

Hāwea / Wānaka Sticky Forest – Section 32AA Evaluation

Introduction

This evaluation report addresses the relevant statutory tests under the Resource Management Act 1991 (**RMA** or **Act**) as they relate to the appeal by MJ Beresford, RT Bunker, and LM Rouse (the **Descendants**), on the proposed Queenstown Lakes District Plan (**PDP**). It has been prepared on behalf of the Descendants.

By way of background, the appeal concerns the review of the PDP and the appropriate zoning of a 50.7ha block of land in Wānaka that is known colloquially as 'Sticky Forest' (the **Site**). The Site forms part of a settlement process with the Descendants of certain persons to whom the Crown was required, under the South Island Landless Natives Act 1906 (**SILNA**), to have transferred land near "the Neck" between Lakes Hāwea and Wānaka, but never did so prior to that Act's repeal. The Site is substitute redress for that land at the Neck, as provided for in the Ngāi Tahu Claims Settlement Act 1998 (**NTCSA**) and the associated Ngāi Tahu Deed of Settlement.

The Descendants sought via submission on the PDP that the Site be rezoned to enable residential development. The appeal sought a refined version of that relief in which: the Outstanding Natural Landscape (**ONL**) part of the Site and what was identified in the Queenstown Lakes District Council's (**Council**) decision as the Rural Character Landscape (**RCL**) part of the Site, would retain the Rural zoning. The Court's First Decision confirmed the retention of a Rural Zone (and Dublin Bay ONL notation) for the northern slopes of the Site, and a change from the notified Rural Zone to a mix of Lower Density Suburban Residential Zone (**LDSR Zone**) and Large Lot Residential A Zone (**LLR(A) Zone**) on the upper plateaux area. The Hāwea / Wānaka Sticky Forest Structure Plan (the **Structure Plan**) was introduced, along with a suite of text amendments to various PDP chapters. Consequential amendments were also made to the location of the Urban Growth Boundary (**UGB**), along with the removal of the RCL notation from the part of the Site rezoned to LDSR and LLR(A) Zone.

The appeal sought to retain the PDP Decisions Version Rural Zone over the 7ha strip of land along the south western boundary of the Site (the **Remnant Area**). The Remnant Area is shown in **Figure 1** below, and adjoins the LLR(A) Zone within the Site to the east, and an existing Council-held reserve with an Informal Recreation zoning to the west.

Following receipt and hearing of the evidence, the Court found that the Remnant Area no longer has landscape character which needs to be maintained or visual amenity values that need to be maintained or enhanced.¹ It consequently found that retaining the Rural Zone over the Remnant Area “does not serve the PDP’s intentions for Rural zoned land and is an anomaly” and that “[t]he RCL mapping of part of the Site [including the Remnant Area] does not serve the intentions of the PDP.”²

The Court therefore invited the appellants to seek directions under section 293 of the RMA to rezone the Remnant Area to LLR(A) Zone. The appellants subsequently sought such directions, with the Court confirming that a S293 process could be engaged to evaluate whether the Remnant Area should retain the existing Rural zoning or be rezoned to LLR(A) Zone, and whether a consequential repositioning of the UGB was appropriate.



¹ *Beresford v Queenstown Lakes District Council* [2024] NZEnvC 182, at [82], [151], and [171].

² *Beresford v Queenstown Lakes District Council* [2024] NZEnvC 182, at [56] and [82].

Section 32AA of the RMA states that a further evaluation is required to address changes that have been made to, or are proposed for, a proposal since the evaluation report for a proposal was completed.

The proposal that is subject to this S32AA evaluation is therefore:

- a) To change the zoning of the 7ha Remnant Area from Rural Zone to LLR(A) Zone.
- b) A consequential amendment to delete the RCL notation over the Remnant Area from the PDP maps as an inherent component of the removal of the Rural Zone.
- c) A consequential amendment to reposition the UGB to reflect the change in zone of the Remnant Area from Rural to LLR(A) Zone.
- d) To ensure that subdivision and development of the Remnant Area is well-integrated with the adjoining Council reserve to the west of that Area:
 - i. The amendment of Policy 27.3.28.2 to ensure subdivision, development and planting on the Remnant Area integrates with and complements the land to the west of the Hāwea / Wānaka Sticky Forest Structure Plan area (i.e. the Council reserve).
 - ii. The amendment of Rule 11.5.11 of the PDP to require the application of the recession plane standard to site boundaries within the Remnant Area fronting the Council reserve.
 - iii. The introduction of a new Rule 11.5.11A which includes specific requirements for fencing on sites within the Remnant Area that is on or within 4m of the boundary with the adjoining Council reserve.

