings Commission was of the opinion that the outcome sought by the community plan in terms of clustering development within the Rural Lifestyle Zone is an appropriate landscape outcome the District Plan should seek to achieve in the Makarora Valley. This is particularly relevant to the Makarora Rural Lifestyle zone due to its permissive nature, size and location within an outstanding natural landscape.

Recommendation

It is the recommendation of the Hearings Commission to adopt Plan Change 14 with no further amendment.

(c) Recognition of Housing and Business Opportunities

The Hearings Commission agreed with the Coopers that housing and business opportunities should be enabled to prosper in the Makarora Valley. However, as the Section 32 evaluation has concluded, those activities need to be safe from natural hazards and be appropriate in terms of the landscape. As such, the

Hearing Commission considered the amendments to the zone provisions promoted by this plan change are appropriate and necessary and are unlikely to significantly restrict the continued development of the Makarora Valley.

Recommendation

It is the recommendation of the Hearings Commission to adopt Plan Change 14 with no further amendment.

(d) Process for Updating Natural Hazards Register

The Hearings Commission understands that the Council is aware of the need to update the Natural Hazards Register as suggested by the ORC. This is especially important now that the restricted discretionary rule promoted by this plan change is dependant on up-to-date information contained within the Natural Hazards Register. The Hearings Commission recommend, alongside this decision, that the Natural Hazards Register in relation to the Makarora Valley be updated as a matter of urgency.

Recommendation

It is the recommendation of the Hearings Commission to adopt Plan Change 14 with no further amendment.

(e) Consequential Amendments

Rule 15.2.6.3 Zone Subdivision Standards – Lot Sizes and Dimensions (i) Lot Sizes (a) Table as amended by the plan change reads:

<i>Rural-Lifestyle</i>	<u><i>In all Rural Lifestyle Zones (except the Makarora Rural Lifestyle Zone):</i></u> <i>1 ha provided that the total lots to be created by subdivision (including balance</i>
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	<i>of the site within the zone) shall not have an average less than 2 hectares</i>
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The Hearings Commission noted that the proposed wording may be confusing in that the exception could be perceived to relate to both the minimum lot size and the average lot size in the Makarora Valley. The Hearings Commission noted this rule needed to be read in conjunction with Rule 15.2.6.3 (ii) Lot Averages. However to clarify the intent of the rule the Hearings Commission decided it would be best to amend the wording of the rule.

Recommendation

It is the recommendation of the Hearings Commission to adopt Rule 15.2.6.3 Zone Subdivision Standards – Lot Sizes and Dimensions (i) Lot Sizes (a) as amended by Plan Change 14 as follows:

<i>Rural-Lifestyle</i>	<p><u><i>In all Rural Lifestyle Zones (except the Makarora Rural Lifestyle Zone):</i></u></p> <p><i>1 ha provided that the total lots to be created by subdivision (including balance of the site within the zone) shall not have an average less than 2 hectares.</i></p> <p><u><i>In the Makarora Rural Lifestyle Zone the total lots to be created by subdivision (including balance of the site within the zone) shall not have an average less than 2 hectares.</i></u></p>
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ATTACHMENT 1: RECOMMENDED AMENDMENTS TO THE DISTRICT PLAN

Amend the District Plan provisions as follows (insertions are shown in underlined, and deletions are shown as ~~strikethrough~~):

(a) **Amend Part 4.8 Natural Hazards as follows:**

“4.8.1 Resources, Activities and Values

The communities in the District are at potential risk from the following natural hazards:

- *Flooding and inundation*
- *Erosion and Deposition*
- *Land Instability, including landslip and rock fall*
- *Earthquakes*
- *Severe Climatic Extremes - Drought, Snowfall, Wind.*
- *Alluvion, avulsion or subsidence.*

4.8.2 Issue

Property and people within the District have the potential to be threatened and adversely affected from damage or loss as a result of natural hazards, particularly flooding.

Under the Act, responsibility for controlling the use, development or protection of land for the purposes of avoiding or mitigating natural hazards is shared partly by the Regional Council and the District Council. They also both have responsibilities under civil defence legislation. The Otago Regional Council has, however, stated the respective roles and responsibilities in its Regional Policy Statement.

Flooding, erosion, deposition, landslides and rockslides are natural hazards in the District that can be avoided or mitigated by providing “protection” (e.g. stopbanks, retaining walls), or by guiding communities away from areas exposed to these hazards. Drought is more difficult to avoid because the impact of drought is closely related to the availability and use of water.

