

Queenstown Lakes District Proposed District Plan

Section 32 Evaluation

Variation to Proposed District Plan

For:

**Variation to Chapter 11 Large Lot Residential A Zone
Variation to Chapter 27 Subdivision and Development**

On:

Policy 11.2.1.2

Rule 11.5.9

Minimum Allotment Size (Subdivision Rule 27.6.1)

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1. EXECUTIVE SUMMARY

- 1.1. This variation addresses matters in relation to the efficient and effective implementation of the Large Lot Residential Zone Area A (LLR A Zone).
- 1.2. The primary matter is that the relevant subdivision rule (Rule 27.6.1) that implements Chapter 11 (Large Lot Residential Zone) Policy 11.2.1.1 and Objective 11.2.1 prescribes a minimum net site area of 2000m². However, the nature of most of the previous subdivisions in the zone undertaken under the Operative District Plan (Rural Residential Zone) resulted in the creation of sites that are, or slightly 4000m² in area. Therefore, the majority of subdivisions undertaken since the LLR A Zone has had legal effect, and anticipated in the Zone are likely to be infill type (front lot/rear lot) configurations and the requirement in Rule 27.6.1 to achieve a net site area of 2000m² does not sufficiently take into account that the access cannot be included as part of the calculation of the net area of a proposed site. Non-compliance with Rule 27.6.1 is a non-complying activity (Rule 27.5.19).
- 1.3. This variation proposes to amend Rule 27.6.1 as follows (Underline to show new text and ~~strikethrough~~ to show deleted text):

27.6.1 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>1500m² providing the total area of the site is not less than 2000m² average</u>

- 1.4. As a consequence of amending Rule 27.6.1 as it relates to the LLR A Zone, it is also proposed to facilitate future residential activity anticipated on those allotments by amending the residential activity density standard Rule 11.5.9. The amendment to Rule 11.5.9 would permit one residential unit per site, but that where multiple residential units are proposed, these need to achieve the 2000m² density anticipated:

Table 2	Standards for Activities	Non-compliance
11.5.9	Residential Density 11.5.9.1 Large Lot Residential Area A: a maximum of one residential unit per <u>site</u> 2000m² net site area. <u>11.5.9.2 Large Lot Residential Area A: any additional residential unit to that permitted by Rule</u>	D

Table 2	Standards for Activities	Non-compliance
	<p><u>11.5.9.1, no more than one residential unit per 2000m².</u></p> <p>11.5.9.23 Large Lot Residential Area B: a maximum of one residential unit per 4000m² net site area</p>	

1.5. The final matter is the reference to colour in Policy 11.2.1.2 so as to manage amenity values through restrictions on the colour of buildings. Related Rule 11.5.10 only relates to the Large Lot Residential B Zone, which comprises the already developed urban environment on the northern slopes and base of Mt Iron. This variation proposes to amend Policy 11.2.1.2 as follows:

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.

1.6. This report assesses the variation in accordance with section 32 of the Resource Management Act 1991 ('the Act' or 'the RMA'). The variation is considered to be an appropriate way to achieve the sustainable management purpose of the Act because the amendment to Rule 27.6.1 would better enable infill subdivision to be undertaken without the current requirement for a non-complying activity resource consent, while still achieving a total site area of 2000m². The amended provisions are intended to provide greater certainty that the Zone anticipates a density of one residential unit every 2000m² as stated in the Purpose Statement for the Zone (11.1).

2. INTRODUCTION

2.1. This report fulfils the requirements of Section 32 of the Act, which requires the objective(s) of proposals to be examined for their appropriateness in achieving the purpose of the Act, and the policies and methods of those proposals to be examined for their costs, benefits, efficiency, effectiveness and risk in achieving the objectives.

2.2. This variation is on the following provisions of the PDP:

- (a) Chapter 27 Subdivision and Development (**Chapter 27**) Rule 27.6.1 in relation only to the minimum site size in the Large Lot Residential A Zone; and
- (b) Chapter 11 Large Lot Residential Zone (**Chapter 11**) Rule 11.5.9 in relation only to the density of residential activity within the LLR A Zone.

- (c) Chapter 11 Large Lot Residential Zone (**Chapter 11**) Policy 11.2.1.2 as it relates to imposition of colour controls on buildings.

2.3. The changes identified under above would not introduce any new objectives or change any existing objectives. The purpose of the variation is to amend Rule 27.6.1 and Policy 11.2.1.2 so as to better achieve Objective 11.2.1 of Chapter 11, being 'A high quality of residential amenity values are maintained within the Large Lot Residential Zone'. The amended provisions will better implement objectives and policies in Chapter 3 (Strategic Directions), Chapter 4 (Urban Development) and Chapter 27 (Subdivision and Development). **Appendix 1** contains the amendments sought to PDP Rules 27.6.1 and Policy 11.2.1.2.

3. CONTEXT

3.1. Most of the land identified as Large Lot Residential Zone in the PDP was zoned Rural Residential in the operative district plan (**ODP**), with the majority of this land having been subdivided and developed under that regime such that many of those sites within Wānaka have a net area 4000m², with an established residential unit. Refer to **Appendix 2** which contains a series of maps with the allotment sizes of the LLR A Zone.

3.2. The Proposed District Plan was notified on 26 August 2015 and the Large Lot Residential Zone was identified in various locations throughout urban Wānaka, all of which were contained within the proposed urban growth boundary. With the exception of an undeveloped, 'greenfield' area located between Studholme Road and Meadowstone Drive where the minimum site size and residential density was 2000m², the entirety of the Large Lot Residential Zone had a prescribed minimum net site area of 4000m²¹. Notified PDP Rule 11.5.9 required the colours of walls and roofs of buildings to be less than 36% light reflectance value, except that buildings located on Mt Iron above the 330 masl contour were subject to lower (more recessive) light reflectance values.

3.3. Decisions on submissions were notified on 7 May 2018. No appeals were received on the Large Lot Residential Zone, nor were there any appeals on PDP Chapter 11. The decisions on submissions introduced the following amendments to the notified PDP specifically to the Large Lot Residential Zone:

- (a) The majority of the Zone was identified as being appropriate for development to a minimum density of one residential unit per 2000m²². The exception being Mt Iron, where the 4000m² minimum allotment size was retained. The two classes of Large Lot Residential Zone were recast as

¹ Notified PDP 26 August 2015. Chapter 11 notified 26 August 2015. Rule 11.5.9. Chapter 27 Rule 27.5.1.

