

# QUEENSTOWN LAKES DISTRICT COUNCIL

Hearing of Submissions on the Proposed District Plan

Report 16.17

Report and Recommendations of Independent Commissioners  
Regarding Upper Clutha Planning Maps  
Makarora Rural Lifestyle Zone

Commissioners

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## 1. SUMMARY OF RECOMMENDATIONS

### 1.1. Overall Recommendation

1. Accept submissions and rezone land to Rural.

### 1.2. Summary of Reasons for Recommendation

2. The rezoning of the notified Makarora Rural Lifestyle Zone to Rural provides the most appropriate method to manage the natural hazard and landscape issues in this area.

## 2. PRELIMINARY MATTERS

### 2.1. Subject of Submissions

3. These submissions related to an area of approximately 1292 ha in multiple ownership in the Makarora valley.

### 2.2. Outline of Relief Sought

4. The submissions requested rezoning of the land from Rural Lifestyle, as shown on Planning Maps 2, 5, 16, 16a and 16b land, to Rural.

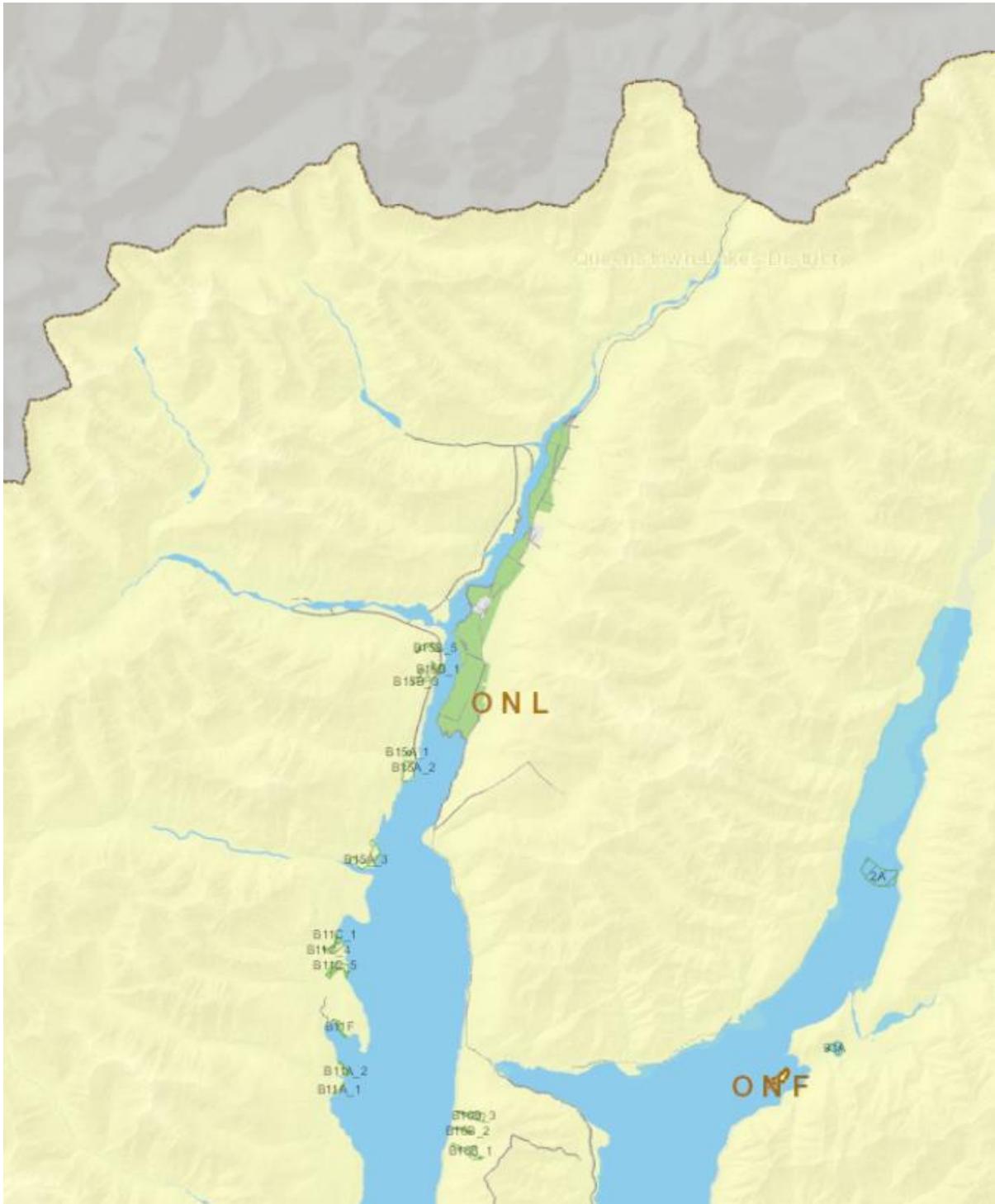
### 2.3. Description of the Site and Environs