Flooding with the District has been widespread, but frequent flooding has generally been confined to the braided riverbeds or low terraces adjacent to the high country rivers of Matukituki, Makarora, Shotover, Rees, Dart and Cardrona. The levels of Lakes Wakatipu and Wanaka have also risen in the past to inundate low-lying parts of the towns. Development in the District is therefore constrained to some extent by flooding, particularly at Makarora.

The steep mountain slopes in the District are prone to instability. Large deep seated landslides are widespread, particularly on the mountain slopes near

Queenstown. Some of the steeper mountain sides and rock bluffs may give rise to rock falls, while the majority of the mountain slopes will be subject to shallow landslides or gully erosion which can cause problems with foundation excavations. Landslides, rockslides and gully erosion is caused by high rainfall saturating the steep slopes.”

(b) Amend Part 8.1.1 Rural Lifestyle Zone Resource Management Issues as follows:

“8.1.1 Resource Management Issues

Discussion of additional relevant issues is found in the following Parts of the District Plan:

<i>Natural Environment</i>	<i>- Part 4.1</i>
<i>Landscape and Visual Amenity</i>	<i>- Part 4.2</i>
<i><u>Takata Whenua</u></i>	<i>- Part 4.3</i>
<i>Open Space and Recreation</i>	<i>- Part 4.4</i>
<i>Surface of Lakes and Rivers</i>	<i>- Part 4.6</i>
<i>Waste Management</i>	<i>- Part 4.7</i>
<i>Natural Hazards</i>	<i>- Part 4.8</i>
<i>Heritage</i>	<i>- Part 13.1</i>
<i>Hazardous Substances</i>	<i>- Part 16.1</i>

Rural lifestyle and rural residential living reflects a desire by some people to live on small holdings in a rural environment while undertaking only limited farming or no farming at all. It is important to balance the needs of rural living activities, sustainable management, amenity values and the life supporting capacity of water and soil.

...

vii Natural Hazards within the Makarora valley

Natural hazards affecting the Makarora Valley include flooding and seismic hazards. Flooding in the Makarora valley originates from two main sources – the Makarora River and the tributary creeks that flow into the Makarora River. The tributary creeks flow mostly on alluvial fans. Seismic hazards affecting the valley include liquefaction induced by ground- shaking and mass movement induced by ground shaking.

The hazards that affect the alluvial fans are associated with fan erosion and deposition processes, flow path uncertainty and flood hazard severity. There is a long history of alluvial fan flooding (including debris deposition) events affecting the Makarora valley. Severe earthquakes may also trigger high levels of alluvial fan erosion and deposition activity.

Fan erosion and deposition episodes are triggered relatively frequently by hydrological events. There have been eighteen recorded flood events causing

damage in the valley since 1950, originating either from the Makarora River or its tributaries. However, recent fan building events on Pipson Creek fan has recently developed a higher propensity for this style of event.

Other alluvial fans in the Makarora Valley will behave in a similar way to the Pipson Creek alluvial fan. It should be expected that infrequent severe earthquakes and relatively frequent flood events will induce significant alluvial fan activity.

Assessment of the areas of the Makarora valley subject to natural hazards indicates that the valley floor and the alluvial fans have a higher risk from natural hazards than the elevated land on the Makarora faces.

viii Form of Development within the Makarora valley

In 2004 the Makarora community in conjunction with the QLDC produced the Makarora Community Plan to provide a community vision, strategic goals and priorities for the next 10 – 20 years. One of the key outcomes in which the Community Plan states is “to retain the general character of the landscapes surrounding Makarora and to avoid sprawl through the valley”.

The Community Plan gives a good indication of the Makarora community’s aspirations regarding the future of the Makarora Valley. It suggests that the type of landscape character that is envisaged by the general provisions of the Rural Lifestyle Zone is not the most desirable character from the community’s perspective. Instead the community would rather have bigger townships or introduce clustering in order to avoid ribbon development along the State Highway.

The provisions of the Rural Lifestyle Zone have therefore been amended to be specific to enabling this form of development. The District Plan does this by deleting the minimum allotment size (but retaining the average allotment size) and adding additional assessment criteria.”

(c) Amend 8.1.2 Objectives and Policies as follows:

“Additional relevant objectives and policies relating to the following matters are found in the corresponding Parts of the District Plan:

Natural Environment	- Part 4.1
Landscape and Visual Amenity	- Part 4.2
<u>Takata Whenua</u>	- Part 4.3
Open Space and Recreation	- Part 4.4
Surface of Lakes and Rivers	- Part 4.6
Waste Management	- Part 4.7
Natural Hazards	- Part 4.8
Heritage	- Part 13
Hazardous Substances	- Part 16

Objective 1 – Rural Living

Establishment of low density rural living managed and contained in both extent and location.