² Refer to Decisions Version Chapter 11. Zone Purpose 11.1.

- Large Lot Residential A (**LLR A**) – minimum net area allotment size of 2000m²; and
 - Large Lot Residential B (**LLR B**) – minimum net area allotment size of 4000m², comprising existing residential development located on the Mt Iron outstanding natural feature, and immediately adjacent to and comprising the lower slopes of Mt Iron.
- (b) The colour controls for buildings only apply in the LLR B Zone (Rule 11.5.10);
- (c) Rezoning land located at Lake Hāwea Township zoned and developed under ODP Rural Residential Zone, and notified in the PDP as Rural Residential Zone, to LLR A
- (d) Rezoning undeveloped land located near adjacent to Ladies Mile SH6, near Shotover Country/Lake Hayes Estate (Queenstown) from Rural Zone to LLR A³;
- (e) Amending Chapter 11, Objective 11.2.1 and policies under that objective as follows:

	Notified 2015	Decisions Version 2018
Objective 11.2.1	High levels of residential amenity within the Large Lot Residential Zone.	A high quality of residential amenity values are maintained within the Large Lot Residential Zone.
Policy 11.2.1.1	Maintain character and amenity through minimum allotment sizes, with particular emphasis on maintaining the character and amenity of established areas.	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	Recognise opportunities for infill and subdivision to higher densities providing the amenity, open character and privacy of established neighbourhoods are not degraded and opportunities for garden and landscape plantings are retained.	Deleted. The Hearings Panel recommendation report stated that the 'Notified Policy 11.2.1.2 is recommended for deletion on the basis that are preferred Area A subzone inherently provides this outcome in a more effective and efficient manner' ⁴ .
Notified Policy 11.2.1.3 Decisions Policy 11.2.1.2	Maintain and enhance residential character and high amenity values by controlling the colour, scale, location and height of buildings, and in certain locations or circumstances require landscaping and vegetation controls.	Maintain and enhance residential character and high amenity values by controlling the colour, scale, location and height of buildings and in Area B require landscaping and vegetation controls.

³ This land is identified in Appendix 2 and it is evident that the majority of land in this part of the LLA Zone is considered a greenfield site and while this variation is applicable to that site, the identified constraints associated with infill development are not likely to be present. This sections 32 evaluation focuses on the LLR A Zone in Wanaka and Lake Hawea Township.

⁴ Report of the Hearings Panel 09a Stream 6 Chapters, 7, 8, 9, 10, 11 29 March 2018 at [393].

- 3.4. The Hearings Panel, upon considering submissions on the Large Lot Residential Zone at Wānaka made the following comments, which inform and reinforce the potential misalignment of the subdivision rules and the overall density sought to be achieved by the LLRA Zone⁵:

We have otherwise reached our own conclusions on the zone provisions and in light of this the zone purpose should be changed to simplify it as well as reinforce what we consider to be the more defensible approach to density, including through the evidence of the Council's urban design expert Mr Falconer and a number of submissions seeking a minimum lot size of 2,000 square metres be the norm rather than the notified 4,000 square metres minimum. In summary, the zone should enable development at a density of 1 unit per 2,000 square metres site area except where environmental characteristics justify a lower density of 1 unit per 4,000 square metres (such as we find is the case at Mr Iron in Wānaka). These changes are consequential to our findings on the matters raised by submissions (discussed below) and otherwise qualify as Clause 16(2) corrections or clarifications.

- 3.5. As a result of there not being any appeals to the Environment Court made on Chapter 11, nor any appeals on the minimum allotment size rule in Chapter 27 (Rule 27.6.1), the provisions are treated as operative. From June 2018 to April 2020, the processing of resource consent applications has resulted in resource consent applications for subdivision of sites from 4000m² (developed under the operative regime) to 2000m² (the density anticipated in the LLR A Zone) falling as a non-complying activity primarily because the access associated with the new site to be created by subdivision is not included as part of the net area calculation⁶, and the majority of proposals to subdivide are falling as non-complying activities pursuant to Rule 27.5.19.
- 3.6. It is evident that the shift from the notified to the decisions regime for the Large Lot Residential A Zone did not sufficiently take into account the likelihood that many sites anticipated to be further subdivided would not achieve the prescribed 2000m² net area, due to the rear lot/front lot configuration and subdivision site design constraints associated with existing buildings, which for the most part are a result of the majority of sites in the Large Lot Residential A Zone having been subdivided to 4000m² and developed under the operative regime.
- 3.7. A planning regime where the majority of resource consent applications for subdivision of the LLR A Zone are non-complying activities where the total area of the site (and subsequent residential density) still achieves 2000m² is not considered to be the most appropriate way to achieve Objective 11.2.1, the strategic provisions of the PDP and the National Policy Statement on Urban Development 2020.

⁵ Ibid at [94].

⁶ Refer to PDP Chapter 2: Definitions. Net Area.

3.8. The Council (in its role as consent authority) have also processed applications for subdivision resource consent in the LLR A Zone where the net site area of 2000m² was not achieved, and the principal reasons were to do with the loss of including the nominal area for driveways (i.e the sites being subdivided all had a size of 4000m²), on both a non-notified and public notified basis. To date, no applications have been declined. It is considered the uncertainty as to whether an application would be processed on a non-notified basis is perpetuating frustration and uncertainty in the community. The likely cost of a resource consent application (Council's fees only, and not that for the applicants' survey / planning consultants) for a two-lot subdivision in the urban environment, is in the order of \$5000.00 if non-notified and at least \$20,000 if publicly notified. In this regard the transaction costs associated with plan implementation are an important consideration of the certainty and clarity that should be provided in the PDP rules.