5. The Makarora valley sits at the northern head of Lake Wanaka and is of glacial origin. Its physical character is defined by the braided Makarora River and alluvial gravels of the valley floor, framed by steep-sided mountains on either side. There are areas of farmed land in the valley and on the lower mountain slopes, with beech forest transitioning to rock and snow on the exposed upper slopes. Mt Aspiring National Park surrounds much of the valley, and includes its northern reaches. The Park is classified as ONL. The valley is considered to have high aesthetic value and to be a highly memorable dynamic landscape<sup>1</sup> created by changes in the river's course, dramatic washdowns of mountain debris, snow and low cloud. State Highway 6 passes through the valley to Haast and human settlement is comparatively sparse, being concentrated mainly within three small townships close to the highway, described as Makarora West, central Makarora and southern Makarora.
6. The townships have an operative Township zoning under the ODP, which is not a Stage 1 zone in the PDP. Apart from those areas, almost all of the land between the eastern side of the river and the highway, as well as much of the land adjacent to the eastern side of the highway, is zoned Rural Lifestyle in the ODP and has a proposed zoning of Rural Lifestyle in the PDP as shown in Figure 1 below. The total length of the zone (the submission site) from Makarora West to where it ends just south of southern Makarora, is approximately 14.5 kms and has an area of 1292 ha (more or less).
7. In the PDP, a Visitor Accommodation Sub Zone has been applied to a small triangular area of land at central Makarora within the Rural Lifestyle zone and this is understood to be the site of Cedar Lodge and its associated helicopter landing area.
8. The river flats, including the Rural Lifestyle zone immediately adjacent, are prone to flooding whereas on the flats between the eastward side of the highway and the mountain slopes,

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<sup>1</sup> Evidence of Dr M Read, paragraph 5.5

much of the Rural Lifestyle zoned land is also subject to other natural hazards, particularly landslips and mountain debris<sup>2</sup>.



**Figure 1: location of Makarora valley Rural Lifestyle zones** - Excerpt of PDP zoning webmap. The zone is approximately 14.5 km in length and located at the head of Lake Wanaka, heading in a northerly direction toward Haast. The Rural Lifestyle Zone is the green area, the outlying Rural Zone ONL is yellow.

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<sup>2</sup> Dr Read referred to the dynamic nature of the landscape and the "spectacular debris flows in Pipsons Creek in particular" at paragraph 5.4 of her evidence dated 17 March 2017

#### 2.4. The Case for Rezoning

9. Ms Pennycook, a long time resident of Makarora, and the Royal Forest and Bird Protection Society Incorporated ('Forest and Bird'), made submissions opposing the notified Rural Lifestyle zoning. Ms Pennycook's lodged submission is comprehensive and detailed, raising the following concerns with the proposed zoning:
  - a. the valley is an ONL, as assessed by Vivian and Espie in May 2006, and part of the dramatic landscape is created by the contrast between the flat open valley floor pasture land and steep, natural mountainsides;
  - b. The Makarora River is the only braided river in a highly natural setting seen from a state highway (in comparison with the Shotover River, which is in a highly modified setting);
  - c. the Rural Lifestyle zoning encompasses 1292 ha, which theoretically enables up to 770 houses in the valley;
  - d. the QLDC has previously recognised that ad hoc development would result in adverse visual amenity and rural character effects;
  - e. Policy 6.3.1.11 recognises the importance of protecting landscape character and visual amenity values, particularly as viewed from public places;
  - f. The January 2004 Makarora 2020 plan recognised that Rural Lifestyle zoning may result in inappropriate development, and there is room for expansion within the urban boundary;
  - g. currently the valley floor is not protected as ONL;
  - h. development to the river edge would potentially threaten rare bird species;
  - i. the valley floor is at risk from a range of natural hazards including flooding, silt and landslide deposits, earthquakes and liquefaction;
  - j. the zoning is not needed owing to the small take-up of subdivided lots;
  - k. the Rural Lifestyle zoning affects productive land;
  - l. the majority of the Rural Lifestyle zoned land is owned by two non-resident landowners who have farming operations; almost all valley residents own land in the urban zones so economic potential would not be affected by changing the Rural Lifestyle zoning.
10. Forest and Bird's submissions on the PDP covered a range of issues. Its specific reasons for opposing the Makarora Rural Lifestyle Zone relate to the sensitivity of the landscape, and the outstanding wildlife values associated with the Makarora River and its margins, which provide habitat for threatened and rare native bird species including wrybills, banded dotterels, and black billed gulls. Rezoning to Rural is requested, except for the township.
11. Dr Read's assessment of the landscape qualities of the Makarora valley in her evidence-in-chief was unequivocal, and concluded that the entire valley is an outstanding natural landscape within the meaning of section 6(b) of the Act. On this basis, she was of the opinion that Rural zoning is the most appropriate method of managing the effects of future development, because the area would then be subject to the objectives and policies of Chapter 6 Landscape and Chapter 21 Rural. In her opinion, the Rural Lifestyle zoning does not protect this distinctive landscape from inappropriate development.
12. However, considering specifically the areas of Rural Lifestyle zoning in the vicinity of Makarora West (the most northern area), central Makarora and southern Makarora, she concluded that there are two areas which could, from a landscape perspective, remain as Rural Lifestyle without having significant effects on landscape values. One area is adjacent to the central Makarora Township zone in which there are already registered building platforms on subdivided, but as yet undeveloped allotments. The other area is a small enclave of 5 ha