...

(d) Amend Rule 8.2.2.2 Controlled Activities as follows:

“8.2.2.2 Controlled Activities

*The following shall be **Controlled Activities** provided that they are not listed as a **Prohibited, Non-Complying or Discretionary Activity** and they comply with all the relevant **Site** and **Zone** Standards. The matters in respect of which the Council has reserved control are listed with each **Controlled Activity**.*

i Buildings

*The addition, alteration or construction of buildings, **including** Residential Units added to, altered or constructed within Residential Building Platforms approved pursuant to Rule 15.2.6.3, in respect of:*

- (a) the location and external appearance of the buildings and associated earthworks, access and landscaping, to avoid or mitigate adverse effects on landscape and visual amenity values, nature conservation values and the natural character of the rural environment; and*
- (b) the provision of water supply, sewage treatment and disposal, electricity and telecommunication services.*
- (c) the avoidance or mitigation of effects of natural hazards in the Makarora Rural Lifestyle Zone.”*

(e) Amend 8.3.2 Assessment matters (ii) Natural Hazards – General as follows:

“ii Natural Hazards - General

In all Zones:

- (a) Whether the activity will exacerbate any natural hazard, including erosion, sedimentation, subsidence and landslips.*

In the Makarora Rural Lifestyle Zone:

In addition to (a) above:

- (b) The likelihood of the building being subject to the effects of any natural or other hazard, the degree to which the hazard could result in damage, destruction and/or loss of life, and the need to avoid or mitigate any potential damage or danger from the hazard.*
- (c) Any potential adverse effects on other land that may be caused by the anticipated land use activities as a result of the effects of natural or other hazards.*

- (d) Any need for conditions to avoid or mitigate potential damage or danger from the hazard, such as the provision of works, location and type of services, minimum floor heights and locations for buildings, and location and quantity of fill or earthworks.
- (e) Whether a minimum floor height should be specified for buildings in situations where inundation is likely and damage to structures could occur, but the land may not be suitable for filling.
- (f) In relation to flooding and inundation from any source, the Council shall have regard to the following:
 - (i) The effects of any proposed filling being undertaken to avoid inundation and the consequential effects on the natural drainage pattern and adjoining land;
 - (ii) Any proposed boundary drainage to protect surrounding properties;
 - (iii) Any effect of such filling or boundary drainage on the natural character or hydrological functions of wetlands;
 - (iv) The adequacy of existing outfalls and any need for upgrading;
 - (v) Any need for retention basins to regulate the rate and volume of surface run-off.
- (g) In relation to erosion, falling debris, slope instability or slippage:
 - (i) The need for certification by a Registered Engineer that any building site is suitable for the erection of buildings designed in accordance with NZS 3604;
 - (ii) Any need for registration of covenants on the Certificate of Title;
 - (iii) Any need for conditions relating to physical works to limit the instability potential.”

(f) Amend Part 15.1.2 Issues (iv) Land subject to Natural Hazards as follows:

“iv Land subject to Natural Hazards

The opportunity may arise to subdivide and develop land which may be subject to natural hazards. This may require significant infrastructure works. Where land, or any structure on that land, is likely to be subject to damage by erosion, subsidence, or inundation from any source, the Act provides that the Council shall not grant a subdivision consent unless the effects can be avoided, remedied or mitigated. The suitability of land for future development in terms of susceptibility to natural hazards needs to be considered at the stage of subdivision.

The Council has identified the Makarora Rural Lifestyle Zone as one such area where development may occur at low densities subject to avoiding, remedying or mitigating the effect of natural hazards.”

(g) Amend Part 15.2.3.5 Assessment Matters for Resource Consent (b) as follows:

“(b) Subdivisions of Land in the Rural General, Rural Lifestyle, Gibbston Character, Bendemeer Zones the Rural Residential area at the north of Lake Hayes, and the Quail Rise Zone (Activity Area R2)

- (i) *The extent to which subdivision, the location of Residential Building Platforms and proposed development maintains and enhances: ...*
- (iv) *The extent to which subdivision, the location of residential building platforms and proposed redevelopment may be adversely affected by natural hazards or exacerbate a natural hazard situation, particularly within the Rural Lifestyle Zone at Makarora.*

Also refer to Part 15.2.10.1.