4. STRUCTURE OF THE REPORT

4.1. This report provides an analysis of the policy response proposed by the variation as required by s32 of the RMA, using the following sections:

- a) **Consultation** undertaken, including engagement with iwi authorities on the proposal.
- b) An overview of the applicable **Statutory Policy Context**.
- c) A description of the **Resource Management Issue** being addressed by the proposal.
- d) An assessment of the **scale and significance** of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposal.
- e) An **Evaluation** against s32 of the RMA, including
 - Whether the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (Section 32(1)(a)).
 - Whether the provisions (policies and methods) are the most appropriate way to achieve the objectives of the proposal (Section 32(1)(b)), including:
 - (i) identifying other reasonably practicable options for achieving the objectives
 - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives, including consideration of risk of acting or not acting, and
 - (iii) summarising the reasons for deciding on the provisions.

5. CONSULTATION

5.1. The variation is considered to be relatively uncontentious and generate a low-level of interest (from a district wide perspective) on the basis that the intent of the variation is to significantly lower the instances where infill subdivision that achieves a total site area of 2000m² in the Large Lot Residential A Zone does

not fall as a non-complying activity. Broad, community wide consultation has not been undertaken. Prior to public notification of the variation, consultation shall be undertaken in accordance with Clauses 3 and 4 of Schedule 1 of the RMA with regard to the following parties.

- 5.2. Several practitioners that Council officers are aware of as having involvement in applications for subdivision in the LLR A Zone shall be 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.

6. STATUTORY POLICY CONTEXT

- 6.1. The relevant requirements of the RMA, the Local Government Act 2002, and the two iwi management plans that apply in the District⁷ have been given appropriate regard in the preparation of this evaluation. There are no relevant National Policy Statements or National Environmental Standards that have material bearing on this evaluation.

National Policy Statement on Urban Development Capacity 2020 (NPS UD)

- 6.2. The following is an evaluation of the NPS UD as it relates specifically to the variation, and is structured around the following themes of the NPS UD:
- (a) Well-functioning urban environments;
 - (b) Housing affordability;
 - (c) Urban environments, including their amenity values changing over time;
 - (d) Subpart 3 evidence-based decision-making (Part 3.11 Using evidence and analysis).

Well-functioning urban environments

- 6.3. Objective 1 and related Policy 1 of the NPS UD are:

Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

⁷ *The Cry of the People, Te Tangi a Tauria: Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (MNRMP 2008), and Kāi Tahu ki Otago Natural Resource Management Plan 2005 (KTKO NRMP 2005).*

Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:

- (a) have or enable a variety of homes that:
 - (i) meet the needs, in terms of type, price, and location, of different households; and*
 - (ii) enable Māori to express their cultural traditions and norms; and**
- (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and*
- (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and*
- (d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and*
- (e) support reductions in greenhouse gas emissions; and*
- (f) are resilient to the likely current and future effects of climate change.*

6.4. In general terms, the variation would make positive contribution to the existing urban environment comprising the. This will be achieved through limb (a), by making a contribution toward meeting the needs, in terms of the type, price and location of different households.

6.5. The proposal would also make a positive contribution with regard to Policy 1 limb (d), to limit as much as possible, adverse impacts on, the competitive operation of land and development markets, by virtue of the added opportunity for more developers to provide a contribution of urban residential sections to the market.

Housing affordability

6.6. Objective 2 of the NPS UD is:

Planning decisions improve housing affordability by supporting competitive land and development markets.

6.7. There are not any policies directly on housing affordability, which is unsurprising given the expression of Objective 2, and the scheme of the NPS UD is to encourage affordability through provision of new urban environments, intensification of existing urban environments and encouragement of greater competitiveness in the market. The NPS UD policies in the round address housing affordability, with the exception of Policy 1, (a)(i) and (d) (Well-functioning urban environments). The NPS UD supports housing

affordability through supply as a primary means, and places the obligation on local authorities through monitoring and Housing and Business Development Capacity Assessments⁸ to ensure housing is affordable.

- 6.8. The variation would contribute to housing affordability, but only in an incremental and very small way.

Urban environments, including their amenity values changing over time

- 6.9. Objective 4 of the NPS UD is:

New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

- 6.10. Policy 6 of the NPS UD is of direct relevant to Objective 4:

When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:

- (a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement*
- (b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:
 - (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and*
 - (ii) are not, of themselves, an adverse effect**
- (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1)*
- (d) any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity*
- (e) the likely current and future effects of climate change.*

- 6.11. Importantly, urban environment is defined in the NPS UD as:

⁸ NPS UD Subpart 3. 3.9 Monitoring requirements, and Subpart 5 Housing and Business Development Capacity Assessment (HBA) 3.23 Analysis of housing market and impact of planning.

urban environment means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

- (a) is, or is intended to be, predominantly urban in character; and*
- (b) is, or is intended to be, part of a housing and labour market of at least 10,000 people*

6.12. This policy is directly relevant to both the decisions version LLRA Zone and the proposed variation. The PDP contemplates change in the LLRA zones by way of what was a fairly substantial shift in the density from 4000m² to 2000m² per residential unit, brought about through decisions on submissions. Both the status quo, and the purpose of the variation find support in these parts of the NPS UD.

Subpart 3 evidence-based decision-making (Part 3.11 Using evidence and analysis)

6.13. Subpart 3, Part 3.11 of the NPS UD requires the following:

- (1) When making plans, or when changing plans in ways that affect the development of urban environments, local authorities must:*
 - (a) clearly identify the resource management issues being managed; and*
 - (b) use evidence, particularly any relevant HBAs, about land and development markets, and the results of the monitoring required by this National Policy Statement, to assess the impact of different regulatory and non-regulatory options for urban development and their contribution to:*
 - (i) achieving well-functioning urban environments; and*
 - (ii) meeting the requirements to provide at least sufficient development capacity.*
- (2) Local authorities must include the matters referred to in subclause (1)(a) and (b) in relevant evaluation reports and further evaluation reports prepared under sections 32 and 32AA of the Act*

6.14. The resource management issues and evaluation have been sufficiently identified and evaluated through this section 32 evaluation. The nature and scale of this section 32 and the resource management issue are not substantial enough to engage with the need for a housing and business capacity assessment. .