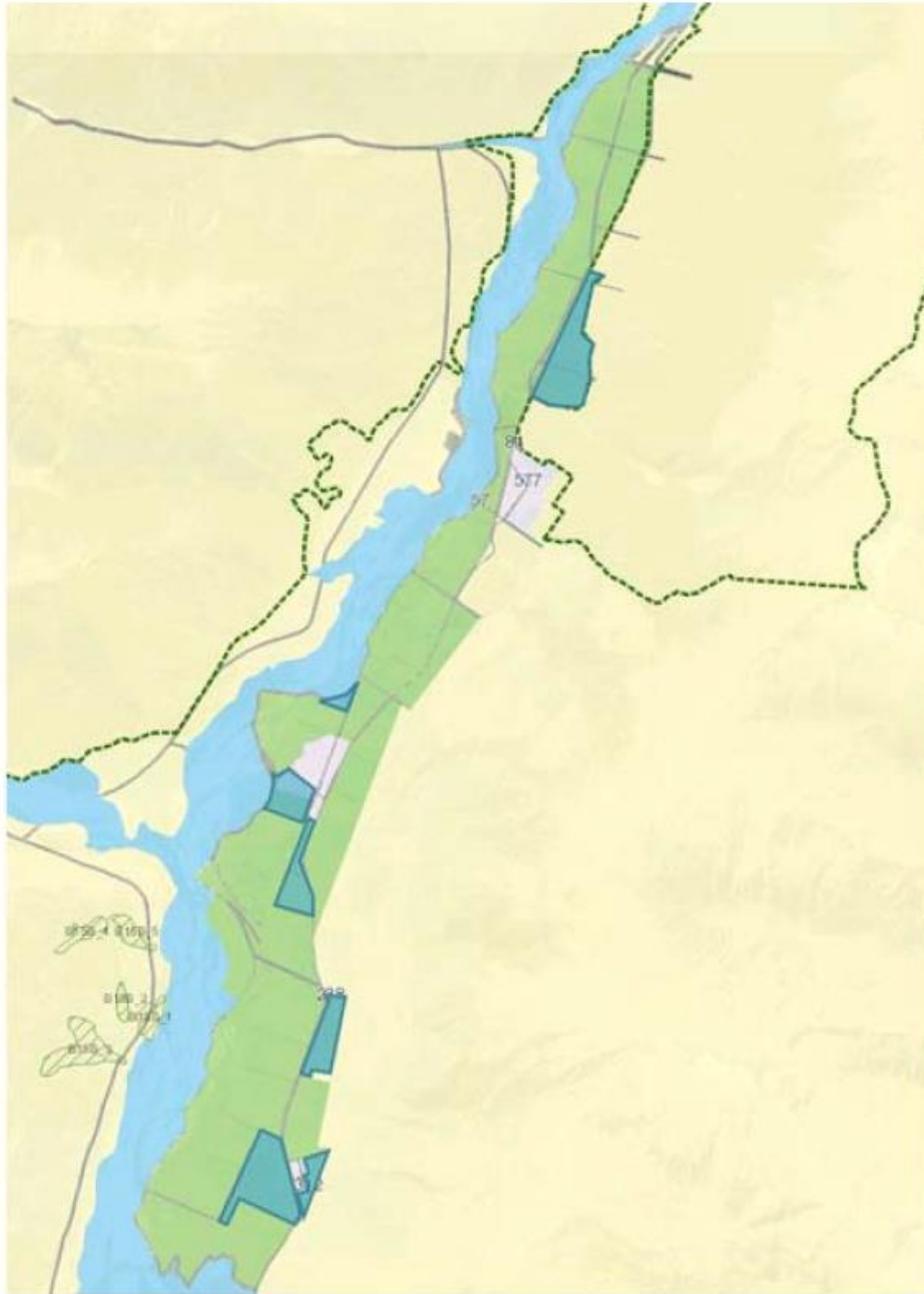
adjoining the southern Township zone, in which lot sizes are 1 ha or less. Dwellings have been constructed on some of these lots.

