RESOURCE CONSENT APPLICATION TO CONSTRUCT A RESIDENTIAL FLAT ASSOCIATED CHANGE OF CONDITIONS OF EXISTING LAND COVENANT

M & V Camilleri

9 Walnut Lane, Wakatipu

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1.0 THE APPLICANT AND PROPERTY DETAILS

Site Address:	9 Walnut Lane, Wakatipu Basin
Applicants Name:	Mark & Vicky Camilleri
Address for Service	Mark & Vicky Camilleri C/- Williams & Co. tim@williamsandco.nz

Legal Descriptions:	Lot 1 & 3 DP307882
District Plan Zoning:	Rural
Brief Description of Proposal:	Land use consent is sought for the establishment of a residential flat outside of the approved building platform on the subject site. Application under s127(3)(a) of the RMA to change conditions of Land Covenant 7689579.1 to allow for the accessory building to be located outside of the residential building platform.
Summary of Reasons for Consent:	Non-Complying Activity

The following is an assessment of environmental effects that has been prepared in accordance with Schedule 4 of the Resource Management Act 1991. The assessment of effects corresponds with the scale and significance of the effects that the proposed activity may have on the environment.

List of Information Attached:

Appendix [A]	Record of Title
Appendix [B]	Title Instruments – CN and Land Covenant
Appendix [C]	Plan Set (Kerr Ritchie)
Appendix [D}	Render – Residential Flat (Kerr Ritchie)

2.0 SITE DESCRIPTION AND RECEIVING ENVIRONMENT

The subject site is located at 9 Walnut Lane, Wakatipu, with the site being bound by the Ladies Mile highway to the north and Walnut Lane to the west. The site is 1.6998 ha in area and is accessed from Walnut Lane via a ROW which is formed over the subject site and continues to the south.

The subject site currently contains an existing residential dwelling and a detached accessory (workshop) building, with the existing RBP drawn around the location of the dwelling, and the workshop sitting outside of the platform.



Figure 1: 9 Walnut Lane: QLDC GIS

The site is primarily open space within the land to the north and north-west of the existing dwelling. To the north of the site the Frankton-Ladies Mile Highway dips down towards Lake Hayes and the site is elevated from the highway. The southern boundary of the site is characterised by existing boundary and a thick belt of conifer planting. The access lane to the west is also bound by planting. The existing dwelling on the site is mono-pitch and oriented to the north-east with the vehicle access and arrival area to the south of the building.

The RBP on the subject site was established in 2007 by way of consent order (RM040985) with associated conditions registered as a Land Covenant, and RM110532 established the dwelling on the subject site within the RBP, with variation of the conditions. RM160884 provided approval for the detached accessory building on the subject site, to be located outside of the RBP, and associated variation of Land Covenant conditions to allow this.

The receiving environment within which the site sits has changed significantly since the time of the RBP establishment on the subject site, as has the planning framework of the surrounding land. Specifically, the PDP has introduced a number of different zones in the vicinity of the site, the zones range from the Rural zoning of the site to those anticipating high density development and include Wakatipu Basin Rural Amenity, Rural Residential, Wakatipu Basin Lifestyle Precinct, Low Density Residential, Informal Recreation and the Te Putahi Ladies Mile zoning. The subject site in the zoning context is illustrated below in **Figure 2**.



Figure 2: Zoning Context

It is notable in terms of Figure 2 that the receiving environment of the subject site is anticipated to undertake significant change, in particular along Ladies Mile to the west of the subject site, where an urban environment will be experienced for users of the highway, whilst land to the south and east of the site will also change in character associated with lifestyle living development within the Precinct and rural residential zoning which borders Hayes Creek and overlooks Lake Hayes.

3.0 RESOURCE MANAGEMENT BACKGROUND

As described above **RM040985** via Consent Order established the RBP on the subject site and RM110532 provided consent for the establishment of a dwelling within the area of the RBP along with variation to Land Covenant conditions.