- (v) *Consideration of the long term development of the entire property.*

...

(ix) In considering the appropriateness of the form and density of development in the Makarora Rural Lifestyle Zone the following matters shall be taken into account:

(i) whether and to what extent there is the opportunity for the aggregation of built development to utilise common access ways including pedestrian linkages, services and commonly-held open space (ie. open space held in one title whether jointly or otherwise).

(ii) whether and to what extent development is concentrated/clustered in areas with a high potential to absorb development while retaining areas which are more sensitive in their natural state.”

- (h) **Amend Rule 15.2.6.3 Zone Subdivision Standards – Lot Sizes and Dimensions (i) Lot Sizes (a) Table as follows:**

Rural-Lifestyle	<p><u>In all Rural Lifestyle Zones (except the Makarora Rural Lifestyle Zone):</u></p> <p>1 ha provided that the total lots to be created by subdivision (including balance of the site within the zone) shall not have an average less than 2 hectares.</p> <p><u>In the Makarora Rural Lifestyle Zone the total lots to be created by subdivision (including balance of the site within the zone) shall not have an average less than 2 hectares.</u></p>
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- (i) **Amend Rule 15.2.7.1 Controlled Subdivision Activities – Subdivision Design as follows:**

“Except where specified as Discretionary or Non-Complying Subdivision Activities in Rules 15.2.3.3 and 15.2.3.4, any subdivision of land in any

zone, which complies with all of the Site and Zone Subdivision Standards, is a **Controlled Subdivision Activity**, with the Council reserving control in respect of the following matters:

- The location of pedestrian access;
- The location of building platforms;
- The provision and/or use of open stormwater channels and wetland areas;
- Orientation of lots to optimise solar gain for buildings and developments;
- The effect of potential development within the subdivision on views from surrounding properties;
- The design, dimensions and location of, and access to, lots in Residential or Rural-Residential Zones, which adjoin Rural Zones;
- The scale and nature of earthworks and the disposal of excess material.
- The concentration or clustering of built form in the Makarora Rural Lifestyle Zone to areas with high potential to absorb development while retaining areas which are more sensitive in their natural state.

(j) Amend Part 15.2.7.3 Assessment Matters for Resource Consents by adding the following assessment matters:

“(xi) In considering the appropriateness of the form and density of development in the Makarora Rural Lifestyle Zone the following matters shall be taken into account:

(i) whether and to what extent there is the opportunity for the aggregation of built development to utilise common access ways including pedestrian linkages, services and commonly-held open space (ie. open space held in one title whether jointly or otherwise).

(ii) whether and to what extent development is concentrated/clustered in areas with a high potential to absorb development while retaining areas which are more sensitive in their natural state.”

(k) Amend Part 15.2.10 Natural and Other Hazards as follows:

“15.2.10.1 Controlled Subdivision Activities - Natural and Other Hazards

Except where specified as Discretionary or Non-Complying Subdivision Activities in Rules 15.2.3.3 and 15.2.3.4, any subdivision of land in any zone, which complies with all of the Site and Zone Standards, is a **Controlled Subdivision Activity**, with the Council reserving control in respect of:

- (i) The effect of the following natural and other hazards on the land within the subdivision;
- (ii) The effect of the subdivision on the impact of the following natural and other hazards on the site or on other land in the vicinity.

- (a) Erosion
- (b) Flooding and Inundation
- (c) Landslip
- (d) Rockfall
- (e) Alluvion
- (f) Avulsion
- (g) Unconsolidated Fill
- (h) Soil Contamination
- (i) Subsidence.

15.2.10.2 Site Subdivision Standard – Natural and Other Hazards

Except where specified as a Non-Complying Subdivision Activity in Rule 15.2.3.4, any subdivision of land (including the identification of any building platforms) which complies with all of the Zone Subdivision Standards, but does not comply with any one or more of the following Site Subdivision Standards shall be a Discretionary Subdivision Activity, with the exercise of the Council's discretion limited to the matter(s) subject to that standard.

(i) Natural Hazards within the Makarora Rural Lifestyle Zone

No building platform shall be identified within any area identified on the QLDC Hazards Register as being an area subject to any natural hazards including erosion, flooding and inundation, landslip, rockfall, alluvion, avulsion or subsidence. Council's control shall be limited the assessment matters detailed in 15.2.10.3 below.

15.2.10.3 Assessment Matters for Resource Consents

In considering whether or not to grant consent or impose conditions in respect to natural and other hazards, the Council shall have regard to, but not be limited by, the following:

...