13. Mr Barr provided us with a synopsis of the valley's zoning history from 1995 onwards in an appendix to his section 42A report.<sup>3</sup> He discussed the review that was undertaken in 2005 of Rural Lifestyle zones throughout the District and the consideration given in the section 32 analysis of the resultant Plan Change 14, as it related to Makarora, to three key issues:
  - a. the effects of development on the landscape and visual amenity values;
  - b. the effect of natural hazards on development in light of new hazard information from Otago Regional Council (ORC); and
  - c. consistency with outcomes sought within the Makarora Community Plan.
14. He outlined the five options that were considered to address these issues, which resulted in a plan change (Plan Change 14) being notified, comprising both Option 2 - a Plan Change to alter Rural Lifestyle Zone subdivision provisions to promote cluster development in Makarora valley (as per the Community Plan) and Option 3 - a Plan Change to the natural hazard provisions as in Part 15 of the partially Operative Plan, to strengthen controls as they relate to effects of natural hazards. The Hearings Committee also considered the rezoning of Rural Lifestyle land to Rural, and in its July 2008 decision recorded the following determination:

*"The Hearing Committee noted this had 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 regime. In this case, the Hearings Commission [sic] found this option addressed all the issues sought to achieve, but it was decided that this option would result in significantly wider changes than the plan change needed or anticipated to address (adding numerous activities and associated rules that are not required in the Rural Lifestyle zoning rules)".*
15. The decision on Plan Change 14 resulted in amendments to the ODP, which have been rolled over into the PDP Chapter 22 through Rule 22.4.4 and matters of control in Part 22.7:
  - a. provisions added to Part 4 (District Wide) – Natural hazards;
  - b. provision added to Part 8 (Rural lifestyle) – Issues, Objectives and Policies, Rules, Assessment Matters; and
  - c. provision added to Part 15 (Subdivision) - Issues, Rules, Assessment Matters.
16. One significant difference between the Rural Lifestyle provisions at Makarora and elsewhere is that a minimum allotment size is not required at Makarora, provided that the average lot size is not less than 2ha (notified Rule 27.6.1).
17. Mr Barr has given detailed consideration to the number of lots that have been consented under this regime, and the amount of development that has occurred.

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<sup>3</sup> C Barr Upper Clutha Mapping Group 3 Rural Section - section 42A report dated 17 March 2017 Appendix 1



Areas recommended to be retained as Rural Lifestyle (blue) with remaining Rural Lifestyle zoning (green) to be rezoned Rural.

**Figure 2: areas recommended in section 42A report for rezoning**

18. Mr Barr has provided a map, as inserted above (Figure 2), showing those pockets of the Rural Lifestyle zone that, having regard to that assessment as well as Dr Read's landscape evidence,

he considered should remain as Rural Lifestyle, although he agreed with the submitters that Rural Lifestyle is not appropriate for the remainder<sup>4</sup>.

19. The most northern of these is a 50.11 ha block north of Makarora West. A five lot subdivision providing for three building platforms (three lots being amalgamated and held in one title) was consented in 2001. Mr Barr's advice is that there is potential for dwellings to be established on each of the three building platforms approved in 2001 as a controlled activity. The only consented building on these lots is a barn with bathroom facilities on Lot 4. That consent was granted in 2014. A proposed subdivision lodged in 2005 for 20 lots, which we understand had hazard-related issues, did not proceed. Theoretically, this area still has the potential for 20 or so additional lots under a Rural Lifestyle zoning, (provided that the hazard constraints are capable of being resolved), noting that the 2001 titles have not all been built on.
20. From north to south, the next identified area is a 3.8 ha site zoned Rural Lifestyle, with a Visitor Accommodation Sub Zone overlay over a 2.3 ha portion of it. This site has been an established accommodation facility (Cedar Lodge) for more than 40 years and has consent for helicopter landings as well as a helicopter hangar. We discuss the Visitor Accommodation Sub Zone further, below.
21. The remaining nine lots in this enclave range in size between 997m<sup>2</sup> and 5312 m<sup>2</sup> and the sites are largely built on. There are few Council records of resource or building consents, suggesting that their development predated the Operative Rural Lifestyle zoning. Two of the sites subsequently obtained resource consents for alterations to existing dwellings. This area is not capable of further subdivision under the Rural Lifestyle zoning provisions (without obtaining resource consent to a non-complying activity) as it would not be possible to achieve an average site area of 2ha.
22. The third site is a roughly square area of land totalling 13.33 ha adjoining the southwest boundary of the central Makarora township. It includes Township zoned land and resource consent was granted to a two-lot subdivision, building platform and new dwelling in 2003.
23. On an elongated site fronting the western side of the state highway at central Makarora, and immediately adjoining the Township zone, is a 16.71 ha block of Rural Lifestyle zoning that was subdivided in 2001 into 12 lots, of which eight were in the Rural Lifestyle zone, one was partly located in the Township zone and three were wholly within the Township zone. Re-subdivision occurred in 2008 for one two-lot subdivision and for one three-lot subdivision in 2011. The latter included land within the Township zone, with provision for the administration of Township rules on the Rural Lifestyle portion of the site. We assume that as no titles have yet issued for the new lots, the consent for the 2011 subdivision may have lapsed. Whilst little development has occurred within the Rural Lifestyle zone to date, it appears that this could still be possible by implementing existing consent(s) that have not lapsed, or by obtaining a new consent. We also noted from our site visit that there is considerable scope for further development within the existing Township zone, which currently comprises a small number of tourist-focussed businesses and scattered dwellings clustered around the Wilkin Road/State Highway 6 intersection. At present the area has a character more akin to a small village than a settlement large enough to be regarded as a township.