Land Covenant 7689579.1 (Appendix B) contains the following conditions:

- No buildings to be located outside of the residential building platform;
- Building works to only occur once landscaping established;
- The implementation of the Landscape Structure Plan;
- No additional landscaping along the south-western boundary;
- Submission of landscape plan at time a dwelling is sought;
- Restricted building height within the residential building platform;
- External wall claddings to be timber, plaster or schist stone and or coloursteel in natural range of mid to dark browns, subdied greens or greys;
- Roof cladding to be natural products or coloursteel in Karaka Green, Lignite, Iron Sand or Greyfriars;
- The curtilage area to remain free of buildings, with the exception of water tanks, garden furniture and BBQ areas and other such uses that are associated with a residential dwelling, contain no vegetation, tree which exceed 4m in height;

- Remainder of the land to be free of buildings, no further subdivision, and post and wire fencing

RM110532 granted variations to the above conditions with respect to landscaping in association with the establishment of the dwelling on the subject site.

RM160884 granted consent for the establishment of a detached accessory building on the subject site outside of the RBP and associated variation to Land Covenant conditions with respect to the accessory building being located outside of the RBP and within the curtilage area (Conditions (a) and (i)).

More recently RM240697 is an approval under s348 of the RMA for rearrangement of the access lane, specifically granting rights for a small area of land for access over land owned by the applicants.

4.0 DESCRIPTION OF THE PROPOSED ACTIVITY

Consent is sought to establish a detached accessory building on the subject site, specifically a *Residential Flat* as defined in the PDP is proposed to be established to the north-west of the existing dwelling.

Plans illustrating the location, design, height and materials of the proposed Residential Flat have been prepared by *Kerr Ritchie* and are contained in **Appendix [C]**. Further, a render has been prepared to illustrate the proposed building in context of the site and dwelling and is contained within **Appendix [D].**

The residential flat will be 150m² in area and position in proximity to the existing dwelling to the north-west. The proposed building will be single level and mono-pitch to match the existing dwelling, with a central element of the roof pitch rising to a maximum of 4.7m above existing ground level. Generally the built form is low in height and will be further lowered into the site to sit within the slope and reduce effective height from existing ground levels. The height of the building has been designed to comply with the height levels set for the original dwelling on the site under the Land Covenant.

The proposed Residential Flat will comprise three bedrooms and a central living area the building including roof will be clad in corrugated cladding to match the existing dwelling on the site (Grey Friars - LRV 8%), and timber weatherboards. Given that the existing dwelling on the site occupies the entirety of the RBP the Residential Flat will necessarily be located outside of the RBP but will be clustered with the location of the dwelling and its associated domestic activity footprint in the context of the site, as illustrated on the site plan and render. A new drive is intended to be formed to the Residential Flat forking off from the existing driveway to the dwelling on the site.

The total area of building on the site as a result of the residential flat will be approximately 700m^2 which will equate to a site coverage of 4.4%

Services associated with the Residential Flat will be established in the same way as the existing residential dwelling on the site, noting that the site is connected to Council reticulation for water supply, with on-site treatment of sewerage and stormwater. It is anticipated that conditions of consent can appropriately address servicing to ensure that Council standards are met.

Given the scale of the proposal minimal earthworks will be required (less than 1000m³) and on review of the relevant standards for earthworks within the Rural zone including volume of cut to waste, cut heights (less than 2m) and cleanfill, no standards are identified as being breached.

5.0 DESCRIPTION OF PERMITTED ACTIVITIES

The consent authority may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect. In this case the permitted baseline has relevance with respect to the level of earthworks that may be undertaken over the site as an activity for which the plan permits resulting effects. In addition, it is noted that the effects associated with traffic movement, number of persons on the site and density in general are effects permitted by the plan where a Residential Flat of 150m² is permitted by the plan.

6.0 STATUTORY CONSIDERATIONS

6.1 Queenstown Lakes District Plan

The subject site is zoned Rural within the Proposed District Plan (PDP) and consent is sought with regards to the following:

- A **discretionary** activity consent pursuant to Rule 21.4.11 as the proposed accessory building outside of the approved RBP on the site, and associated site works are not provided by any other rule.

6.2 Resource Management Act 1991

- A **discretionary consent** under the RMA (section 127(3)(a)) in order to change or cancel conditions.

  Condition 6(a) of RM040985 as executed by Land Covenant 7689579.1 is sought to be changed as follows in order to provide for the Residential Flat as proposed:

  a) No Building shall be erected on the Land other than within the Designated Residential Building Platform, with the exception of the accessory building**s** approved by RM160884 **and RM25XXXX**. Tennis Courts shall be prohibited in the Designated Residential Building Platform.

  j) The remainder of the Land not occupied by the Designated Residential Building Platform, Curtilage Area and planting shown on the Landscape Structure Plan shall be free from any Buildings (including tennis courts) and is to be maintained as an open grassed area, **with the exception of that approved under RM25XXXX**.