(together, the **Reserve Integration Amendments**).

These changes are included as **Attachment 1** to this evaluation. For completeness, no amendments are proposed to the PDP objectives through the amending proposal, and no amendments to the Structure Plan are required.

The proposal is considered to be an 'amending proposal' in accordance with section 32(3) of the Act as it is amending an existing change (to the PDP). This section 32AA evaluation addresses the relevant statutory tests under the RMA as they relate to the proposal.

This Evaluation

This section 32AA evaluation has been prepared on behalf of the Descendants in accordance with section 32(1) to (4) of the Act. It evaluates the change of zone of the Remnant Area and the Reserve Integration Amendments. Collectively, this package is considered to be 'the amending proposal' for the purposes of this evaluation.

This evaluation:

- a) Examines the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the Act.³
- b) Examines (to a level of detail corresponding to the scale and significance of the effects that are anticipated from the proposal) whether the provisions in the proposal are the most appropriate way to achieve the objectives by:⁴
 - i. identifying other reasonably practicable options for achieving the objectives;⁵
 - ii. assessing the efficiency and effectiveness of the provisions in achieving the objectives by:⁶
 - a. identifying and assessing the benefits and costs of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions;
 - b. quantifying the benefits and costs if practicable;
 - c. assessing the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions; and
 - iii. summarising the reasons for deciding on the provisions.⁷
- c) Is informed by an assessment of the scale and significance of the proposal (**Attachment 2**).

³ RMA, S32(1)(a).

⁴ RMA, S32(1)(b).

⁵ RMA, S32(1)(b)(i).

⁶ RMA, S32(1)(b)(ii) and S32(2).

⁷ RMA, S32(1)(b)(iii).

The Objectives

This evaluation relates to an 'amending proposal'. The amending proposal does not contain any objectives as it is limited to seeking a change to the zoning of the Remnant Area, changes to the UGB and the RCL notations, and the Reserve Integration Amendments. The existing proposal introduces a single new objective to Chapter 27 Subdivision and Development. This single new objective seeks the following:

Objective 27.3.28

Objective - Subdivision and development of the Hāwea / Wānaka Sticky Forest residential zones in a manner that provides for a range of living opportunities and is well integrated with the adjacent zones and surrounding landscape while protecting the values of the Dublin Bay Outstanding Natural Landscape.

For completeness, the existing proposal does not contain any amendments to any other PDP objectives.

The purpose of the amending proposal is therefore considered to be the 'Objective' for this evaluation exercise, along with consideration of the single new Objective 27.3.28 introduced to Chapter 27.⁸

For completeness, the Court's First Decision found that the rezoning sought through the appeal would better give effect to the relevant objectives in the PDP.⁹ The amending proposal is also considered to achieve that outcome given that it is limited in extent to rectifying the zoning of what is now a relatively small, isolated pocket of Rural zoned land that is surrounded by urban or recreation zones. In that regard, the amending proposal will better achieve the PDP objectives relating to urban development (Chapter 4 of the PDP).

The purpose of the amending proposal is:

To change the zoning of the Remnant Area from Rural Zone to Large Lot Residential A Zone, and to make a consequential amendments to the UGB, and RCL notations; to amend a policy, apply a recession plane standard and a fencing rule to ensure that subdivision, development and planting of the Remnant Area is well-integrated with the adjoining Council reserve.

⁸ RMA, S32(6).

⁹ *Beresford*, above n1, , at [181], [192], [194]; Annexure 2, [26].

Whether the objectives are the most appropriate way to achieve the purpose of the Act

The amending proposal does not propose any new objectives or any changes to existing objectives. It is therefore not necessary to consider whether the objective is the most appropriate way to achieve the purpose of the Act.

Whether the provisions in the amending proposal are the most appropriate way to achieve the objectives

Identification of other reasonably practicable options for achieving the objectives S32(1)(b)(i)

Four options have been considered for this evaluation, namely:

Option 1: Retain the existing Rural Zone over the Remnant Area.

Option 2: Rezone the Remnant Area to a LLR(A) Zone with the Reserve Integration Amendments (i.e. the amending proposal).