Regional Policy Statement

6.15. The relevant provisions of the Otago Regional Policy Statement, both the Partially Operative Regional Policy Statement 2019 (**PORPS**), and the 1998 volume, and at the time of preparation of this evaluation, the provisions of Chapter 3 as approved by the Environment Court by way of Consent Order. This proposal is required to give effect to the partially operative provisions of the RPS (both 2019 and 1998 volumes)

and have regard to the proposed provisions (Chapter 3). No particularly pertinent provisions of the PORPS have been identified. Given the relatively small scale, localised and specific purpose of the variation the most relevant the statutory document is the Proposed District Plan.

Proposed District Plan (PDP)

6.16. The following objectives and policies of the PDP are relevant and have been given due regard in the identification of resource management issues and evaluation:

Strategic Direction Chapter 3

Plan Reference	Provision
Strategic Objective (SO) 3.2.1	The development of a prosperous, resilient and equitable economy in the District
SO 3.2.2	Urban growth is managed in a strategic and integrated manner.
SO 3.2.2.1	Urban development occurs in a logical manner so as to: <ul style="list-style-type: none"> a. promote a compact, well designed and integrated urban form; b. build on historical urban settlement patterns; c. achieve a built environment that provides desirable, healthy and safe places to live, work and play; d. minimise the natural hazard risk, taking into account the predicted effects of climate change; e. protect the District's rural landscapes from sporadic and sprawling development; f. ensure a mix of housing opportunities including access to housing that is more affordable for residents to live in; g. contain a high quality network of open spaces and community facilities; and h. be integrated with existing, and planned future, infrastructure.
SO 3.2.3	A quality built environment taking into account the character of individual communities.
SO 3.2.6	The District's residents and communities are able to provide for their social, cultural and economic wellbeing and their health and safety.
Chapter 11 Objective 11.2.1	A high quality of residential amenity values are maintained within the Large Lot Residential Zone
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	Maintain and enhance residential character and high amenity values by controlling the colour, scale, location and height of buildings and in Area B require landscaping and vegetation controls.
Chapter 27 Objective 27.2.1	Subdivision that will enable quality environments to ensure the District is a desirable place to live, visit, work and play.
Policy 27.2.1.3	Require that allotments are a suitable size and shape, and are able to be serviced and developed for the anticipated land use under the applicable zone provisions.
Policy 27.2.1.4	Discourage non-compliance with minimum allotment sizes. However, where minimum allotment sizes are not achieved in urban areas, consideration will be given to whether any adverse effects are mitigated or compensated by providing: <ul style="list-style-type: none"> a. desirable urban design outcomes; b. greater efficiency in the development and use of the land resource; c. affordable or community housing.
Objective 27.2.3	The potential of small scale and infill subdivision in urban areas is recognised and provided for while acknowledging their design limitations.
Policy 27.2.3.1	Accept that small scale subdivision in urban areas, (for example subdivision involving the creation of fewer than four allotments), and infill subdivision where the subdivision involves established buildings, might have limited opportunities to give effect to policies 27.2.2.4, 27.2.2.5 and 27.2.2.7.
Policy 27.2.3.2	While acknowledging potential limitations, encourage small scale and infill subdivision in urban areas to: <ul style="list-style-type: none"> a. ensure lots are shaped and sized to allow adequate sunlight to living and outdoor spaces, and provide adequate on-site amenity and privacy; b. where possible, locate lots so that they over-look and front road and open spaces; c. avoid the creation of multiple rear sites, except where avoidance is not practicable; d. where buildings are constructed with the intent of a future subdivision, encourage site and development design to maintain, create and enhance positive visual coherence of the development with the surrounding neighbourhood; e. identify and create opportunities for connections to services and facilities in the neighbourhood.

7. RESOURCE MANAGEMENT ISSUE

- 7.1. The resource management issue is ‘how to most appropriately achieve Objective 11.2.1’. The reasons for the issue have been identified and explained in the context section above.

8. SCALE AND SIGNIFICANCE EVALUATION

- 8.1. The level of detailed analysis in this evaluation is **low to moderate**, to reflect the scale and significance of the effects of the implementation of the proposed provisions. The amendments to the affected provisions would apply to a limited sector of the community, being owners of sites within the LLR A Zone. However amending the identified provisions could significantly improve the implementation of those provisions and would remove uncertainty and transaction costs currently associated with non-complying activity resource consent applications for subdivision in the LLR A Zone. Improved implementation leads to the PDP better achieving section 7(b) of the RMA in terms of the economic benefits derived from the efficient use of resources.

9. EVALUATION OF PROPOSED OBJECTIVE

- 9.1. Section 32(1)(a) requires an examination of the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the Act. Where there are no new objectives proposed, an examination of the extent to which the purpose of the proposal is the most appropriate way to achieve the purpose of the Act is required (s32(6)). Consistent with the resource management issue identified in section 7 above, the purpose of the proposal is to improve the efficiency and effectiveness of the provisions so as to achieve Objective 11.2.1.

10. EVALUATION OF THE PROPOSED PROVISIONS

- 10.1. Section 32(1)(b) of the Act requires an assessment of whether the proposed provisions (policies and methods) are the most appropriate way to achieve the objective or purpose of the proposal. This assessment must:
- i. identify other reasonably practicable options for achieving the objectives (S32(1)(b));
 - ii. assess the efficiency and effectiveness of the provisions in achieving the objectives (S32(1)(b)(ii)), including consideration of the benefits and costs anticipated from the implementation of the provisions, identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions (S32(2)(a)), including opportunities for (i) economic growth that are anticipated to be provided or reduced, and (ii) employment that are anticipated to be provided or reduced, and if practicable quantify

- the benefits and costs (S32(2)(b)), and assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions (S32(2)(c)); and
- iii. summarise the reasons for deciding on the provisions (S32(1)(b)(iii)),

10.2. Section 32(3) requires that if the proposal is an amending proposal that will amend a plan that is already proposed, the examination under subsection (1)(b) must relate to:

- (a) the provisions and objectives of the amending proposal; and*
- (b) the objectives of the existing proposal to the extent that those objectives—*
- (i) are relevant to the objectives of the amending proposal; and*
- (ii) would remain if the amending proposal were to take effect.*