Overall, the proposed activity is identified as a **discretionary** activity.

6.2 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

A comprehensive review of District and Regional Council records shows no records suggesting an activity on the HAIL has taken place on the piece of land which is subject to this application.

7.0 PUBLIC NOTIFICATION ASSESSMENT (SECTIONS 95A, 95C TO 95D)

7.1 Assessment of Steps 1 to 4 (Section 95A)

Section 95A specifies the steps the Council is to follow to determine whether an application is to be publicly notified. These are addressed in statutory order below.

7.1.1 Step 1: Mandatory public notification is required in certain circumstances

Step 1 requires public notification where this is requested by the applicant; or the application involves the exchange of recreation reserved land under s15A of the Reserves Act 1977.

The above does not apply to the proposal

7.1.2 Step 2: If not required by step 1, public notification precluded in certain circumstances

Step 2 describes that public notification is precluded where all applicable rules and NES preclude public notification; or where the application is for a controlled activity or a prescribed activity under section 360H(1)(a)(i).

The proposal is a discretionary activity and therefore public notification is not precluded

7.1.3 Step 3: If not required by step 2, public notification precluded in certain circumstances

Step 3 describes that where public notification is not precluded by step 2, it is required if the applicable rules or NES require public notification, or if the activity is likely to have adverse effects on the environment that are more than minor.

As noted under step 2 above, public notification is not precluded, and an assessment in accordance with s95A is required which is set out in section 8.0 below. As described below, any adverse effects are anticipated to be less than minor.

7.1.4 Step 4: Public notification in special circumstances

If an application is not required to be publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified.

The proposal is for a Residential Flat in accordance with the anticipated density of development and use of the site. Having regard to the above it is not considered that there is anything exceptional or outside the common run of applications that may be made of this nature (and can be assessed on their merits), which would give rise to special circumstances.

7.2 Section 95D Statutory Matters

In determining whether to publicly notify an application, section 95D specifies a council must decide whether an activity will have, or is likely to have, adverse effects on the environment that are more than minor.

In determining whether adverse effects are more than minor:

- Adverse effects on persons who own or occupy the land within which the activity will occur, or any land adjacent to that land, must be disregarded.

  The land to be excluded from the assessment is 11 Walnut Lane & 38-46 Quarry Place

- Adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded.

  The permitted baseline is outlined in section 3.0 above

- Trade competition must be disregarded.

  This is not considered to be a relevant matter in this case

- The adverse effects on those persons who have provided their written approval must be disregarded.

  N/A

8.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS

The matters that must be addressed pursuant to Clauses 6 and 7 of the Schedule 4 of the Resource Management Act 1991 are detailed below.

8.1 If it is likely that the activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity:

The proposed activity will not result in any significant adverse effects on the environment. Any effects there are, will be adequately remedied and mitigated. Alternative locations are therefore not considered necessary.

8.2 An assessment of the actual or potential effect on the environment of the proposed activity.

8.2.1 Assessment

The proposed building (Residential Flat) is an accessory use of the site anticipated by the plan given its size (150m²) and the building proposed complies with all relevant material and colour requirements within the plan and title instruments. The building is also designed to be recessive in nature in terms of its low height, in keeping with the nature of the existing dwelling form on the site. In these ways the design ensures there are no adverse effects arising from the bulk and external appearance of the building in the landscape.

The location of the Residential Flat requires consent given that it is outside of the RBP on the site. The RBP is fully contained by the built form of the residential dwelling. In terms of adverse effects it is considered that the location of the Residential Flat, in proximity to the dwelling along with its form and materials/colour which take direct reference from the existing dwelling, all assist to ensure that the Residential Flat appears as a building associated with this existing residential node of the site. This approach, which is well illustrated in *Figure 3* below, avoids any potential impact on the landscape

character.



Figure 3: Render of proposed Residential Flat + Existing Dwelling (Kerr Ritchie)

The Residential Flat is located at a similar level, position on the site and orientation to the existing dwelling and will utilise the same access driveway, therefore ensuring it is appreciated as an element on the site associated with the dwelling / small collection of buildings. As noted above the Residential Flat is of an anticipated size for an accessory flat, adopts a low height, and its material finish ensures that it is in keeping with the scale and form of the building on the site.