Option 3: Rezone the Remnant Area to a LLR(A) Zone without the Reserve Integration Amendments or with an increased building setback as an alternative method of achieving a well-integrated boundary with the Council reserve.

Option 4: Rezone the Remnant Area to a Large Lot Residential B Zone.

An assessment of the benefits and costs of these four options is usefully informed by a brief examination of the plausible yield (number of houses) that Options 2 and 3 would generate and the implications of such for servicing and transport effects. The amenity and landscape effects are informed by the Court's earlier findings regarding the Remnant Area's location and context, and are briefly summarised below.

Plausible yield: The LLR(A) Zone permits a minimum density of one residential unit per 2,000m² (Rule 11.5.9.1(b)). A 7ha area could therefore, in theory, deliver some 35 residential units.¹⁰ In practice, some land will need to be utilised for roading and/or access lots. The Remnant Area's topography is reasonably steep and therefore it is also likely that in practice there may be localised topographical limitations to maximising overall yield. Nevertheless, for

¹⁰ 70,000m² divided by 2,000m² = 35.

evaluation purposes, a yield of 35 has been incorporated into the transport and servicing reports as the basis for assessing potential effects. In order to test plausible yield for the purpose of informing this evaluation, an indicative subdivision plan has been prepared (**Figure 2**). This plan shows the additional LLR(A) Zone subject to this proposal integrated with the balance of the Site and delivers 26 further lots. Given the indicative nature of the plan, the transport and servicing reports have conservatively considered the effects generated by up to 35 additional lots/households.

By comparison, the Rural Zone provides no permitted density and the minimum lot size of the Large Lot Residential B Zone (4,000m²) would provide for 12 - 14 lots.



Figure 2. Indicative subdivision plan including the Remnant Area

An assessment of the transport effects has been undertaken in respect of the amending proposal. The First Decision found that transport-related effects for the approved rezoning were acceptable¹¹, and therefore the transport assessment for this S293 process is limited to consideration of the additional demand on the road network generated by the additional housing enabled through an expansion of the LLR(A) Zone extent. In summary, the transport assessment concluded that up to 35 additional residential dwellings could be constructed within the Remnant Area without causing any unacceptable transport efficiency or safety effects on the proposed road layout for the Site, or on the surrounding transport network.

An assessment of servicing effects has been undertaken in respect of the amending proposal. As with transport, the First Decision found that servicing was feasible for the approved rezoning¹², and therefore the servicing assessment for this S293 process is limited to consideration of the additional demand on three waters infrastructure networks generated by the additional housing enabled through an expansion of the LLR(A) Zone extent. In summary, the servicing assessment concluded that the Remnant Area can be efficiently serviced with water supply, waste water, and stormwater infrastructure and that there are therefore no servicing constraints that would preclude rezoning of the Remnant Area to LLR(A) Zone.

Location context and outcomes: The First Decision retained a Rural Zone over the northern slopes of the Site that were located within a ONL overlay. The upper plateaux area was rezoned to LDSR Zone. The more visible upper western slopes were rezoned to LLR(A) Zone. The Remnant Area runs along the Site's western boundary and now forms a long finger of land running in a roughly north-south direction that is bordered by the LLR(A) Zone to the east (as it resulted from the First Decision) and a long strip of Council-held reserve land that has an Informal Recreation zoning to the west. On the far (western) side of the Council reserve is a LDSR Zone that is largely developed with stand-alone residential units in keeping with the outcomes anticipated by that zone.

If the amending proposal is approved, then compared with the land use regime under the existing proposal:

- i) There would be negligible change in economic rural production in the area identified to be rezoned to LLR(A) Zone, as the productive potential of this land is extremely

¹¹ Beresford, above n1, at [182(c)].