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<sup>4</sup> C Barr Upper Clutha Mapping Group 3 Rural Section - section 42A report dated 17 March 2017, paragraph 4.16

24. Further south, a 22.96 ha site between central and southern Makarora obtained subdivision consent and consents for a total of three dwellings over the period 1998 - 2004 and a 47.2 ha site opposite the southern Makarora Township zone was subdivided into two lots in 2002.
25. The remaining area identified by Mr Barr as potentially appropriate for Rural Lifestyle zoning is behind and south of the existing Township zone in southern Makarora. Several new lots were approved in 1997 for residential (six sites), rural residential (seven) and reserve/community purposes (two sites). All of these allotments are located within a flood hazard area. Most of the rural residential sites have dwellings on them, whereas there are vacant residential sites at the northern end of Kiwi Street within the Township zone, as well as at least one vacant residential site within the Rural Lifestyle zone along the southern end of that street.
26. Dr Read's assessment of the proposed Rural Lifestyle zoning noted that the section 32 report for Plan Change 14 referred to above identified the potential for up to 440 lifestyle lots on about 880 ha of developable land in the valley. In her opinion, this level of development would adversely change its character as a result of the fragmentation of open pastoral areas and dispersed dwellings, and it would no longer be an outstanding natural landscape.
27. However, Dr Read agreed that some of the areas recommended for retention as Rural Lifestyle by Mr Barr could absorb further rural lifestyle development from a landscape perspective and her comments focussed specifically on each of those areas.
28. While in her evidence she considered that the northernmost area at Makarora West could absorb further development, at the hearing, she expressed amazement that houses had been approved in locations close to Pipson's Creek, an identified hazard as a result of the mountain debris that can be washed down the creek after heavy rainfall. Dr Read considered that areas of Rural Lifestyle zoning around central Makarora could be retained, noting that the Township zoning of approximately 34 ha is capable of further significant development and would have adverse effects on landscape character, but in this context, retention of the Rural Lifestyle zoning over the adjoining 16.71 ha block to the south<sup>5</sup> would in her opinion be acceptable, given that it has been subdivided and there are identified building platforms on each of the 12 existing lots.
29. Dr Read also considered that the Rural Lifestyle zoning around the southern Makarora Township zone could be supported on the basis that any effects on landscape could be absorbed. However, as part of her summary presented at the hearing, she commented that she and Mr Barr now considered that one of the more southern areas and the northern-most area could become Rural, but at central Makarora, the zone should be Rural Lifestyle.
30. At the hearing, Ms Pennycook provided us with excerpts from an ORC report dated April 2007 titled 'Natural Hazards at Makarora,' overlays showing the cadastral boundaries of the Rural Lifestyle land and the Makarora River, and photographs of various flood events' effects on Rural Lifestyle zoned land compared with normal river flows. Ms Pennycook's evidence was that there has been a progressive eastward migration of the river in recent years towards and over the Rural Lifestyle zoned land.
31. Ms Pennycook supported Mr Barr's recommendation to us, while raising concerns about continued hazard risks around the central township.

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<sup>5</sup> stated as approximately 20 ha in her evidence, but more accurately described by Mr Barr

32. Forest and Bird did not appear at the hearing to add to its submission. While Mr Davis had not undertaken a detailed evaluation of the valley's ecological values, he noted that the site is a mix of exotic pasture grasses, grey shrubland and a braided river, which provide habitat for threatened native species including the Nationally Vulnerable banded dotterel and the At Risk - Recovering Eastern New Zealand falcon. On this basis he did not oppose the submission and considered that from an ecological perspective, Rural zoning was to be preferred over a zoning that allows for some development<sup>6</sup>.
33. We sought further advice from Mr Barr regarding the practical implications of removing the Rural Lifestyle zoning from properties in the zone which have already been subdivided and either have an approved building platform or a constructed house thereon, if they were downzoned to a Rural Zoning. Mr Barr's reply to our minute was that, where a development right is secured through a building platform, or a house is lawfully established, there would not be much material difference because:
- Both the Rural Lifestyle and Rural Zones permit the construction of residential buildings within approved building platforms (Rural Zone Rule 21.4.7 and Rural Lifestyle Zone Rule 22.4.3.1) and alterations to existing buildings not located within a building platform (Rural Zone Rule 21.5.15.3 and Rural Lifestyle Zone Rule 22.4.3.2)
  - The standards for buildings are also similar in terms of colour restrictions, (Rural Zone Rule 21.5.15 and Rural Lifestyle Zone Rule 22.5.1);
  - The bulk and location setbacks are similar.