Reasonably practicable options

Option	Most appropriate way to achieve the purpose of the proposal? How to most appropriately achieve Objective 11.2.1
<p>1. Status quo – no change to Subdivision Rule 27.6.1 or Policy 11.2.1.2.</p>	<p>The existing regime where Rule 27.6.1 requires a minimum net site area of 2000m² does not efficiently achieve Objective 11.2.1. This is because the majority of infill subdivisions fall as non-complying activities despite the majority of sites achieving a total site area of 2000m², and are proposed to be subdivided from a ‘parent’ site that is not less than 4000m². This is not considered the most appropriate way to achieve the purpose of the proposal and Objective 11.2.1. The status quo also has the potential for high transaction costs due to the high probability of applications being processed on a notified basis.</p> <p>Policy 11.2.1.2 applies colour controls to the LLR A Zone, yet corresponding rule 11.5.10 only applies to the LLR B Zone. This creates confusion and does not assist with efficient and effective implementation.</p> <p>For the above reasons, retaining the status quo would not achieve the purpose of the proposal.</p>
<p>2. Amend Policy 11.2.1.2 to refer only to the Large Lot Residential B Zone.</p>	<p>This option would more effectively align Policy 11.2.1.2 with Rule 11.5.10 ‘Building Materials and Colours within Large Lot Residential B’, that implements Policy 11.2.1.2.</p>

Option	Most appropriate way to achieve the purpose of the proposal? How to most appropriately achieve Objective 11.2.1
	<p>This change would be consistent with the Hearings Panel's recommending report that suggested colour that colour controls can only be justified in the Large Lot Residential B Zone⁹.</p> <p>The proposed amendment to Policy 11.2.1.2 could be:</p> <p>11.2.1.2 Maintain and <u>or</u> enhance residential character and high amenity values by controlling the colour, scale, location and height of buildings, and in <u>addition within</u> Area B <u>by requiring</u> require landscaping, <u>colour</u> and vegetation controls.</p> <p>For these reasons this amendment is considered an appropriate option to achieve Objective 11.2.1.</p>
<p>3. Amend Rule 27.6.1 to specify that the 2000m² minimum site size applies to the 'gross' or 'total area of the site'.</p>	<p>This amendment would resolve the 'net area' issue. The amendments would not be consistent with the preamble text to rule 27.6.1 which requires all lots (where specified) must achieve a net area. However, this requirement could be overridden by the more specific wording the relevant rule itself.</p> <p>Subdivision would still be required to comply with Rule 27.7.11 that requires a 30m x 30m allotment dimension is accommodated on each lot.</p> <p>The amendment could be drafted as: <u>The total area of the site is not less than 2000m²</u></p> <p>For these reasons this amendment is considered an appropriate option to achieve Objective 11.2.1.</p>
<p>4. Amend Rule 27.6.1 to specify a minimum net area of 1500m², while retaining a minimum 2000m² to each</p>	<p>This amendment would also resolve the 'net area' issue where a site that is 4000m², or just over would be likely to accommodate a two-lot subdivision. The amendments would still rely on specifying a total site area but would be more consistent with the</p>

⁹ Report of the Hearings Panel 09a Stream 6 Chapters 7, 8, 9, 10, 11 29 March 2018 at [608].

Option	Most appropriate way to achieve the purpose of the proposal? How to most appropriately achieve Objective 11.2.1
<p>proposed site (lot). Amend Rule 11.5.9 to enable future residential activity where the site created by way of Rule 27.6.1 has a net area less than 2000m².</p>	<p>preamble text of Rule 27.6.1 because the rule requires a net area, which would be 1500m², while providing the total site area is 2000m².</p> <p>The introduction of 1500m² net area is likely to provide ample flexibility to take into account the loss of land for accessways/access legs that cannot be included in the calculation of net area. The identification of retaining a total area of 2000m² would ensure the rule effectively implements Objective 11.2.1.</p> <p>Introducing a requirement to comply with a net area of 1500m² provides greater certainty than option 3 that a compliant subdivision would achieve Objective 11.2.1 ‘a high quality of residential amenity values are maintained’.</p> <p>The amendment to Rule 11.5.9 would better integrate the subdivision outcome with future residential activity. The overall density and integrity of the 2000m² per residential unit would be retained.</p> <p>The amendments could be drafted as:</p> <p><i>Rule 27.6.1:</i> <u>1500m² providing the total area of the site is not less than 2000m² average.</u></p> <p><i>Rule 11.5.9:</i></p> <p>11.5.9.1 Large Lot Residential Area A: a maximum of one residential unit per <u>site 2000m² net site area.</u></p>

<p><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 2000m².</u></p>

<p>For these reasons this amendment is considered an appropriate option to achieve Objective 11.2.1.</p>	
<p>5. Amend Rule 27.6.1 by removing any minimum allotment size but requiring that the average density across the sites to be subdivided of 2000m² is achieved.</p>	<p>This option would provide unbridled flexibility in terms of lot design, constraints and configuration, but may not be likely to achieve Objective 11.2.1 because a site of any size could be created on the basis an average of 2000m² is achieved. Objective 11.2.1 and the related purpose statement text in 11.1 create an expectation of a density of one residence every 2000m² 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. Maintaining an expectation of a 2000m² net area would work in conjunction with the Lower Density Suburban Residential Zone and other zones that enable higher residential densities.</p> <p>This option could also be interpreted as inviting proposals for subdivision to not achieve Rule 27.7.11 that requires a minimum 30m x 30m shape factor allotment dimensions.</p> <p>This option would not achieve Objective 11.2.1, and nor would it acknowledge the cascading density of the core urban residential zones (i.e. Large Lot, to Lower Density Suburban, to Medium Density Zone to High Density Zone) .</p>

10.3. Having considered these options, Options 2 and 4 are the preferred option.

10.4. Option 2 is a relatively straightforward amendment to Policy 11.2.1.2 to improve clarity that colour controls only apply in the LLR B Zone. There are not considered to be any costs associated with the amendment because as identified above, no colour controls are intended to apply in the Large Lot A

Residential Zone. Benefits accrue through improved certainty associated with the implementation of Policy 11.2.1.2. These benefits will improve the effectiveness of Policy 11.2.1.2 without any costs from an efficiency or transaction perspective.

