remarkable planning

Construction of a residential unit and flat with associated earthworks

5 I Clearview Street, Wanaka

October 2025

1 Key Information

Address:	51 Clearview Street, Wanaka
Legal Description:	Lot 58 Deposited Plan 560353
Site Area:	400m^2
Property Owner:	Gabriel Rosenblat and Elisa Porta
Zoning:	Medium Density Residential Zone

2 Introduction

Resource consent is sought to construct a residential unit and flat and to undertake associated earthworks at 51 Clearview Street, Wanaka. Consent is sought for a breach of the recession plane from the eastern boundary and for the construction of retaining walls adjacent to the boundaries.

3 Resource Management Background

The subject site was created via subdivision consent RM190784 (as varied by RM200907) and title was issued in August 2021.

4 Site and Receiving Environment Description

The subject site is 51 Clearview Street, Wanaka which is shown in Figure 1 below.



Figure 1: Aerial view of the location of the subject site and surrounds

The site is vacant and is grassed with no other apparent vegetation. The site is accessed via Clearview Street to the south and there is a small batter slope in proximity to the road boundary of the site and the remainder of the site is approximately flat with a small rise from front to rear.



Figure 2: View of the subject site from across Clearview Street

The surrounding area is characterised by single and two storey detached dwellings

The site is legally described as Lot 58 Deposited Plan 560353. A copy of the Record of Title is attached as **Appendix A**. There are two covenants and one consent notice registered on the Record of Title. A copy of these are attached as **Appendix B** and they are summarised below.

<u>Land covenants 11987816.8 and 12109777.11</u>

These covenants are both the same and are a private covenants applying design, height, subdivision, vegetation and fencing controls as well as a non-objection covenants.

Consent notice 12109777.10

Condition (b) is of relevance to the subject site and requires that at the time that a residential unit is constructed on the lot, access is to be via the vehicle crossing provided at the time of subdivision unless approved otherwise. This is being complied with.

5 Zoning

The subject site is zoned Medium Density Residential under the Proposed District Plan (PDP).

6 Proposal

Resource consent is sought to construct a residential unit and flat along with associated earthworks on the site. A copy of the proposed plans is attached as **Appendix C**.

The residential unit is two storey and is to front Clearview Street. On the ground floor level there is to be an attached single garage, two bedrooms and a media room. On the first floor level is an open plan living, dining and kitchen area and a third bedroom as well as a deck.

The proposed residential flat is a standalone single storey building that is to be located to the rear of the residential unit and is to contain two bedrooms, a living/dining area and kitchen. The area of the residential flat is 55.32m².

Both the residential unit and flat are to have mono-pitched roofs and the external cladding is to be a combination of vertical cedar shiplap cladding and vertical metal cladding. The same metal cladding is also to be utilised as roofing material. The garage door is to be coloursteel.

The eastern elevation of the proposed residential unit will protrude through the recession plane from the eastern boundary. The breach ranges from 0.287m at the northern end of the elevation to 0.697m at the southern end and relates to the eave and top of the wall along the elevation.

Earthworks for the construction of the proposed residential unit and flat and their associated outdoor living areas on the site are required. Approximately 3.8m³ of fill is proposed to a maximum height of 0.465m. Approximately 158.60m³ of cut is proposed to a maximum depth of 1.1m.

Concrete block retaining walls are proposed adjacent to the site boundaries to support the existing levels along the boundaries. These are detailed below.

Boundary that the retaining wall is adjacent to	Maximum height	Setback from boundary	Supporting cut or fill	Requires resource consent?
North	0.8m	0.5m	Cut	Yes
East (NE corner)	0.8m	0.5m	Cut	Yes
East	1m	0.5m	Cut	Yes
South (road boundary)	0.5m	0.5m	Fill	No
West	1m	0.5m	Cut	Yes
Retaining wall running east-west through centre of site	1.1m	1.7m	Both	No

No excavation over the boundary will be required for the construction of the retaining walls given the setbacks from the boundaries provided. All work will be able to be contained within the subject site and all cuts will be monitored.

7 Consents Sought

7.1 Operative District Plan

No consents are required under the ODP as the applicable PDP standards being treated as operative.

7.2 Proposed District Plan

Taking into account the land use consents that have already been granted via RM210606, consent is sought for the following:

- A **restricted discretionary** activity consent pursuant to Rule 8.5.6 where the recession plane from the eastern boundary is being exceeded. Discretion is restricted to the following:

  a. any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants;
  b. effects on any significant public views (based on an assessment of public views undertaken at the time of the proposal, in addition to any specified significant public views identified within the District Plan);
  c. external appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties;
  d. Not applicable
  e. Not applicable

- A **restricted discretionary** activity consent pursuant to Rule 25.5.18.2(a) in regard to the setback of retaining walls from boundaries. The proposed retaining walls along all four of the site boundaries require consent under this standard. Council's discretion is restricted to the following:

  a. Soil erosion, generation and run-off of sediment;
  b. Landscape and visual amenity;
  c. Effects on infrastructure, adjacent sites and public roads;
  d. Land stability;
  e. Effects on water bodies, ecosystem services and biodiversity;
  f. Cultural, heritage and archaeological sites;
  g. Nuisance effects;
  h. Natural hazards; and
  i. Functional aspects and positive effects.

