

**QLDC Council  
8 October 2020****Report for Agenda Item | Rīpoata moto e Rāraki take : 1****Department: Planning & Development**

**Title | Taitara** Variation to Chapter 11 - Large Lot Residential and Chapter 27 - Subdivision and Development

**PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO**

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- 1 The purpose of this report is to request the Council to accept for notification a variation to the Proposed District Plan (**PDP**) to better facilitate subdivision and development that is anticipated in the Large Lot Residential A Zone.

**EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA**

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- 2 This matter was heard by the appeals sub-committee on 30 April 2020 who resolved to agree in principle that the matter is suitable for recommending to Council as a variation. Since that 30 April Meeting, Council officers have consulted with local practitioners, and further considered the provisions and section 32 evaluation. The fundamental intent, and amendments to the provisions has not changed from the package of information discussed at the 30 April meeting.
- 3 The issue the variation seeks to resolve is that there is a misalignment between the anticipated density of residential units in the Large Lot Residential A Zone, which is one residential unit per 2000m<sup>2</sup>, with the rules in the Subdivision Chapter that require a net site area of 2000m<sup>2</sup> is achieved. The majority of existing properties in the Large Lot Residential A Zone are 4000m<sup>2</sup> (or just over) and when the necessary deductions for right of ways are made many existing properties seeking to undertake a two-lot subdivision fall as a non-complying activity for failing to meet the prescribed net site area of 2000m<sup>2</sup>.
- 4 The existing situation has resulted in an inconsistent approach to plan implementation due to some resource consent applications being processed on a publicly notified basis, while others have been processed by the Council on a non-notified basis. This is inefficient, has high transaction costs for the subdivider, and results in a lack of certainty to the community as to the administration of the district plan.
- 5 The amendments proposed seek to better align the anticipated density in the Large Lot Residential A Zone with the density rules. It is proposed to retain an overall requirement to achieve 2000m<sup>2</sup> per site, but reduce the net site area requirement from 2000m<sup>2</sup> to 1500m<sup>2</sup>. The change to a lower net site area will provide flexibility for infill type developments to exclude right of ways and also configure lot boundaries to respond to existing buildings and other improvements on the property, while still maintaining or enhancing amenity in the Large Lot Residential A Zone.

## RECOMMENDATION | NGĀ TŪTOHUNGA

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That Council:

1. **Note** the contents of this report;
2. Having particular regard to the section 32 evaluation report, **approve** pursuant to clauses 5 and 16A of the First Schedule of the Resource Management Act 1991 to notify the following variation to the Queenstown Lakes Proposed District Plan:
  - a. Policy 11.2.1.2;
  - b. Rule 11.5.9.1; and
  - c. Rule 27.6.1.
3. **Authorise** the Manager Planning Policy to make minor edits and changes to the provisions to be varied and section 32 report to improve clarity and correct errors and to notify the variation in accordance with clause 5 of the First Schedule of the Resource Management Act 1991.

Prepared by:



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17/09/2020

Reviewed and Authorised by:



Tony Avery  
GM, Planning and Development

21/09/2020

**CONTEXT | HOROPAKI**

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- 6 The Large Lot Residential Zone was created as part of the review of the Operative District Plan Rural Residential Zone, as part of Stage 1 of the PDP with decisions on submissions issued in May 2018. The Large Lot Residential Zone is primarily located within the Wānaka and Hāwea urban growth area. The outlier is a relatively small greenfield Large Lot Residential Zone located adjacent to Ladies Mile SH6 in Queenstown.
- 7 As part of the hearings on Stage 1 and the Hearings Panel's recommended decisions on submissions, the Large Lot Residential Zone further evolved into two sub-zones, while the policies and bulk and location provisions of each are fundamentally the same, the exception is the following density provisions:
  - a. The Large Lot Residential A Zone (**LLRA**) has a 2000m<sup>2</sup> minimum net site area and corresponding land use density rule;
    - i. The LLRA Zone is located in several location on the periphery of the Wānaka urban area, at Lake Hāwea Township, and adjacent to SH6 Ladies Mile between Shotover Country and the Shotover Bridge.
  - b. The Large Lot Residential B Zone (**LLRB**) has a 4000m<sup>2</sup> .
    - i. The LLRB Zone is located on Mt Iron and its lower slopes and covers properties that were developed under the Operative Rural Residential Zoning. This variation does not affect the LLRB provisions.
- 8 No appeals were received on the Large Lot Residential Zone, and the provisions have been treated as operative for many resource consent applications since mid-2018.
- 9 Council officers interpretation of the recommendations in the Independent Hearing Panel's report on submissions to the LLRA Zone, are that the anticipated density of residential units is one per 2000m<sup>2</sup><sup>1</sup>. Council officers have become aware of a misalignment between the anticipated density of residential units in the LLRA Zone and the requirement to achieve a net area of 2000m<sup>2</sup> for a residential unit (Rule 11.5.9) and subdivision (Rule 27.6.1).
- 10 The misalignment is because notwithstanding the requirements to achieve a net area as identified above, the majority of the existing LLRA Zone has already been subdivided to 4000m<sup>2</sup> under the Operative District Plan (Rural Residential Zone). In addition, many of these properties comprise an existing dwelling. These factors can result in difficulties if an infill subdivision is undertaken, to achieve the net area requirements in rules 11.5.9 and 27.6.1, notwithstanding that residential activity in the LLRA Zone is anticipated at a density of 2000m<sup>2</sup>.
- 11 The rules in Chapter 27 Subdivision and Development, and Chapter 11 Large Lot Residential could be amended to more readily take into account constraints on properties that make it difficult to achieve a net area of 2000m<sup>2</sup>. These have been identified as a high

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<sup>1</sup> Report of the Hearings Panel 09a Stream 6 Chapters, 7, 8, 9, 10, 11 29 March 2018 at [94].

likelihood for a need to create rear lot/front lot subdivision configurations, as a result of the existing subdivision pattern in the Zone, and the existence of dwellings on these sites, many of which are not greater than 15 years old and therefore not likely for redevelopment in the life of the current District Plan.

## ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

### Issues Addressed By Proposed Variations

- 12 The majority of the sites in the LLR A zone are more than 4000m<sup>2</sup> and subdivision down to 2000m<sup>2</sup> sites is anticipated by the zone provisions, however many resource consent applications for subdivision seeking this outcome are being processed as a non-complying activity, primarily because many sites are in the order of 4000m<sup>2</sup> and the access associated with the new site to be created by subdivision is not included as part of the “net area”<sup>2</sup>.
- 13 These applications are being granted consent but the non-complying activity status means that applicants are being put to additional time delays and expense. Upholding the integrity of the district plan is an important part of maintaining the integrity of a consent authority itself, so applications for non-complying activities are being treated with a degree of caution and this is leading to uncertain and inefficient plan implementation. The variation addresses this issue by amending Rule 11.5.9 (residential Density) and 27.6.1 (Subdivision)
- 14 Colour controls for buildings only apply in the LLR B zone (Rule 11.5.10) however the current wording of Policy 11.2.1.2 implies that it is controlled in both the LLR A and B zones.

### National Policy Statement Urban Development 2020

- 15 Under the RMA district plans must be prepared and changed in accordance with any relevant national policy statement. Of particular relevance to this matter is that the National Policy Statement Urban Development requires under **subpart 7 3.35** Development outcomes for zones, that “the policies and rules in its district plan are individually and cumulatively consistent with the development outcomes described in the objectives for each zone”. In this instance the purpose of the LLR zone states the following:

*The zone generally provides for a density of one residence every 2000m<sup>2</sup> to provide for a more efficient development pattern to utilise the Council’s water and wastewater services while maintaining opportunities for a variety of housing options, landscaping and open space*

- 16 The corresponding objectives and policies are less specific but support this purpose:

**Objective 11.2.1** - *A high quality of residential amenity values are maintained within the Large Lot Residential Zone.*

<sup>2</sup> Net Area (Site or Lot) Means the total area of the site or lot less any area subject to a designation for any purpose, and/or any area contained in the access to any site or lot, and/or any strip of land less than 6m in width [PDP Chapter 2 Definitions].