10.5. Option 4 is considered to provide sufficient flexibility for subdivisions of existing 4000m² Large Lot Residential A sites, many of these contain an existing residential unit and accessory buildings. In summary, the reasons include (S32(1)(b)(iii)):

- (a) A typical existing 4000m² (or just over that size) site created under the operative Rural Residential Zone has the rectangular shaped dimensions of 50 metres wide (front and rear boundaries) with side boundaries of 80 meters. The length of an access (approximately 40 metres), and the minimum legal width of 4m (Transport Chapter 29 Rule 29.5.14) suggests that in the order a minimum of 160m would not be able to be included in the net area calculation;
- (b) In light of the above, there will be occasions where existing infrastructure and buildings, coupled with allotment configurations are such that a wider area of land is required to be retained on the proposed new lot that would contain the existing residential unit;
- (c) Providing a discount of 500m² in the net area is considered to provide sufficient flexibility, while ensuring proposals retain a total area of not less than 2000m² for each site. The added flexibility provided by way of the 500m² (while still requiring the 2000m² average be achieved) will also encourage optimal subdivision design and boundary configuration (while acknowledging the constraints of infill subdivision). Put in other words, there is less desire for unusual or suboptimal boundary configurations, particularly in the context of existing dwellings, it there is more flexibility built into the net site area requirement;
- (d) An analysis of the existing LLR A Zone sites suggests that the site dimensions identified in (a) above applies to the majority of sites (i.e those subdivided to 4000m² or just over through the operative District Plan Rural Residential Zone), and that by lowering the net area by 500m² would result in the majority of subdivision proposals achieving compliance with Rule 27.6.1 as amended by option 4.

Efficiency and effectiveness

10.6. The following table considers the efficiency and effectiveness of Option 4, amending Rules 11.5.9 and 27.6.1 as identified in Option 4 (the preferred option). The costs and benefits, effectiveness and efficiency for the amendment to Policy 11.2.1.2 have been considered above.

<i>Purpose of the proposal: To improve the efficiency and effectiveness of the provisions so as to achieve Objective 11.2.1</i>		
<i>Preferred Option: Option 4 Amending Rules 11.5.9 and 27.6.1</i>		
<i>Costs</i>	<i>Benefits</i>	<i>Efficiency & Effectiveness</i>
<p>Relative to the existing (treated as operative) Rule 27.6.1 that requires a net area of 2000m², there are not any costs. The proposed amendment would provide persons contemplating subdivision of a 4000m² site with greater flexibility to avoid a non-complying activity status.</p> <p>Preferred Option 4 has costs compared to other options (i.e. Options 3 and 5), because it imposes a net area of 1500m². These costs may be perceived as increasing the density of development in the LLRA Zone, however these costs are tempered by the requirement to retain an average of 2000m², essentially very similar to the status quo. These costs are considered to be low overall, and are outweighed</p>	<p>By removing the likelihood of applications falling as non-complying activities, the amendments will significantly lower the potential for compliance and transaction costs associated with the administration of non-complying resource consents.</p> <p>Greater certainty for persons (and their agents) contemplating subdivision of a 4000m² site where the existing site dimensions are not likely to allow for a shared road frontage configuration, and where the likely most practicable option is a rear lot/front lot infill configuration.</p>	<p>The provisions are considered to be efficient because the benefits would outweigh the costs.</p> <p>In the event that an application for subdivision resource consent is a restricted discretionary activity¹⁰, it would be likely to be processed on a non-notified basis¹¹. This is considered to be significantly more efficient than a non-complying activity status where an assessment under section 95 of the Act is required. Although the notification determination is only a process related decision, applicants involved in notified applications can incur relatively high processing costs and uncertainty. As identified above the financial cost from the Council's fees alone between a notified and non-notified application is in the order of \$15,000.</p> <p>The amended provisions are considered to be effective because they will better provide for subdivision of Large Lot Residential A</p>

¹⁰ Rule 27.5.7.

¹¹ Rule 27.10.

<p>by the overriding purpose of the variation to better achieve Objective 11.2.1. The analysis of existing allotments provides sufficient confidence that the 1500m² net area will enable the subdivision of an existing 4000m² with an established residential unit without falling as a non-complying activity.</p> <p>Overall, the costs are nil to very low.</p>		<p>sites that have a site area of 4000m², and contain also building and accessory buildings.</p> <p>Overall, the proposed provision is considered to be the most appropriate way to achieve the purpose of the proposal.</p>
<p>Opportunities for economic growth that are anticipated to be provided or reduced; and employment that are anticipated to be provided or reduced (S32(2)(a)(i-ii))</p>		
<p>No economic growth, or employment costs are identified. The preferred option is considered to ensure Objective 11.2.1 and related rule 27.6.1 better achieves Section 7(b) or the RMA.</p>	<p>Economic growth benefits are likely to be derived from more certain and efficient implementation of Rule 27.6.1, with more efficient employment opportunities flowing.</p>	

10.7. Section 32(c) of the RMA requires an assessment of the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions. It is considered that, in this case, the information is certain and sufficient, and there is no need to assess the risk of acting or not acting, particularly in the context of the relatively low scale and significance of the proposal.

Reasons for deciding on the provisions

10.8. The proposed amendments to the provisions are considered the most appropriate to achieve Objective 11.2.1 because:

- a) They are efficient and effective in terms of section 7(b) of the RMA while still achieving Objective 11.2.1.
- b) The provisions are in accordance with the relevant Strategic Direction objectives and policies of the Proposed District Plan.
- c) They are in accordance with the functions of territorial authorities in s31 of the RMA and the sustainable management purpose of Part 2 of the RMA.

APPENDIX 1 – PROVISIONS TO BE VARIED

Amend Policy 11.2.1.2 as follows:

- 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.