¹² Beresford, above n1, at [182(b)].

limited due to a combination of topography, size, and the challenges with establishing pasture following harvest of the existing plantation forest.¹³

- ii) Forest harvesting would be managed as a controlled activity under the LLR(A) Zone provisions.¹⁴
- iii) The ONL boundary is retained, with the S293 proposal not seeking to amend the location of the ONL line at the northern end of the Remnant Area.
- iv) ONL values are retained through the Structure Plan which already shows a 30m wide ONL 'Landscape Buffer Area' (**LBA**) along the southern edge of the ONL, including the short length of the boundary between the Remnant Area and the ONL / Rural Zone at the northern end of the Remnant Area. The LBA is to be replanted with indigenous vegetation following the harvesting of exotic plantation forestry.¹⁵ Continuation of this buffer treatment along the interface of the Remnant Area with the ONL is considered to be appropriate for the same reasons as the balance of the Buffer Area.
- v) The Court found that the Remnant Area no longer has landscape character which needs to be maintained or visual amenity values that need to be maintained or enhanced to warrant RCL categorisation and therefore its change to LLR(A) Zone outcomes will not adversely impact existing rural landscape values.¹⁶
- vi) Visual character will change from that of a plantation forest to a large lot residential character with residential units set within spacious garden areas.
- vii) There would be an increase in housing availability and choice in a location that is easily accessible to the Wānaka town centre and associated amenities and services.
- viii) The additional housing provided would constitute a logical 'in-filling' of Wānaka's urban form and that therefore does not constitute sprawl or the provision of housing in an isolated or disconnected location.
- ix) The additional housing enabled by the proposal is able to be serviced with water supply, waste water, and stormwater infrastructure.

¹³ Beresford, above n1, at [182(a)].

¹⁴ Rule 11.4.12.

¹⁵ Rule 27.7.33.1(n).

¹⁶ Beresford, above n1, at [82], [151], and [171].

- x) The additional housing enabled by the proposal will not result in any unacceptable effects on the safe and efficient functioning of the surrounding road network (noting that the only current legal road access to the Site is via Northlake).
- xi) The proposed LLR(A) Zone provisions, as determined through the First Decision / existing proposal, enable potential landscape effects on the ONL and visual amenity effects within the LLR(A) Zone itself to be effectively managed. The LLR(A) Zone for Hāwea / Wānaka Sticky Forest provides for subdivision as a restricted discretionary activity¹⁷, and requires the identification and assessment of building platform locations as part of any application.¹⁸ It also provides for a building height of 7m¹⁹, and includes restrictions on building materials and colours.²⁰
- xii) An acceptable interface will be delivered with the adjacent Informal Recreation zoned reserve land to the west through:
 - a. The proposed amendment to Policy 27.3.28.2 to ensure that subdivision development and planting within the Remnant Area integrates with and complements the existing planting / landscaping and development enabled on the adjoining Council reserve.
 - b. The existing matter of discretion in Rule 27.7.33.1(a) relating to subdivision design provides scope for a decision-maker to consider various matters which could support a well-integrated interface with the Council reserve, including the location of building platforms which are required by Rule 27.7.34A to be identified within every allotment within the LLR(A) Zone.
 - c. The generic LLR(A) Zone standards that limit site coverage to 15%²¹, internal boundary setbacks to 4m²², and building length to 20m.²³ These built form standards are complemented by the large minimum site size of 1,500m² (average lot area of 2,000m² based on the total area being subdivided), which ensures a large proportion of garden and open space relative to residential buildings. The standard LLR(A) Zone rules provide a

¹⁷ Rule 27.7.33.1

¹⁸ Rule 27.7.34A.

¹⁹ Rule 11.5.1.2(c).

²⁰ Rule 11.5.10.

²¹ Rule 11.5.2.1.

²² Rule 11.5.3.1.

²³ Rule 11.5.6.

more spacious interface with the Informal Recreation Zone than the LDSR Zone provisions that apply to the existing residential suburb on the far western side of the reserve area.

- d. The proposed application of the existing LLR recession plane standard to boundary of the Remnant Area that adjoins the Council reserve. In particular, it is considered that the extra separation for higher buildings required by that standard will:

- i. reduce the potential dominance and shading effects of buildings on the reserve;
- ii. result in varied setbacks from the reserve;
- iii. continue to provide for good passive surveillance of the reserve; and
- iv. will provide more space for planting between higher / two-storey buildings and the reserve, thereby resulting in a softer, more sympathetic boundary interface.

- e. The proposed new Rule 11.5.11A requiring fencing within the Remnant Area that is on or within 4m of the boundary with the Council reserve to be at least 50% visually transparent and no greater than 1.5m in height. Those requirements and the associated matters of discretion will also support the integration of subdivision and development in the Remnant Area with the adjoining Council reserve by avoiding high solid fences and achieving an appropriate balance between providing for passive surveillance of the reserve and privacy for residents.