- (iv) *Whether a lot should be restricted from development on parts or all of the site, as a result of the effects of natural or other hazards."*

(I) Amend Part 12.2.2.6 Non-Notification of Resource Consents as follows:

"15.2.2.6 Non-Notification of Applications

- (a) *Any application for resource consent under the Subdivision Rules for Controlled Subdivision Activities and Discretionary Subdivision Activities where the exercise of the Council's discretion is limited, need not be notified and the written approval of affected persons need not be obtained. If the*

Council considers special circumstances exist it may require the application to be notified.

(b) Prior to any application for resource consent being processed under Rule 15.2.10.2(i) on a non-notified basis pursuant to section 94(2) of the Resource Management Act 1991 written approval of the Otago Regional Council must be provided to the Queenstown Lakes District Council.”

ATTACHMENT 2: RECOMMENDATIONS ON SUBMISSION POINTS

The following section makes recommendations on whether individual submissions are accepted, accepted in part or rejected.

<p>Gary Charteris (14/1/1)</p>
<p>Submission: Gary Charteris has submitted in opposition to the Plan Change for the following reasons:</p> <ul style="list-style-type: none">(a) The land in the Makarora Valley is fertile farming land. Allowing for rural lifestyle subdivision would lead to a waste of this land as a valuable natural resource; and(b) Allowing for subdivision and human development in this area would destroy the iconic landscapes of the Makarora Valley; and(c) Due to natural hazards, there is practically no safe place to build within the Valley; and(d) The retention of Rural Lifestyle zoning would make it easier for developers to undermine the intention of Plan Change 14. <p>In general, Mr. Charteris agrees with the strengthening of the provisions in the plan relating to natural hazards. He believes that rezoning the current Rural Lifestyle zone as Rural General would best serve the purposes of the Resource Management Act 1991. He is also of the view that his property which falls within the Township Zone should also be re-zoned Rural General due to the significant native forest and QEII Covenant which protects that forest on his site.</p>
<p>Decision Requested: Mr. Charteris requests the following decision from Council:</p> <ul style="list-style-type: none">1. That the Rural Lifestyle zone situated in the Makarora Valley be re-zoned Rural General; and2. That his property located in the Makarora Township zone be re-zoned Rural General.
<p>Further Submissions: No further submissions were received on this original submission.</p>
<p>Decision: It is the recommendation of the Hearings Commission that the original submission of Gary Charteris be <u>rejected</u> by:</p> <ul style="list-style-type: none">(a) Rejecting that part of the submission which seeks the Rural Lifestyle Zone be replaced with Rural General Zoning; and(b) Rejecting that part of the submission which seeks to rezone that land owned by submitter from Township Zoning to Rural General zoning.
<p>Reasons for Decision:</p>

Refer to Part 4(1)(b) and 4.2(a) of this decision.

A and P Cooper (14/2/1)

Submission:

A and P Cooper have submitted in opposition to the plan change for the following reasons:

- (a) The operative provisions of the Plan for the Rural Lifestyle Zone in Makarora are sufficient to stop development where the adverse effects in terms of hazards and amenity cannot be mitigated.
- (b) Basing the plan change on comments in the Community Plan is inappropriate as: it is not a statutory document; there was no opportunity to challenge the reported outcomes; and by contrast the district plan is a statutory document that has followed due process.
- (c) The Makarora Valley has been subject to flax and timber milling and farming since it was first settled and this has modified its rural character. The Makarora Valley is a place where people want to live and work, and there must be allowance for housing and business opportunities within this community.

Decision Requested:

The Coopers request that no change be made to the operative Rural Lifestyle Zone provisions as they relate to the Makarora Valley.

Further Submissions:

Transit New Zealand further submitted that the Coopers are of the preference that no change is made to the current rural lifestyle provisions. In its current state, the district plan potentially allows for the creation of 400 new residential allotments within the Makarora Valley. This has the potential to cause a significant increase in the number of accesses to the State Highway.

The Land Transport Management Act (LTMA) was passed at the end of 2003 and embedded principles in the New Zealand Transport Strategy into Transit's statutory objective, which is to "operate the State highway system in a way that contributes to an integrated, safe, responsive and sustainable land transport system." If no change is made to the current provisions (option 1), Transit's ability to provide a safe and efficient transport system under the current provisions of the partially operative district plan will continue to be compromised.

Decision:

It is the recommendation of the Hearings Commission that the original submission of A and P Cooper is rejected and the further submission of Transit NZ is accepted.