In terms of effects on the wider environment, the existing built form is not generally visible from outside of the site given viewing positions and existing landscaping, much of which has matured in the 15+ years since the establishment of the RBP on the site. The Residential Flat will be similarly screened from outside the site such that no adverse effects will occur in terms of visibility or dominance. Furthermore, it is also noted that the context within which this site is appreciated has changed significantly since the original consideration of the site, as discussed in *Section 2.0* above. In this respect, the introduction of a Residential Flat in association with the existing dwelling as proposed will appear as an appropriate element in a receiving environment dominated by residential development of a variety of scales, whilst still retaining the dominant open space character of the site.

Access;

No adverse effects are anticipated to arise in terms of access including the use of the existing ROW from Walnut Lane as the density of development on the site does not increase beyond that permitted by the plan.

Infrastructure;

It is intended that the Residential Flat utilise on-site systems for stormwater and wastewater and the existing connection to reticulated water supply. It is anticipated that relevant conditions of consent will be able to be imposed to ensure that adverse effects will be avoided in respect of services to the Residential Flat.

8.2.2 Conclusion

Overall any adverse effects on the environment will be less than minor.

8.3 If the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment which are likely to arise from such use

N/A

8.4 I the activity includes the discharge of any contaminant, a description of:

1. **The nature of the discharge and the sensitivity of the proposed receiving environment to adverse effects; and**
2. **Any possible alternative methods of discharge, including discharge into any other receiving environment.**

N/A

8.5 A description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce actual and potential effects:

In addition to the resource consent conditions anticipated, no other mitigation measures are necessary in addition to those incorporated into this proposal.

8.6 Identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted:

No persons are considered to be affected, the residential flat is of an anticipated size and nature for an accessory building associated with the residential dwelling on the site, and as such any effects in terms of vehicle movements or persons on the site are anticipated by the plan. The proposed location of the Residential Flat is distanced from any neighboring property boundaries and screened by existing vegetation and/or the existing residential dwelling. In this respect the proposal will be positioned away from neighbours, distanced from required setbacks and well screened. While its presence itself is an element permitted by the plan, its location which requires consent does not impact any neighbouring property, rather this position is positive in avoiding adverse effects on any person.

8.7 If the scale or significance of the activities effects are such that monitoring is required, a description of how and by whom the effects will be monitored if the activity is approved.

No monitoring is required other than standard conditions of consent.

8.8 If the activity will, or is likely to, have adverse effects that are more than minor on the exercise of a protected customary right, a description of possible alternative locations or methods for the exercise of the activity (unless written approval for the activity is given by the protected customary rights group).

The proposed activity will have no effect on any customary rights.

9.0 SECTION 95 NOTIFICATION

9.1 Public Notification Conclusion

The applicant has not requested public notification of the application (s95A(2)(b)), no rule or national environmental standard requires public notification of the application (s95A(8)(a)), public notification is not required as it is found that the activity will result in less than minor adverse effects (s95A(8)(b) and there are no special circumstances that exist in relation to the application that would require public notification (s95A(9)(b)).

Therefore as per section 95A(9)(b) the application should not be publicly notified. Determination of the application under s95B is then to be made.

9.1 Limited Notification Conclusion

Section 95B(1) requires a decision whether there are any affected persons (under s95E) in relation to the activity. The Council must follow the steps set out in s95B as follows:

9.1.1 Step 1: Certain affected protected customary rights groups must be notified

Step 1 requires limited notification where there are any affected protected customary rights groups or customary marine title groups, or affected persons under a statutory acknowledgement affecting the land.

The above does not apply to this proposal

9.1.2 Step 2: If not required by step 1, limited notification precluded in certain circumstances

Step 2 describes that limited notification is precluded where all applicable rules and NES preclude limited notification; or the application is for a controlled activity (other than the subdivision of land) or a prescribed activity under section 360H(1)(a)(ii).

The above does not apply to this proposal therefore limited notification is not precluded

9.1.3 Step 3: If not precluded by step 2, certain other affected persons must be notified

Step 3 requires that where limited notification is not precluded under step 2 above, a determination must be made as to whether any of the following persons are affected persons:
In the case of a boundary activity, an owner of an allotment with an infringed boundary;
In the case of a prescribed activity under s360H(1)(b), a prescribed person; and
In the case of any other activity, a person affected in accordance with s95E.