Amend Rule 11.5.9 as follows:

Table 2	Standards for Activities	Non-compliance
11.5.9	Residential Density 11.5.9.1 Large Lot Residential Area A: a maximum of one residential unit per <u>site 2000m² 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 2000m².</u> 11.5.9.23 Large Lot Residential Area B: a maximum of one residential unit per 4000m ² net site area	D

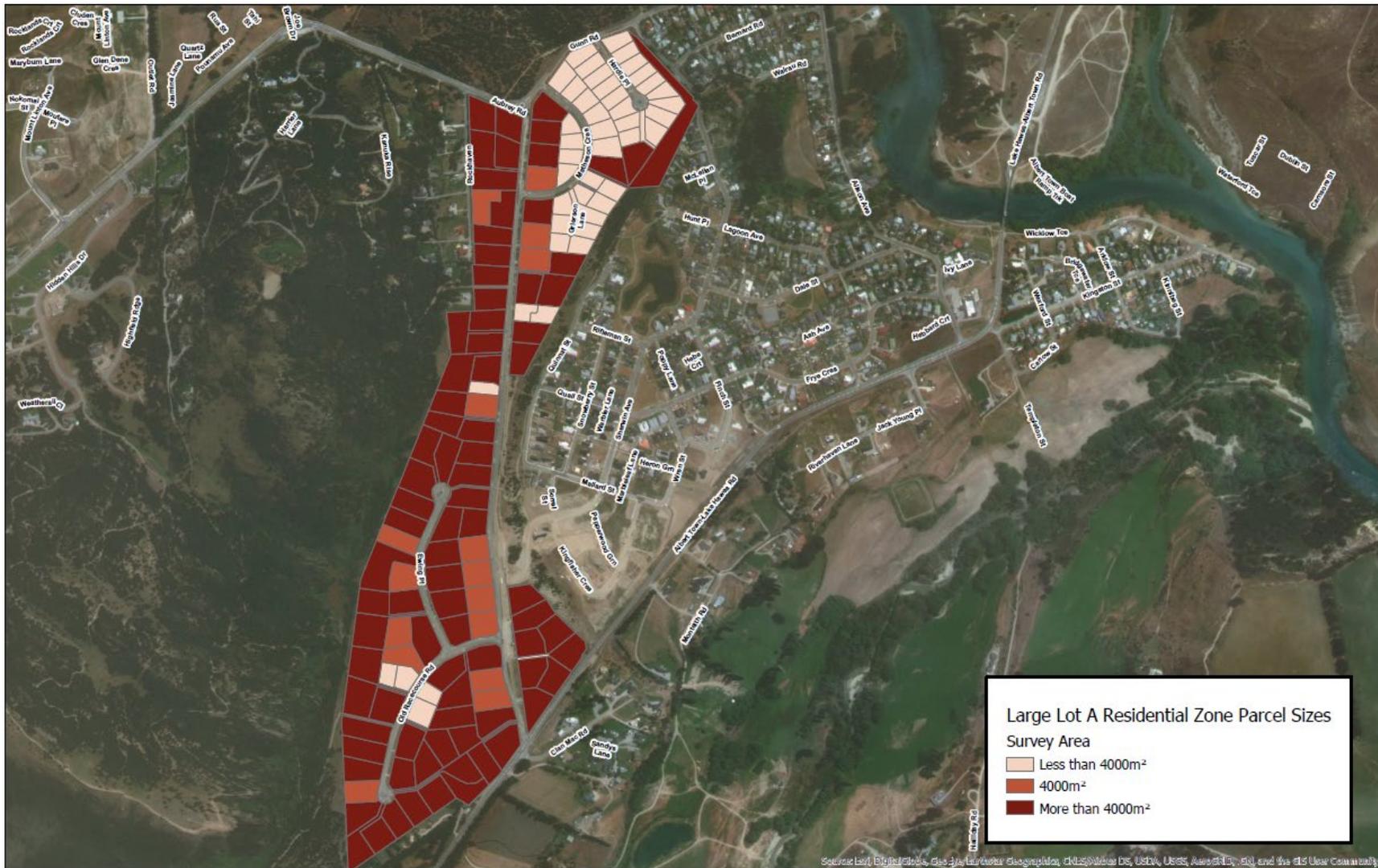
Amend Rule 27.6.1 as follows:

27.6.1 *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>1500m² providing the total area of the site is not less than 2000m² average</u>

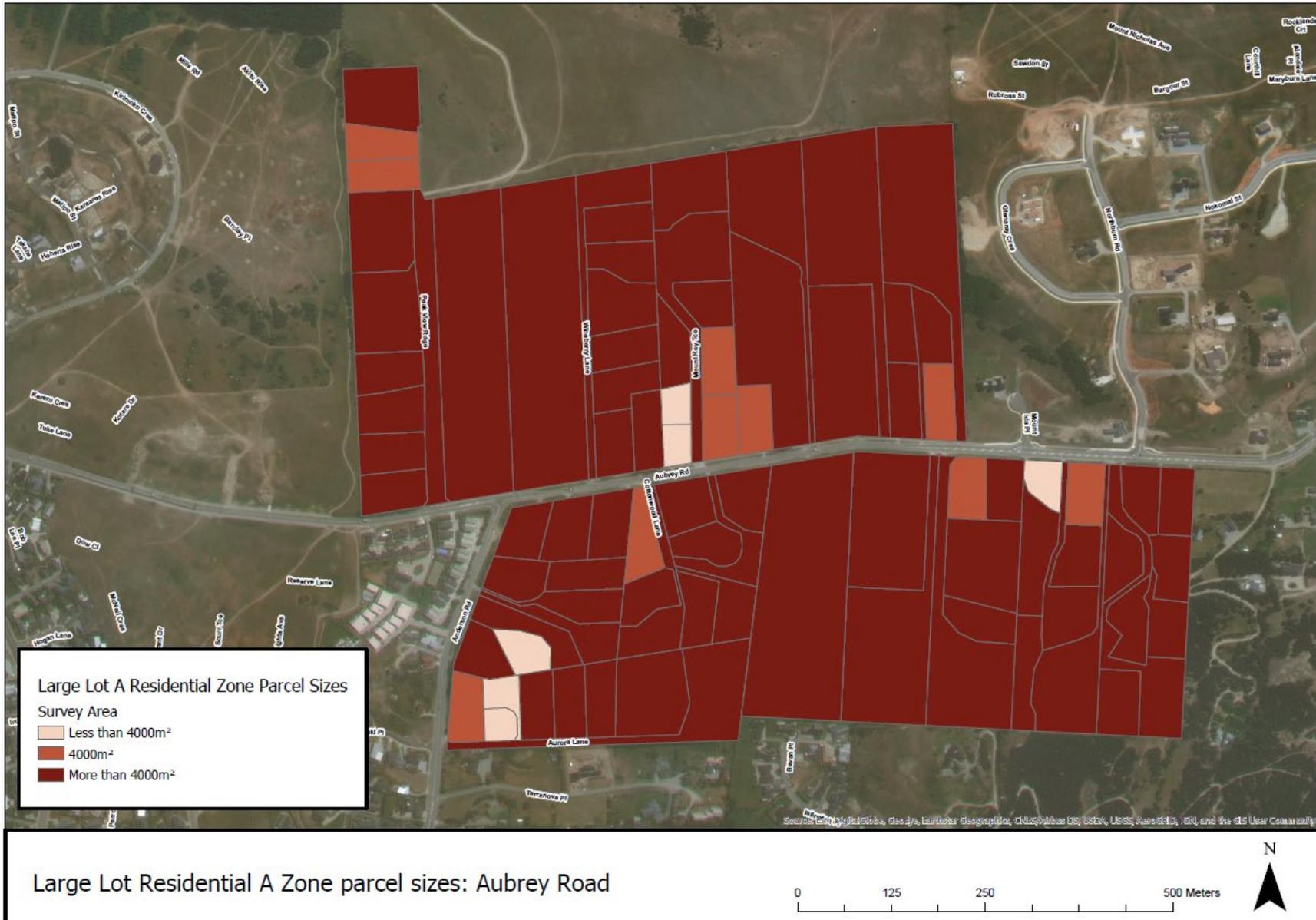
APPENDIX 2 – LLR A ZONE LOCATION AND ALLOTMENT SIZES