Reason for Decision:

Refer to Part 4(1)(a), 4.4(b) and 4.4(c) of this decision.

14/3/1: Kati Huirapa Ki Puketeraki

Submission:

Kati Huirapa Ki Puketeraki ("KHKP") has not expressed either support or opposition to

the plan change but makes the following observations about the plan change and Rural Lifestyle provisions in the Plan:

- (a) The plan change fails to take into account the Kai Tahu Ki Otago Natural Resource Management Plan and the relevant provisions (particularly those in relation to Wai Maori, Waahi Tapu and Cultural Landscapes) need to be addressed.
- (b) A cultural assessment was not commissioned by the Council and accordingly the plan change does not take into account the natural resource values, concerns and issues of Ngai Tahu Whanui.
- (c) The section 32 Report fails to address the relevant principles in sections 6(a), 6(e), 6(g), 7(a), 7(aa) and 8 of the RMA.
- (d) There is no linkage between section 8.1.1 Rural Lifestyle Resource Management Issues and 8.1.2 Objectives and Policies with the District Wide Issues relating to Takata Whenua in section 4.3 of the Plan.
- (e) Rule 8.2.2.2 relating to controlled activity status for buildings excludes tangata whenua from being identified as a potentially affected party.
- (f) The inventory in Appendix 3 of the Plan does not incorporate the archaeological sites in the Makarora Valley recorded by the New Zealand archaeological association.
- (h) The applicable subdivision rules and assessment matters fail to give any recognition to archaeological sites that are recorded by the New Zealand Archaeological Association but not contained in Appendix 3 of the District Plan.
- (i) The new assessment matter recommended in relation to the appropriateness of form and density of development in the Makarora Valley could be extended to include reference to the protection of cultural landscapes.
- (j) Rule 15.2.7.1 so far as it relates to subdivision design does not expressly specify the management of stormwater run-off as a matter for which Council control is reserved in relation to earthworks activities.
- (k) The assessment matters in Part 15 that relate to Rural Lifestyle subdivision do not include a specific assessment matter in relation to the management and control of stormwater run-off as a result of earthworks activities. Greater recognition of this issue could be achieved through a specific assessment matter.
- (l) There is no specific recognition in Rule 15.2.2.6 for Kaitiaki Runaka as an affected party where a subdivision includes takata whenua archaeological sites and areas of cultural significance.

Decision Requested:

KHKP request the following decision from the Council:

- (i) That Council commission a cultural assessment to enable Ngai Tahu Whanui to identify resource management issues of concern to them in the Makarora Valley.

- (ii) That the applicable principles in sections 6, 7 and 8 of the Resource Management Act be recognised and addressed through the plan change.
- (iii) That the objectives and policies of the Kai Tahu Ki Otago Natural Resource Management Plan be recognized and addressed through the plan change.
- (iii) That the plan change be amended to include the following changes:
 - That section 8.1.1 Rural Lifestyle Resource Management Issues and 8.1.2 Objectives and Policies be amended to include a link to section 4.3 of the plan relating to Takata Whenua.
 - That the Papatipu Runaka be identified in section 15.2.2.6 as an affected party where a subdivision includes takata whenua archaeological sites and areas of cultural significance.
 - That a new site standard be inserted for the protection of archaeological sites and sites of cultural heritage.
 - That Rule 8.2.4.1(x)(4) and applicable subdivision rules and assessment matters be broadened to extend to include non-listed sites, including those sites recorded by the New Zealand Archaeological Association.
 - That Council commission an archaeological survey of recorded sites in the Makarora Valley to verify site records.
 - That an assessment or letter of support be required from Kaitaki Runanga for the subdivision of tangata whenua archaeological sites under rule 15.2.6.3(i)(f).
 - That the explanation for assessment matter 5.2.3.5(b) be extended to include reference to the protection of cultural landscapes.
 - That the management of all stormwater run-off be included as a matter for which control is reserved under rule 15.2.7.1.
 - Require applicants to provide information on the methods that will be used to minimize the volume of stormwater discharged during subdivision earthworks, and the level of contaminants, including the identification of secondary flow paths.

That a site specific assessment matter be included to address the management of stormwater run-off during all stages of subdivision site disturbance.

Further Submissions

No further submissions were received on this original submission.