The application is not for a boundary or prescribed activity, and therefore assessment in accordance with s95E is required as set out below:

The proposal is to establish and allow for the position of a Residential Flat on the site. With regard to the assessment undertaken in Section 8.6 above, no persons are considered adversely affected.

9.1.4 Step 4: Further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined as eligible for limited notification.

Having regard to the assessment in section 7.1.4 above, it is considered that special circumstances do not apply.

10.0 SECTION 104 (1)(b) ASSESSMENT

Clause 2(1)(g) of Schedule 4 of the Resource Management Act 1991 requires an assessment against any relevant planning documents that are referred to in Section 104(1)(b) of this legislation.

In this case the relevant document is the Proposed District Plan. The relevant objectives and policies are considered to be as follows:

Chapter 6 – Landscapes and Rural Character

The proposal accords with policy 6.3.2.1 as the density of development is anticipated within the zone, and is not representative of urban development. In respect of Objective 6.3.4 it is noted that the proposal is considered consistent with the plan provisions, and the assessment of the proposal has taken account all of the subdivision and development that is existing and consented on the land surrounding this site, with no adverse cumulative effects considered to result from the Residential Flat. The proposal will not constitute sprawl along roads as the flat, as with the existing dwelling, will continue to be well set back from the roads and does not clearly create a line of development along a road. The small change represented by the Residential Flat is not considered to degrade landscape character or important views in this instance. Finally, the proposal will utilise the shared access and infrastructure on the site as per the policy framework and will be located within that part of the site that will minimize any impact on landform or rural character.

Chapter 21 – Rural

With regard to Objective 21.2.1 the subject site is an isolated 'pocket' of land zoned Rural whilst being surrounded by a variety of rural living and urban zones. The site is not within an ONF/ONL landscape classification and its rural values can be said to be limited given its position and the abovementioned zoned receiving environment. In this respect the proposal will maintain the existing landscape character and amenity values of the site as the new proposed building will be in keeping with that existing, and will not be highly visible, dominant or result in adverse effects in this location.

This can be illustrated by compliance with policies including setbacks as set out within Policy 21.2.1.3 in order to avoid effects on landscape character, visual amenity, and outlook from neighbouring properties.

In respect to Assessment Matters, the proposal avoids adverse visual effects, and similarly does not (nor does any mitigation method) detract from private views. The position and topography in clustering the Residential Flat within the area of the existing dwelling assists in this respect. The

remainder of the site will be retained as open space, this is significant given that the total site coverage will be in the order of 4.4% as a result of the proposal. Further, given the zoning context the site is not within a visible expanse of open landscape, rather it is surrounded by rural and urban living zones. The proposal in this respect given it is an accessory residential flat to an existing building on a 1.6ha site will not contribute to any adverse effect cumulatively.

The proposal including access to the residential flat responds directly to the existing visual amenity values of the site in particular retaining a low height as accords with the controls for height of the existing dwelling and modelling the appearance and materials of the Residential Flat from the existing built form. This assists to mean that the Residential Flat reads as a component of this existing domestication on the site, including use of the common access.

Overall in consideration of the relevant policy framework of the District Plan, including strategic provisions, Chapter 21 (Rural) provisions and associated assessment mattes, the proposal is considered to be aligned with and represents development which is appropriate in this framework.

Conclusions

Overall the proposal aligns with and is enabled by the relevant provisions of the PDP.

11 AN ASSESSMENT OF THE ACTIVITY AGAINST MATTERS IN PART 2

The proposal is consistent with Part 2 of the Act, being the sustainable management of natural and physical resources, whilst also protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

12 CONCLUSION

Consent is sought to construct a residential flat on the subject site and change existing conditions with respect to the Land Covenant to provide for this Residential Flat in the proposed location outside of the RBP.

The activity is assessed as a discretionary activity.

The actual and potential effects on the environment have been outlined in Section 8 of this report where it is concluded that the proposed activity is not likely to have any adverse effects on the environment that are more than minor. In addition, no persons are considered to be adversely affected, and there are no special circumstances.

The proposed Residential Flat is consistent with the outcomes and provisions of the Proposed District Plan with respect to the Rural zone and in regard to strategic provisions for Landscapes and Rural Character. The proposal is considered to be sustainable development that meets the purpose and principles of the Resource Management Act 1991.

Overall, and in accordance with the assessment contained in this report, it is requested that the proposed Residential Flat and associated change to the conditions of the Land Covenant is granted as proposed.