## 2.5. Discussion of Planning Framework

34. Mr Barr provided us with input on the planning background to the issues as above. He necessarily had to work off the latest version available to him of the PDP (that recommended in the staff reply on each chapter). In our Report 16, we summarised the key background provisions in the PDP within Chapters 3 (Strategic Direction) and 6 (Landscape), as recommended by the Hearing Panel, that is to say, a further iteration along from that considered in the planning evidence.
35. Focussing on the most relevant provisions of those chapters, the Makarora valley is considered by Dr Read to be an outstanding natural landscape in its entirety and we had no evidence to the contrary. The question as to which zoning - Rural Lifestyle or Rural - protects that landscape, visual amenity values, and natural character, in terms of section 6(b) of the RMA, recommended Objective 3.2.5.1 and the corresponding provisions of recommended Policy 3.3.30, is clearly a key consideration. Protection of the ONL of the surrounding Mt Aspiring National Park, is equally relevant.
36. While Policy 6.3.12 refers to ONLs, the acknowledgement in Chapter 22.1 that many areas zoned Rural Lifestyle are located within sensitive parts of the district's distinctive landscapes is also relevant, as are the objectives noted in Report 16 related to maintaining and enhancing landscape quality, character and amenity values and enabling rural living opportunities in areas that can absorb development.
37. Although the uncontested evidence from Dr Read, supported from a planning perspective by Mr Barr, suggested that at least two of the Rural Lifestyle zoned areas immediately adjoining Township zones would not be inconsistent with the higher order objectives of Chapter 3 or contrary to section 6(b) of the RMA, we must also have regard to the objectives and policies in Chapter 28 and elsewhere in the plan concerning natural hazard risk.

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<sup>6</sup> Evidence of G Davis at paragraphs 7.5-7.8

38. Within Chapter 28 there are comprehensive objectives and policies addressing natural hazard risk, which in the Makarora valley are particularly relevant. Objective 28.3.1 is *"the risk to people and the built environment posed by natural hazards is managed to a level tolerable to the community."*

39. Supporting policies and additional objectives are:

*28.3.2.1 Avoid significantly increasing natural hazard risk,*

*28.3.2.3 Not preclude subdivision and development of land subject to natural hazards where the proposed activity does not:*

- a. Accelerate or worsen the natural hazard risk to an intolerable level.*
- b. Expose vulnerable activities to intolerable natural hazard risk.*
- c. Create an intolerable risk to human life.*
- d. Increase the natural hazard risk to other properties to an unacceptable intolerable level.*
- e. Require additional works and costs, including remedial works, that would be borne by the public.*
- f. Ensure all proposals to subdivide or develop land that is subject to natural hazard risk provide an assessment that meets the following information requirements, ensuring that the level of detail of the assessment is commensurate with the level of natural hazard risk:*

*Objective 28.3.3*

*The community's awareness and understanding of the natural hazard risk in the District is continually enhanced.*

*Policies*

*28.3.3.1 Continually develop and refine a natural hazards database in conjunction with the Otago Regional Council.*

*28.3.3.2 When considering-resource consent applications or plan changes, the Council will have regard to the natural hazards*

*28.3.3.3 Ensure the community has access to the most up-to-date natural hazard information available.*

*28.3.3.4 Increase the community awareness of the potential risk of natural hazards, and the necessary emergency responses to natural hazard events.*

*28.3.3.5 Monitor natural hazard trends and changes in risk and consider action should natural hazard risks become intolerable.*

40. The PDP sought to address the particular hazard issues accompanying subdivision and development in the Makarora Valley Rural Lifestyle Zone with notified Objective 27.7.7 and two policies supporting it addressing the avoidance or mitigation of the effects of natural hazards and a requirement for consultation with Otago Regional Council.

41. Chapter 22 as notified similarly provided specific acknowledgement of natural hazard risk through assessment criteria in Rule 22.7.1.
42. As regards the discrete issue of the Visitor Accommodation Sub Zone, a separately constituted hearing panel has made recommendations that this hearing panel recommend the removal of the Visitor Accommodation Sub Zone from the planning maps as it will serve no useful purpose<sup>7</sup>. Its reasons include:
  - a. the lack of evidence in relation to the Visitor Accommodation Sub Zones located in Speargrass Flat Road and at Makarora;
  - b. the absence of any information regarding the nature of development within those sites, the size of the zoned areas, or the nature of the surrounding environment;
  - c. the recommended provision for visitor accommodation outside a Visitor Accommodation Sub Zone as a discretionary activity under Rule 22.4.11.
43. Having identified the above as the relevant higher order planning provisions in the PDP that form the reference point for our Section 32 analysis, we also need to be satisfied also that the end result is consistent with Part 2 of the Act.