Decision

It is the recommendation of the Hearings Commission that the original submission of

Kati Huirapa Ki Puketeraki be accepted in part by:

(i) Amend Provisions 8.1.1 and 8.1.2 as follows:

“8.1.1 Resource Management Issues

Discussion of additional relevant issues is found in the following Parts of the District Plan:

<i>Natural Environment</i>	<i>- Part 4.1</i>
<i>Landscape and Visual Amenity</i>	<i>- Part 4.2</i>
<i><u>Takata Whenua</u></i>	<i>- Part 4.3</i>
<i>Open Space and Recreation</i>	<i>- Part 4.4</i>
<i>Surface of Lakes and Rivers</i>	<i>- Part 4.6</i>
<i>Waste Management</i>	<i>- Part 4.7</i>
<i>Natural Hazards</i>	<i>- Part 4.8</i>
<i>Heritage</i>	<i>- Part 13.1</i>
<i>Hazardous Substances</i>	<i>- Part 16.1</i>

Rural lifestyle and rural residential living reflects a desire by some people to live on small holdings in a rural environment while undertaking only limited farming or no farming at all. It is important to balance the needs of rural living activities, sustainable management, amenity values and the life supporting capacity of water and soil.

...

And:

“Additional relevant objectives and policies relating to the following matters are found in the corresponding Parts of the District Plan:

<i>Natural Environment</i>	<i>- Part 4.1</i>
<i>Landscape and Visual Amenity</i>	<i>- Part 4.2</i>
<i><u>Takata Whenua</u></i>	<i>- Part 4.3</i>
<i>Open Space and Recreation</i>	<i>- Part 4.4</i>
<i>Surface of Lakes and Rivers</i>	<i>- Part 4.6</i>
<i>Waste Management</i>	<i>- Part 4.7</i>
<i>Natural Hazards</i>	<i>- Part 4.8</i>
<i>Heritage</i>	<i>- Part 13</i>
<i>Hazardous Substances</i>	<i>- Part 16</i>

Objective 1 – Rural Living

Establishment of low density rural living managed and contained in both extent and location.

...”

(ii) Making no other amendments to the zone provisions.

Reason for Decision:

Refer to Part 4(2)(b) – (d) and 4.4(a) – (d) of this decision.

14/4/1: New Zealand Historic Places Trust**Submission:**

The New Zealand Historic Places Trust (“NZHPT”) has submitted neither in support nor in opposition to Plan Change 14.

NZHPT states that its concerns are of an “entirely archaeological nature”. These concerns are:

There are a number of archaeological sites identified on the New Zealand Archaeological Association’s Site Record Database and the Valley is therefore of significant heritage importance to both Maori and European New Zealanders. None of the sites specified on the New Zealand Archaeological Association’s Site Record Database in the Makarora Valley are identified in Appendix 3 Inventory of Protected Features in the District Plan. Most of these sites are located within the Makarora Rural Lifestyle Zone.

The Makarora Valley has not been subject to detailed archaeological investigations in recent times. Without more precise knowledge in terms of where the archaeological sites are and the geographic extent of the sites there is a real danger of these sites being compromised by inappropriate subdivision, use and development.

Decision Requested:

That the Queenstown Lakes District Council proceed with Plan Change 14 however, this is subject to Council making a commitment to the Makarora Rural Lifestyle Zone being subject to an archaeological assessment and the recommendations that arise from that assessment should be given effect to in Appendix 3 of the District Plan.

Further Submissions

No further submissions were received on this original submission.

Decision:

It is the recommendation of the Hearings Commission that the original submission Historic Places Trust be rejected.

Reasons for Decision:

Refer to Part 4(2)(b) of this decision.

(14/5/1): Otago Regional Council**Submission:**

The Otago Regional Council supports plan change 14 for the following reasons:

- (a) The addition of Clause (c) to Rule 8.2.2.2 is necessary to consider both the effect of natural hazards on buildings and buildings on natural hazards.
- (b) The proposed amendments to provision 8.3.2(ii) are necessary to ensure that the effects of and on natural hazards are assessed.

- (c) Council supports the amendments to 15.2.10 with the addition of provision 15.2.10.2 and 15.2.10.2 (i) to ensure that applicants refer to the QLDC Natural Hazards Register in order to determine the status of the proposed activity.

In addition to these factors in support of the Plan Change, the ORC further note that:

- Changes to the wording of provision 8.3.2(ii) to ensure that the effects of and on alluvial fan processes are sufficiently addressed.
- The QLDC should require a process for updating its Hazards register when new information is available – in particular the Otago Regional Council Report titled “Otago Alluvial Fans Project”. This process should occur outside of the plan change process.