- xiii) The ability to establish additional housing would assist in providing 'economic support and maintenance' to the Descendants in keeping with the purpose of the original settlement. S6(e) RMA requires decision makers to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. The unique history of the Site (including the Remnant Area) is described in the First Decision. The Site is the only available means to provide the Descendants with land that might enable them to live economically productive lives.

Assessment of the efficiency and effectiveness of provisions in achieving the objectives (S32(1)(b)(ii) and S32(2))

Section 32 assessments must determine whether the proposed provisions are the most appropriate way to achieve the proposed objectives.

The purpose of the amending proposal is:

To change the zoning of the Remnant Area from Rural Zone to Large Lot Residential A Zone, and to make consequential amendments to the UGB, and RCL notations; to amend a policy, apply a recession plane standard and a fencing rule to ensure that subdivision and development of the Remnant Area is well-integrated with the adjoining Council reserve.

This evaluation must include the identification of alternatives, and a cost benefit analysis of the economic, social, environmental and cultural effects of the provisions including whether opportunities for economic growth and employment are reduced or increased. The risk of acting or not acting where uncertain information exists must also be considered.

Option 1: Retain the existing Rural Zone		
	Benefits	Costs
Environmental	Maintains an open un-built local landscape.	Retains a seed source for wilding pines. Results in an incoherent urban form through the retention of a small, isolated pocket of Rural zoned land that will ultimately be surrounded on three sides by urban activities.
Economic	Minimal benefits given evidence that production forestry or farming is not economically viable given post-harvest conditions, soil type, climate, topography, and proximity to established residential areas.	Does not support the economic wellbeing of the Descendants.

Cultural	Negligible cultural benefits.	Perpetuates the <i>mamae</i> associated with the Crown's dishonouring of its obligations and the inability of the Descendants to derive economic benefit from the compensatory land.
Social	Enables the retention of a rural outlook from the adjacent suburb to the west of the reserve, and rural views for recreational users of the reserve.	Prevents the provision of additional housing in a location that is otherwise proximate to the Wānaka urban area.
Option 2: Change to the Large Lot Residential A Zone with the Reserve Integration Amendments		
	Benefits	Costs
Environmental	<p>Removes a seed source for wilding pines.</p> <p>Results in a coherent urban form through the removal of a small, isolated pocket of Rural zoned land.</p> <p>Enables the interface with the ONL to the north of the Remnant Area to be appropriately managed.</p> <p>Ensures that subdivision and development on sites within the Remnant Area adjoining the Council reserve will achieve an appropriate interface which integrates well with that reserve.</p>	Results in a change from an open un-built local landscape to one where residential units are visible, set within large garden curtilages.
Economic	Enables the economic wellbeing of the Descendants to be advanced.	Negligible economic costs.
Cultural	Makes a significant contribution towards resolving the <i>mamae</i>	Negligible cultural costs.

	associated with the Crown's dishonouring of its obligations through enabling the Descendants to derive economic benefit from the compensatory land.	
Social	<p>Enables the provision of a modest number of additional houses in a location that is otherwise proximate to the Wānaka urban area.</p> <p>Enables the replacement of outlook for users of the reserve and adjacent suburban areas from a plantation forest to one of low density residential character and amenity, including extensive garden curtilages.</p>	Results in the loss of a rural outlook from the adjacent suburb to the west of the reserve, and rural views for recreational users of the reserve.
Option 3: Change to the Large Lot Residential A Zone without the Reserve Integration Amendments or with an increased building setback as an alternative method of achieving a well-integrated boundary with the Council reserve.		
	Benefits	Costs
Environmental	<p>Removes a seed source for wilding pines.</p> <p>Results in a coherent urban form through the removal of a small, isolated pocket of Rural zoned land.</p> <p>Enables the interface with the ONL to the north of the Remnant Area to be appropriately managed.</p>	<p>Results in a change from an open un-built local landscape to one where residential units are visible, set within large garden curtilages.</p> <p>Would not provide specific policy direction requiring that subdivision and development on the Remnant Area is well-integrated with the Council reserve.</p> <p>Would not provide a rule that requires buildings to be set back from the reserve by a distance that is determine by their height and would therefore not be as effective at</p>