### 3. ISSUES

- a. Whether the Makarora Rural Lifestyle zone is the most appropriate zone for the land the subject of submission;
- b. Whether downzoning land currently zoned Makarora Rural Lifestyle would significantly prejudice the rights and expectations of affected landowners;
- c. The implications of rezoning the Rural Lifestyle land for the Visitor Accommodation Sub Zone area in central Makarora on School Road.

### 4. DISCUSSION OF ISSUES AND CONCLUSIONS

44. Looking afresh at the planning framework for the Makarora valley, we found an air of unreality about the entire concept of zoning over more than 1200 ha located in a relatively remote<sup>8</sup> river valley with obviously high landscape values, and equally obvious hazard risks, Rural Lifestyle. It seems to us to be an invitation to ad hoc housing development scattered across a wide area. Perhaps the only positive feature is that demand over the intervening period has been so low that this has only been evident to a minor extent.
45. From Mr Barr's comments, the impression we had was that once the original zoning decision had been made, there may have been a reluctance on the part of Council to contemplate downzoning and the accompanying loss of development 'rights'.
46. As discussed in our Report 16, there is no bias in favour of the notified zoning, nor an onus to displace that zoning. While that principle is usually discussed in the context of upzoning proposals, it applies equally in reverse.
47. We have had regard to the careful analysis undertaken by Mr Barr in identifying development that has occurred on Rural Lifestyle zoned land or where resource consents have been applied for, for either subdivision or dwellings, as set out in Appendix 1 of his section 42A report<sup>9</sup>.

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<sup>7</sup> Refer Report 4B at Section 3

<sup>8</sup> 64 kilometres to Wanaka, according to Google

<sup>9</sup> C Barr Upper Clutha Mapping Group 3 Rural section 42A report, Appendix 1, paragraphs 14 - 33

48. We accept Mr Barr's comments regarding the key distinctions between the zones that would come into play where landowners seek additional development outside any approved building platform, being "the loss of any acknowledgement of a development right for subdivision or additional building platforms that is available through the Rural Lifestyle Zone, if the average density is 2ha is met, but there is no development right in the Rural Zone and the ONL assessment matters and policies in the Landscape Chapter come to the fore".<sup>10</sup>
49. The Makarora River and valley sit at the base of mountains that are classified as ONL and have National Park status, being within Mt Aspiring National Park. Dr Read's evidence is that the entire valley qualifies as an outstanding natural landscape under section 6(b) of the Act. The Planning Maps appear to show it as an ONL, but the provisions of Chapter 6 identify the ONL classification as applying in the Rural Zone<sup>11</sup> and the rigorous assessment criteria for developments in ONLs apply only in the Rural Zone<sup>12</sup>.
50. Our view is that while existing development that has already occurred (including approval of Building Platforms) is part of the existing environment, it is entirely reasonable that further subdivision and development in the valley outside the Township Zoned land is assessed having regard to the ONL assessment matters and policies, and that there should be no development expectation at any given average density. Moreover, we find this is necessary if the PDP is to recognise and provide for the protection of an outstanding natural landscape from inappropriate subdivision, use, and development in terms of section 6(b) of the Act. We are of the view therefore that this is one of the cases discussed in Report 16<sup>13</sup> where Part 2 of the Act should guide us.
51. Nor are we at all comfortable with the extent of the hazard risk that further development in the valley would incur. We have noted Dr Read's comments above regarding the hazard risk at Pipson Creek. Having observed the extent of the debris deposits during our site visit, we were particularly concerned at the risks posed by the creek to existing and potential future development in this location, and consider this to be a substantive reason to remove the Rural Lifestyle zoning from the site. That example also raises real questions in our mind regarding the effectiveness of provisions in the previous iterations of the District Plan seeking to ensure natural hazards are appropriately managed within the framework of a Rural Lifestyle Zoning.
52. It appears to us that further development in areas such as this would be inconsistent with Policy 4.1.6 of the Proposed RPS, to the effect that activities that significantly increase hazard risk should be avoided. We note that at our request, Mr Barr analysed the material Ms Pennycook had provided regarding flooding and erosion risk. He concluded that while Ms Pennycook was correct, and the river now occupies some of the land within the notified Rural Lifestyle zone, none of that land, nor the additional areas Ms Pennycook identified as being flood prone, impinged on the areas Mr Barr recommended be retained as Rural Lifestyle. It seemed to us that Mr Barr had rather missed the point Ms Pennycook was making – that the river was migrating eastwards across the valley and that areas that are currently 'safe' from flooding cannot be relied upon to remain so.
53. Last but not least, many of the residual areas Mr Barr recommended be retained as Rural Lifestyle are adjacent to, and read as extensions of the land zoned Township under the ODP. We were distinctly unconvinced that the Rural Lifestyle zone is the appropriate way to provide

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<sup>10</sup> Barr Reply Statement dated 10 July 2017 at paragraph 34.4

<sup>11</sup> See recommended policy 6.3.1

<sup>12</sup> See Recommended Rule 21.21.1

<sup>13</sup> At Section 2.4

for the expansion of the existing townships in the Makarora Valley, to the extent that this is desirable. This aspect was somewhat problematic because the Township zone is not part of the PDP process – we understand that it will be considered as part of a future stage of the District Plan review – and the submissions on the point do not provide scope for zoning further land ‘Township’. We record, however, that the very low density development the Rural Lifestyle zone envisages does not appear compatible with the adjacent more dense townships, particularly given the flat open character of the valley.