**Policy 11.2.1.1**– *Maintain low density residential character and amenity through minimum allotment sizes that efficiently utilise the land resource and infrastructure (Area A), and require larger allotment sizes in those parts of the zone that are subject to significant landscape and/or topographical constraints (Area B).*

**Policy 11.2.1.2**

**17 The proposed amendment to Policy 11.2.1.2:**

*Maintain ~~and~~ or enhance residential character and high amenity values by controlling the colour, scale, location and height of buildings, and in addition within Area B by requiring ~~require~~ landscaping, colour and vegetation controls.*

18 This proposed amendment is intended to make it clearer that the colour controls only apply to the Large Lot Residential B Zone. There are not considered to be any costs associated with the amendment because it is clear from the Independent Hearing Panel report that no colour controls were intended to apply in the Large Lot Residential A Zone. This gives improved certainty in implementing Policy 11.2.1.2, and therefore improves its effectiveness. There are no costs from an efficiency or transaction perspective.

**Rule 11.5.9**

**19 The proposed amendment to Rule 11.5.9 is:**

Table 2	Standards for Activities	Non-compliance
11.5.9	Residential Density	D
	11.5.9.1 Large Lot Residential Area A: a maximum of one residential unit per <u>site 2000m<sup>2</sup> net site area.</u>	
	<u>11.5.9.2 Large Lot Residential Area A: any additional residential unit to that permitted by Rule 11.5.9.1, no more than one residential unit per 2000m<sup>2</sup>.</u>	
	11.5.9.23 Large Lot Residential Area B: a maximum of one residential unit per 4000m <sup>2</sup> net site area	

**Subdivision Rule 27.6.1**

**20 The proposed amendment to Rule 27.6.1 is:**

21 *No lots to be created by subdivision, including balance lots, shall have a net site area or where specified, an average net site area less than the minimum specified.*

Zone		Minimum Lot Area
Residential	Large Lot Residential A	<u>1500m<sup>2</sup> providing the total area of the site is not less than 2000m<sup>2</sup> average</u>

- 22 As Rule 27.6.1 currently stands, the majority of infill subdivisions would be assessed as non-complying activities, as they could not achieve a net site area of 2000m<sup>2</sup> despite the majority of sites achieving a total site area of 2000m<sup>2</sup>.
- 23 The introduction of a minimum lot area of 1500m<sup>2</sup> net area provides flexibility to take into account the loss of land for typical access ways that cannot be included in the calculation of net area. Retaining a total minimum lot area of 2000m<sup>2</sup> would ensure the rule effectively implements Objective 11.2.1 – A high quality of residential amenity values are maintained.
- 24 Introducing a requirement to comply with a net area of 1500m<sup>2</sup> provides greater certainty than specifying that the 2000m<sup>2</sup> minimum site size applies to the ‘gross’ or ‘total area of the site’ that a compliant subdivision would achieve Objective 11.2.1.
- 25 The amendment to Rule 11.5.9 is intended to provide better integration with the subdivision rule that would provide for sites to be created that are a net area of 1500m<sup>2</sup> providing an average 2000m<sup>2</sup> is achieved.

### Feedback from Councillors

- 26 Councillors provided a range of feedback to Council officers at the 30 April 2020 Planning and Strategy Committee Meeting. A matter raised by Councillors was the potential for this variation to perpetuate poor urban design outcomes through infill development, and that a comprehensive approach should be taken to subdivision. Councillors also questioned whether proposed subdivisions that did not meet the net site area of 2000m<sup>2</sup> would achieve the objectives of the Large Lot Residential Zone.
- 27 Advice is that the variation would not promote poor urban design outcomes for the following reasons:
- a. The existing environment of the LLRA Zone is characterised by properties created under the operative Rural Residential Zone, which are not less than, and often slightly larger than 4000m<sup>2</sup> area. The majority of properties by far are owned by individuals and comprise the property they reside in, and here is little opportunity available in the existing LLRA provisions for comprehensive urban design solutions. These constraints are acknowledged in the PDP by way of Objective 27.2.3 and policy 27.2.3.1 that acknowledges the limitations of infill subdivision and that there are limited opportunities to give effect to policies 27.2.2.4, 27.2.2.5 and 27.2.2.7, which relate to encouraging optimal and comprehensive design expected from larger, greenfield developments.
  - b. While the proposed reduction in the net site area from 200m<sup>2</sup> to 1500m<sup>2</sup>, and this may be perceived as increasing the potential for a reduction in amenity, the

flexibility in the net area requirement may shift the focus on subdivision design from achieving compliance (and thus avoiding a non-complying activity status), but to a more optimal configuration, while still achieving an average of 2000m<sup>2</sup>.