		<p>achieving that policy direction (and the relevant objective).</p> <p>Use of an increased building setback (instead of a recession plane standard) may encourage a 'hard' edge where all buildings were built to that setback, rather than a more varied setback.</p>
Economic	Enables the economic wellbeing of the Descendants to be advanced.	Negligible economic costs.
Cultural	Makes a significant contribution towards resolving the <i>mamae</i> associated with the Crown's dishonouring of its obligations through enabling the Descendants to derive economic benefit from the compensatory land.	Negligible cultural costs.
Social	<p>Enables the provision of a modest number of additional houses in a location that is otherwise proximate to the Wānaka urban area.</p> <p>Enables the replacement of outlook for users of the reserve and adjacent suburban areas from a plantation forest to one of low density residential character and amenity, including extensive garden curtilages.</p>	Results in the loss of a rural outlook from the adjacent suburb to the west of the reserve, and rural views for recreational users of the reserve.
Option 4: Change to the Large Lot Residential B Zone		
Environmental	Removes a seed source for wilding pines.	Results in a change from an open un-built local landscape to one where residential units are visible, set within large sites.

	<p>Results in a coherent urban form through the removal of a small, isolated pocket of Rural zoned land.</p> <p>Enables the interface with the ONL to the north of the Remnant Area to be appropriately managed.</p>	
Economic	<p>Enables the economic wellbeing of the Descendants to be advanced, but to a lesser extent than for Options 2 and 3 because the number of lots that could be realised under this option is comparatively much lower.</p>	<p>Negligible economic costs, but more so than Options 2 and 3 due to likely increased construction costs per lot.</p>
Cultural	<p>Makes a modest contribution towards resolving the <i>mamae</i> associated with the Crown's dishonouring of its obligations through enabling the Descendants to derive economic benefit from the compensatory land.</p>	<p>Negligible cultural costs, but more so than Options 2 and 3 given the lower residential yield and the likely higher construction costs, and the consequential impact of those factors on the ability for the Descendants to derive economic benefit from the compensatory land.</p>
Social	<p>Enables the provision of a limited number of additional houses in a location that is otherwise proximate to the Wānaka urban area.</p> <p>Enables the replacement of outlook for users of the reserve and adjacent suburban areas from a plantation forest to low density residential character and amenity, including associated landscaping.</p>	<p>Results in the loss of a rural outlook from the adjacent suburb to the west of the reserve, and rural views for recreational users of the reserve.</p>
Risk of acting or not acting		

Further evaluations must consider the risk of acting or not acting *if* there are information gaps or uncertainty in the related subject matter.

The amending proposal has been subject to an appropriate level of investigation befitting a rezoning of this nature, and there are no material gaps in the knowledge base that give rise to any need for a risk assessment.

Effectiveness and Efficiency of the provisions in achieving the objectives

Effectiveness: The proposal will enable the effective implementation of the relevant PDP objectives and the purpose of the proposal.

It will be significantly more effective in providing for the wellbeing of the Descendants compared with the status quo Rural Zoning or rezoning to the LLR (B) Zone.

The status quo Rural Zone is a small, isolated pocket that does not reflect the outcomes or purpose anticipated by the PDP for the Rural Zone. As such, the status quo zoning of the Remnant Area is not effective at delivering PDP Rural Zone outcomes and undermines PDP effectiveness by applying a zoning to the Site that does not reflect the wider purpose, outcomes, or context anticipated for the Rural Zone.

The LLR (B) Zone has a minimum density of 4000m² per site (net area) and, as such, would be less effective in providing for the wellbeing of the Descendants than the LLR (A) Zone and delivering additional housing supply.

The Reserve Integration Amendments will ensure that subdivision and development in the Remnant Area is well-integrated and complements existing planting and development enabled on the adjoining Council reserve, consistent with the existing policy direction in relation to adjoining land to the south and east of the Site. The use of a recession plane standard to support that outcome is considered to be more effective than a building setback, as it would encourage more variation in the setback of buildings from that boundary and ensure higher buildings that may otherwise dominate the reserve to be set back further while enabling lower buildings to be positioned closer to the boundary.

Efficiency: The proposal is efficient in that the LLR(A) Zone provisions and outcomes are well known and readily implemented and the site-specific rules that are proposed to be applied to the Remnant Area already exist elsewhere in the PDP and are therefore also already well understood. It utilises an existing PDP zone, with targeted provisions introduced via the First Decision also applying to the Remnant Area. This results in no consequential changes to the planning framework for any LLR(A) zoned land beyond the Remnant Area or changes to definitions that would have wider implications for PDP administration.