54. It is our conclusion having regard to all of the above, that retaining the Makarora Rural Lifestyle zoning is not the most appropriate method of achieving the purpose of the Act including the Council's particular responsibilities under section 31(b)(i), having regard to the hazard risks. While the PDP adopts a belt and braces approach to these risks at Makarora, and quite plainly states that these risks will be rigorously assessed when consent is sought for subdivision or development, we have concerns that the controlled activity status of dwellings in the Makarora Rural Lifestyle Zone allows the Council to impose conditions, but not to decline consent. While this activity status assumes that any new building platforms will already have been assessed at subdivision stage, we perceive that in conjunction with the average density of 2 ha that is permitted, an expectation of development rights is created which may be unrealistic in some areas and is potentially problematic where the prudent course of action is avoidance rather than mitigation of hazard risk.
55. The undoubted character of the Makarora valley as an outstanding natural landscape (if not an ONL as defined) reinforces that view in our minds.
56. In terms of s32 matters, we conclude that there is uncertain and insufficient information about these risks and that the precautionary approach mandated by Policy 4.1.8 of the Proposed RPS, including site-specific hazard evaluation, is the most appropriate method of enabling limited development and ongoing farming of the valley. In our view, that can best be implemented via a Rural zoning. In terms of the assessment of costs and benefits required by section 32, we rely on Mr Barr's evidence that there are no material differences for landowners with existing dwellings or approved building platforms.
57. The history of development within each of the areas Mr Barr recommended be retained as Rural Lifestyle demonstrates that virtually all of the consents for subdivision and development of dwellings or other buildings preceded the revised Rural Lifestyle zoning introduced into the ODP in 2008. This zoning was intended to make it easier to obtain subdivision consent, by promoting clustered development around the existing townships. However, there has been relatively little change over several years notwithstanding the high demand for residential dwellings in other parts of the Upper Clutha area in recent times, and take-up of approved subdivisions has been slow.
58. In considering that there might nevertheless be a few landowners with further development plans, those opportunities are not lost. However, they would certainly be made more difficult and landowners would incur potentially higher consenting costs. We consider those costs are outweighed by the competing considerations we have discussed.
59. If the Council wishes to allow room for the Makarora townships to grow, it has the option of doing so as a variation of the existing Township zones, when they are notified at a future stage of the District Plan review.

60. While we had no evidence from Forest and Bird regarding the impacts of development on the wildlife values Mr Davis identified in the valley, our recommendation to accept the submission of Ms Pennycook provides the relief also sought by Forest and Bird.
61. Our conclusion has implications for other Hearing Streams. To the extent that Chapters 22 and 27 have provisions that are specific to the Makarora Rural Lifestyle Zone, those provisions should be deleted.
62. If the Rural Lifestyle zoning is removed, as we recommend, that raises the question in our minds as to whether the small area of Visitor Accommodation Sub-Zone land on School Road can properly remain. We do not, however need to form a view on that legal issue given the separately constituted hearing panel's recommendations that the provisions specific to the Visitor Accommodation Sub-Zone be removed from Chapter 22, discussed above. We recommend that the Visitor Accommodation Sub Zone notation should also be removed, as being unsupported by any provision.

## 5. OVERALL CONCLUSIONS AND RECOMMENDATIONS

63. In summary, we recommend that the submissions of Ms Pennycook (#585) and Forest and Bird (#706) be accepted and the Rural Lifestyle zoning in the Makarora Valley be uplifted, with the result that those areas revert to Rural Zoning, with an ONL classification.
64. It follows that provisions elsewhere in the PDP referring to the Makarora Rural Lifestyle Zoning should in our view be removed, although this is a question for the Hearing Panels concerned (in particular those considering Chapters 22 and 27) to consider.
65. The small site currently shown on the Planning Maps as having a Visitor Accommodation Sub-Zoning should be removed consequent on the recommendation of the Stream 2 Hearing Panel.
66. Lastly, we recommend that the Council consider where and how it wishes the small communities in the Makarora Valley to expand when it reviews the ODP Township Zone.

For the Hearing Panel

A handwritten signature in blue ink, appearing to read 'Trevor Robinson', with a large, stylized flourish extending downwards.

Trevor Robinson, Chair  
Dated: 27 March 2018