- 28 With regard to the matter of the variation not achieving the objectives of the PDP, a density of 2000m<sup>2</sup> across the LLRA Zone still provides adequate room for open space, landscaping and plantings, and between buildings and maintenance of a correspondingly high quality of residential amenity values.

### Other options considered

- 29 The status quo (no change to Subdivision Rule 27.6.1 or Policy 11.2.1.2.) has led to implementation difficulties and additional costs delays and uncertainty for applicants, and retaining it has been discounted as an option.
- 30 Another option is to amend Rule 27.6.1 to specify that the 2000m<sup>2</sup> minimum site size applies to the 'gross' or 'total area of the site'. This would resolve the issue with requiring the net site area to meet the minimum lot area, but is inconsistent with preamble text of Rule 27.6.1 because the rule requires a net area, and therefore would be inconsistent with the minimum lot area (minimum net site areas) specified for all other zones in Rule 27.6. This would not assist with efficient and effective plan implementation, and therefore is not recommended.
- 31 Requiring an average density of 2000m<sup>2</sup> across subdivided sites was also considered as an option but is not recommended because a site of any size could be created on the basis that an average of 2000m<sup>2</sup> is achieved, which has the potential to create inconsistent amenity outcomes and inefficient development patterns.

### CONSULTATION PROCESS | HĀTEPE MATAPAKI:

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- 32 In June 2020 several practitioners that Council officers are aware of as having involvement in applications for subdivision in the LLR A Zone were provided an opportunity to comment on the proposed variation. Feedback was provided by six local planning / survey practitioners. The feedback identified a lack of clarity with the application of net area and gross area, and general support for the PDP text to acknowledge the existing character that makes up a large part of the LLRA Zone.

### > SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 33 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it is a matter relating to the administration of Council affairs and has the potential to impact on the environment, culture and people of parts of the District.
- 34 The persons who are affected by or interested in this matter are residents/ratepayers of the Queenstown lakes district community and more particularly residents located in the Large Lot Residential A Zone. Particular individuals and entities affected will have substantial opportunities to participate in submitting on the notified provisions and participating in hearings, appealing the decisions and joining any appeals.

### > MĀORI CONSULTATION | IWI RŪNANGA

- 35 Consultation with tangata whenua under the Resource Management Act 1991 (RMA) is a legal requirement before notifying a district plan and it is noted that legal requirements in this regard will have to be met.
- 36 Aukaha have been consulted in relation to the proposed variation and advised that they do not need to or wish to comment on it at this stage.
- 37 Iwi entities will have the opportunity to submit if this proposed variation were to proceed to notification.

### RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 38 These matters relate to the Community & Wellbeing risk category., and Environmental risk category. It is associated with RISK00056 Ineffective provision for the future planning and development needs of the district within the QLDC Risk Register. This risk has been assessed as having a moderate inherent risk rating.
- 39 The approval of the recommended option will support the Council by allowing us to implement additional controls for this risk. This shall be achieved by providing for the future planning and development needs of the district which will support the mitigation of the risk.

### FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

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- 40 The review of the district plan is budgeted for in the LTP the current Annual Plan and there are no new budget or cost implications resulting from these decisions.

### COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

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- 41 The PDP and the National Policy Statement on Urban Development Capacity 2020 were main documents considered as part of this variation.
- 42 The recommended option is consistent with the principles set out in the named documents.
- 43 This matter is included in the Ten Year Plan/Annual Plan as part of the review of the district plan.

### LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

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- 44 Development of the PDP has occurred in accordance with the requirements of the RMA 1991. Particular clauses of relevance include Sections 5-11, 31 and 32, 79 and Schedule 1.
- 45 The Local Government Act has also informed the review.



46 The process for notifying the PDP is stipulated by and will follow the procedures of the RMA.

#### **LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA**

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47 The recommended option:

- a. Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses;
- b. Can be implemented through current funding under the Ten Year Plan and Annual Plan;
- c. Is consistent with the Council's plans and policies; and
- d. Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

#### **ATTACHMENTS | NGĀ TĀPIRIHANGA**

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A	Section 32 Evaluation
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