Large Lot Residential A Zone parcel sizes: Albert Town

0 250 500 1,000 Meters

N



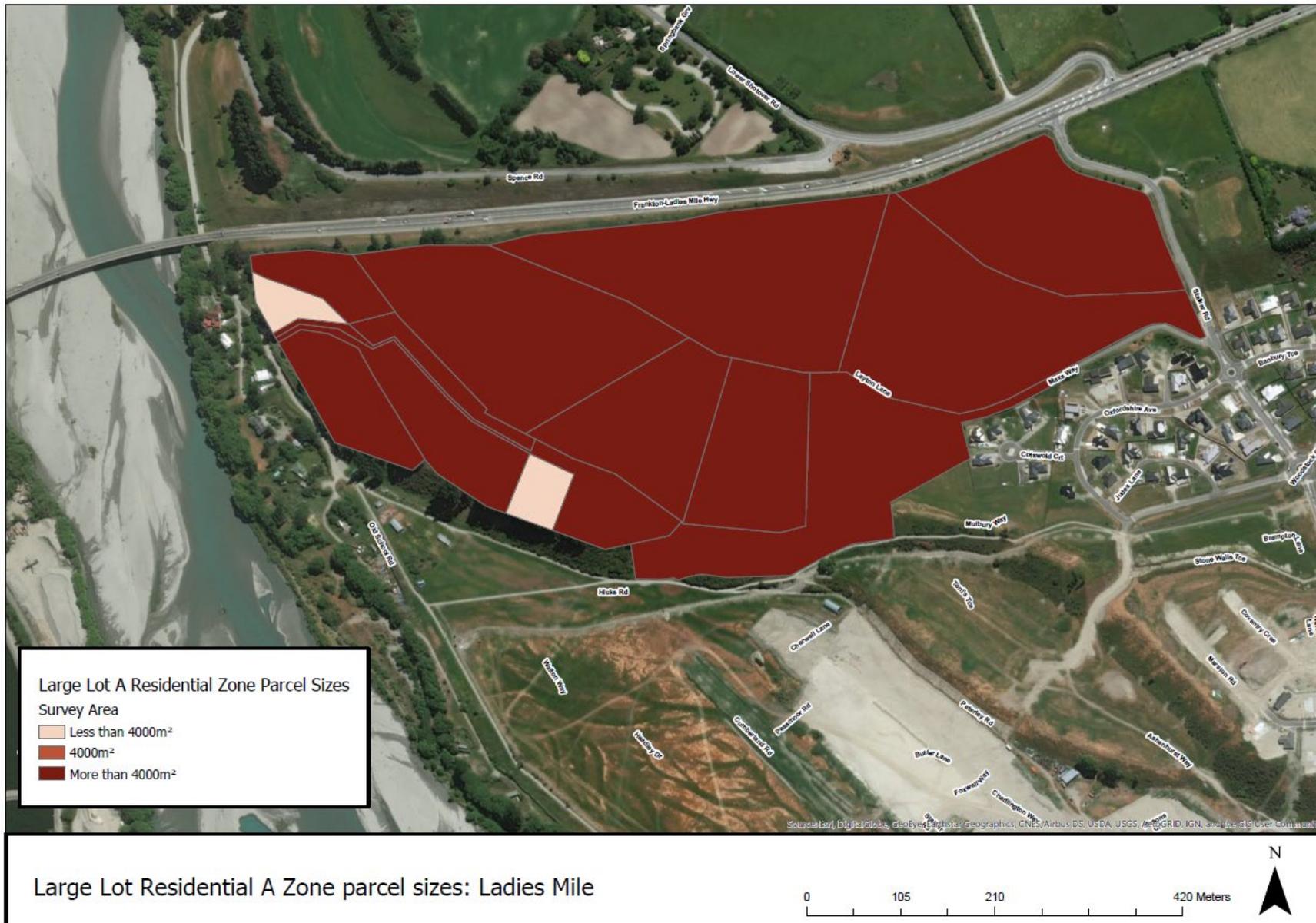




Large Lot Residential A Zone parcel sizes: Wanaka

0 300 600 1,200 Meters

N



APPENDIX 3 – LLR A ZONE EXAMPLE OF SITE DIMENSIONS AND SELECTION OF SITES