Overall Evaluation

Option 2 is the more appropriate method to achieve the PDP's objectives and the purpose of the proposal, given the existing Rural Zone provides negligible opportunity for the ongoing well-being of the Descendents whereas the proposal enables the redress site to be more fully utilised in delivering on its redress purpose.

Option 2 better gives effect to Part 2 RMA, including in particular S6(e) and S8. It is consistent with the outcomes sought through S6(b) and S7(b), (c), and (f). The conclusions reached by the Court in its First Decision on the degree to which the rezoning of the balance of the Site gives effect to Part 2 are considered to be equally applicable to the change in zoning of the Remnant Area from Rural to LLR(A) Zone.²⁴

Conclusion

Pursuant to s32 of the RMA, the proposed objective of the proposal to rezone the Remnant Area from Rural Zone to LLR(A) Zone has been evaluated against the requirements of S32AA and is considered to be the most appropriate way to achieve the purpose of the RMA. The proposed provisions have been compared against reasonably practicable options. The proposed provisions are considered to represent the most appropriate means of achieving the proposed objectives, as well as the objectives in the PDP.

Who should be consulted (S293(1)(b))?

Consistent with prior Court directions relating to section 293 processes for the PDP, it is considered appropriate for the public notification of the proposal by way of written notice in the local newspaper and on Council's website.

²⁴ *Beresford*, above n1, at [68], [191](c).

Hāwea / Wānaka Sticky Forest Remnant Area - Section 293 Proposal Proposed changes to the PDP

Proposed changes shown in underline

Large Lot Residential

11.5 Rules – Standards for Activities

11.5.11	<p>Recession plane</p> <p>The following applies to all sites with a net site area less than 4000m².</p> <p>11.5.11.1 Northern boundary: 2.5m and 55 degrees.</p> <p>11.5.11.2 Western and eastern boundaries: 2.5m and 45 degrees.</p> <p>11.5.11.3 Southern boundary: 2.5m and 35 degrees.</p> <p>Exemptions:</p> <ol style="list-style-type: none"> gable end roofs may penetrate the building recession plane by no more than one third of the gable height. recession planes do not apply to site boundaries fronting a road or a reserve <u>except in the Large Lot Residential Area A Zone within the Hāwea / Wānaka Sticky Forest Structure Plan area where Rule 11.5.11.2 shall apply.</u> 	NC
11.5.11A	<p><u>Fencing</u></p> <p><u>For sites within the Large Lot Residential Area A Zone at Hāwea / Wānaka Sticky Forest Structure Plan area on or within 4m of the boundary with the Informal Recreation Zone:</u></p> <p>11.5.11A.1 Fences shall be at least 50% <u>visually permeable.</u></p> <p>11.5.11A.2 The maximum height of any <u>fence shall be 1.2m.</u></p> <p><u>For the avoidance of doubt, Rule 38.10.7 does not apply to these sites.</u></p>	<p><u>RD</u></p> <p><u>Discretion is restricted to:</u></p> <ol style="list-style-type: none"> <u>Visual amenity values;</u> <u>Opportunities for passive surveillance;</u> <u>Consistency with any established fencing; and</u> <u>Functional constraints, including the use of land, security, and wind shelter.</u>

Subdivision and Development

27.3 Location-specific objectives and policies

Hāwea / Wānaka Sticky Forest Structure Plan area (Schedule 27.13.23)

27.3.28 Objective - Subdivision and development of the Hāwea / Wānaka Sticky Forest residential zones in a manner that provides for a range of living opportunities and is well integrated with the adjacent zones and surrounding landscape while protecting the values of the Dublin Bay Outstanding Natural Landscape.

Policies

27.3.28.2 Ensure that subdivision, development, and planting within the Lower Density Suburban and Large Lot Residential A zoned land integrates with and complements the existing planting/ landscaping and development provided for on land to the south, west and east of the Hāwea / Wānaka Sticky Forest Structure Plan area (Schedule 27.13.23)

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Planning maps

Rezone the hatched area shown in the figure below from Rural Zone to Large Lot Residential A Zone.

Remove the Rural Character Landscape classification from the hatched area shown in the figure below.

Relocate the Urban Growth Boundary so it follows the Outstanding Natural Landscape boundary where adjacent to the Remnant Area, rather than wrapping around the edge of the hatched area through the Site.



Attachment 2

Scale and significance assessment

The matrix below has been used to inform the assessment of the proposal's scale and significance.