The submitter considers that the proposed addition to clause (b) of provision 15.2.2.6 that requires applicants to obtain approval from the Otago Regional Council is of no benefit. Consultation with the Otago Regional Council can occur without this provision. It is presumed that non notification of applications would generally only occur where the application is a controlled activity and outside of the hazard area identified by the Natural Hazard Register. Furthermore, it is unclear what the Otago Regional Council would be approving as it has no jurisdiction in terms of approving the subdivision. As both the QLDC and ORC Natural Hazard Registers should contain the same information, the QLDC is equally equipped to make an assessment of the hazard there is no need to obtain written approval from the ORC in this context.

Decision Requested:

That provision 8.2.2.2(i)(c) is altered to read: “*the avoidance or mitigation of: adverse effects of natural hazards on use and development; and adverse effects of use and development on natural hazards in the Makarora Rural Lifestyle Zone*”.

That provision 8.3.2(ii)(g) is altered to read: “*in relation to any natural hazard, including erosion, debris flow, mass movement (including rock fall) or slope instability*”.

That a process is identified for updating the Queenstown Lakes District Natural Hazards Register when new information is received.

That 15.2.2.6(b) is deleted.

Further Submissions:

No further submissions were received on this original submission.

Decision:

It is the recommendation of the Hearings Commission that the original submission by the Otago Regional Council be accepted in part by:

- (i) Rejecting any change to Provision 8.2.2.2(i)(c);
- (ii) Amending Provision 8.3.2(ii)(g) as follows:

“(g) In relation to any natural hazard, including erosion, debris flow, mass movement (including rock fall) or slope instability:

- (i) The need for certification by a Registered Engineer that any building site is suitable for the erection of buildings designed in accordance with NZS 3604;*
- (ii) Any need for registration of covenants on the Certificate of Title;*
- (iii) Any need for conditions relating to physical works to limit the instability potential.”*

(iii) Accepting that the QLDC’s Natural Hazards Register should be updated in consultation with the ORC as a matter of urgency.

(iv) Amending to Provision 15.2.2.6(b) as follows:

“15.2.2.6 Non-Notification of Applications

(a) Any application for resource consent under the Subdivision Rules for Controlled Subdivision Activities and Discretionary Subdivision Activities where the exercise of the Council’s discretion is limited, need not be notified and the written approval of affected persons need not be obtained. If the Council considers special circumstances exist it may require the application to be notified.

(b) Prior to any application for resource consent being processed under Rule 15.2.10.2(i) on a non-notified basis pursuant to section 94(2) of the Resource Management Act 1991 written approval of the Otago Regional Council must be provided to the Queenstown Lakes District Council.”

Reasons For Decision:

Refer to Part 4.3(b), (e) and (f) and 4.4(d) of this decision.

Transit New Zealand (14/6/1):

Submission:

Transit New Zealand does not express either support or opposition to Plan Change 14. However, the content of Transit’s submission expresses opposition to the extent that Transit’s preferred option (as per the section 32 analysis) is Option 5 for the deletion of a rural lifestyle zone and creation of a Makarora Special Zone to as opposed to a combination of options 2 and 3.

The reasons for Transit’s preferred option are as follows:

- The ability of Transit to provide safe and efficient transport under the current provisions of the Partially Operative District Plan is compromised.
- Option 5 would provide Transit with a greater opportunity to work with the QLDC to locate areas suitable for the Makarora Special Zone which are appropriate for development in terms of the safety and functionality of the adjacent State Highway.

- The combination of discretions available with options 2 and 3 are so varied that no land will be subdivided / developed thereby making a mockery of the zoning. It would be more appropriate to identify where development can occur under a Makarora Special Zone rather than creating planning hoops that cannot be satisfied.

In the alternative, Transit has noted that it could support a combination of options 2 and 3 that promotes cluster development and localizing access to the State Highway.

Transit has also noted that the section of State Highway 6 from Brady Creek to Wharf Creek is in the process of being declared a Limited Access Road.

Decision Requested:

Transit does not seek a specific decision from Council in relation to Plan Change 14 but notes its preference for option 5.

Further Submissions

No further submissions were received on this original submission.

Decision:

It is the recommendation of the Hearings Commission that the original submission Transit NZ be rejected.

Reason For Decision:

Refer to Part 4.1(c) of this decision.

ATTACHMENT 3: NOTE ON UPDATING THE NATURAL HAZARDS REGISTER

The Hearings Commission notes for the benefit of the Council that for this Plan Change to have any effect the Natural Hazards Register requires updating to take account of the findings in the Otago Regional Council's report (Natural Hazards at Makarora - dated April 2007) as a matter of priority.