Criteria	Scale/Significance			Comment
	Low	Medium	High	
Addresses a resource management issue		X		<ul style="list-style-type: none"> The proposal relates to Council's functions under s31(1)(a), s31(1)(aa) and s31(2). Implements higher order direction from National and Regional Planning instruments. Enables matters of national importance under s6, s7, and s8 of the RMA to be provided for through more effectively delivering on the purpose of the proposal and the associated enablement of the wellbeing of the Descendants in accordance with the purpose of the Site and compensation. Results in a better urban form outcome by replacing a small Rural zoned enclave with LLR(A) Zone in a location that is surrounded by urban zoning and is proximate to the centre of Wānaka.
Addresses a matter that relates to human health or the protection of life and property	X			<ul style="list-style-type: none"> The proposal does not directly relate to a human health matter or the protection of life or property. The proposal facilitates the well-being of the Descendants more effectively than the current Rural Zone.

Criteria	Scale/Significance			Comment
	Low	Medium	High	
				<ul style="list-style-type: none"> Application of relevant national, regional and district rules (for example, relating to geotechnical considerations and the design of individual building platforms and services) will be able to be undertaken through the PDP subdivision rule framework.
Degree of shift from the status quo		X		<ul style="list-style-type: none"> The provisions of the LLR(A) Zone represent a material change from the Rural Zone outcomes. This is tempered to a degree as the Remnant Area is a small pocket of rural land that is now surrounded by urban development and therefore constitutes an incoherent urban form.
Who and how many will be affected/ geographical scale of effect/s	X			<ul style="list-style-type: none"> The geographical scale of the proposal is site-specific. The corresponding scale of effect will be relatively minor, and limited to the Site and local vicinity.
Degree of impact on or interest from iwi/ Māori			X	<ul style="list-style-type: none"> The Site has significant importance to the Descendents as redress for historic failures by the Crown to provide land at 'the Neck'. The proposal enables the redress Site to more effectively provide for the social and economic wellbeing of the Descendents compared with the existing Rural Zone which provides negligible ongoing economic opportunities.

Criteria	Scale/Significance			Comment
	Low	Medium	High	
Degree of likely community interest		X		<ul style="list-style-type: none"> The community was consulted by the Council in the formative stages of the PDP, with further opportunities for participation provided through the standard submission and further submission processes set out in Schedule 1 of the RMA. Considerable time has however passed since this consultation was undertaken. It is therefore appropriate that the community receives the opportunity to provide comment on the proposal.
Likelihood of resulting in major financial impact on households/community due to compliance or administrative costs	X			<ul style="list-style-type: none"> The proposal is not anticipated to result in any increased compliance costs beyond those incurred by the appellants and subsequent purchasers to invest in the Site's subdivision, development and use for a new residential neighbourhood.
Implications for servicing and transport networks	X			<ul style="list-style-type: none"> With any necessary upgrades and measures being applied at subdivision stage through the applicable regional and district rules, the proposal can be accommodated within the existing transport network (with access through Northlake), and will neither constrain nor compromise existing or planned infrastructure.
Type of effect/s	X			<ul style="list-style-type: none"> The proposal will change the character and amenity values of the Site and local environment, albeit this will be gradual and, in many respects, will be positive. Some individuals may prefer the existing rural character of the Site, but as noted under the NPS-UD, this does

Criteria	Scale/Significance			Comment
	Low	Medium	High	
				<p>not necessarily amount to an adverse effect of the proposal and needs to be balanced against other Part 2 outcomes including cultural redress.</p> <ul style="list-style-type: none"> The proposal is anticipated to have positive effects on the supply of housing and community activities, with appropriate controls in place under the PDP, Regional Plan and national regulations to ensure potential adverse effects are effectively managed.
Likelihood of significantly reducing development opportunities or land use options	X			<ul style="list-style-type: none"> The proposal will have the opposite effect – it will significantly increase development opportunities and land use options.
Degree of risk and uncertainty	X			<ul style="list-style-type: none"> There is a high level of information to inform decision-making on the proposal, and a correspondingly low risk associated with the proposed provisions.
OVERALL ASSESSMENT		X		<ul style="list-style-type: none"> For the above reasons, the proposal is assessed as having a medium overall scale and significance, noting the high cultural values associated with effective redress, balanced against the relatively small size of the Site and the limited yield in terms of the number of additional residential units.