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

There are no records of any HAIL activities having been undertaken on the subject site in the ORC or QLDC online records. The NES is therefore not considered to be apply.

7.4 Overall Activity Status

The overall activity status for the proposed development is **restricted discretionary**.

8 Permitted Activities and Existing Environment

Section 104(2) of the Act states that, in considering the effects on the environment of allowing an activity, a consent authority may disregard an adverse effect if a national environmental standard or the plan permits an activity with that effect.

The construction of a residential unit and residential flat is a permitted activity on the site, subject to compliance with the following standards:

- Maximum building height of 7m
- Maximum building coverage of 45%
- A minimum landscape permeable area of 25% of the site area
- Building being located within the recession planes from the internal boundaries
- A minimum road setback of 3m except for garages being setback 4.5m
- Minimum internal setbacks of 1.5m
- Maximum length of any building façade above ground floor level of 24m
- Provision of waste and recycling space for bins

The proposed residential unit and flat complies with all of the above standards with the exception of the recession plane from the eastern boundary.

Under the PDP, the following permitted earthworks standards are of relevance to the proposal:

- The maximum permitted volume is 300m³
- The maximum permitted cut height is 2.4m
- The maximum permitted fill height is 2m
- Cut and fill supported by retaining walls of greater than 0.5m in height must be setback a distance at least equal to the height of the retaining wall. Retaining walls of up to 0.5m can be located on the boundary.

The proposed earthworks comply with all of the above with the exception of the setback of the retaining walls from the boundary.

Accordingly, the applicable permitted baseline for the site under the District Plan is the construction of a residential unit and flat along with associated earthworks.

9 Statutory Considerations

Section 104(1) of the Act requires the Council to have regard to the following matters, subject to Part 2 of the Act when considering an application for resource consent. It states:

(a) any actual and potential effects on the environment of allowing the activity; and

(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and

(b) any relevant provisions of—

- *(i) a national environmental standard:*
- *(ii) other regulations:*
- *(iii) a national policy statement:*
- *(iv) a New Zealand coastal policy statement:*
- *(v) a regional policy statement or proposed regional policy statement:*
- *(vi) a plan or proposed plan; and*

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

10 Assessment of Effects on the Environment and People

Recession plane

The below assessment responds to the matters of discretion in Rule 8.5.6 of the PDP.

Any sunlight, shading or privacy effects created by the proposal on adjacent sites and/or their occupants

Due to the orientation of the sloping roof, the protrusion of the corner of the residential unit building through the recession plane will not result in any significant increase in shading of the adjoining property to the east (53 Clearview Street). The shading of the proposed development upon this adjoining property will also be much less than that which is allowed for under the permitted baseline. Under the permitted baseline, both the residential unit and flat could be two storey, with a maximum upper floor length of 24m and gable roofs up to a height of 7m which would result in a much greater level of shading than will occur under the proposal.

The area of the recession plane breach relates to the eave and top of the wall of the eastern elevation which does not include any openings. Regardless, the only opening along the first floor level of the eastern elevation is a window into the bathroom which is to have privacy glazing.

Effects on any significant public views

The recession plane breach relates to a small area of the eastern elevation and therefore will only have a potential effect upon public views from Clearview Street between the proposed residential unit on subject site and the existing residential unit on 53 Clearview Street. There are no views of significant in this direction.

External appearance, location and visual dominance of the building(s) as viewed from the street(s) and adjacent properties

The external appearance of the residential dwelling as viewed from the street is consistent with others within the surrounding residential area, both in terms of its design and building materials. The location of the residential unit also exceeds the minimum setback requirements from the road and side boundaries.

As viewed from the street it is not expected that the area of the recession plane breach will be readily identifiable once the residential unit is constructed as the mono-pitched roof design mitigates the potential visual dominance of the building within the streetscape.

The proposed recession plane breach will be adjacent to the property to the east (53 Clearview Street). The length of the upper floor adjacent to the eastern boundary is limited to 8.142m and the mono-pitched roof has been angled so to be at its lowest adjacent to the boundary with this property. Consequently, the design of the proposal is considered to mitigate the potential visual dominance effects upon this property. Furthermore, compared to the effects permitted by the PDP (where the residential unit and flat could both be two storey, with a maximum upper floor length of 24m and gable roofs up to a height of 7m), the

proposal is considered to result in lesser visual dominance effects upon the owners and occupiers of 53 Clearview Street.

The recession plane breach will not be visible from the adjoining property to the west (47 Clearview Road) due to its location on the opposite side of the building.

The property to the north (15 Tuhoy Lane) is of higher elevation than the subject site and the scale of the recession plane breach that presents along the northern elevation is limited to a 0.287m extent. The small scale of this breach, along with its position within the subject site and the topography difference will result in there being less than minor effects upon this adjoining property.

Earthworks

The below assessment responds to the matters of discretion in Rule 25.5.18.2(a).

Soil erosion, generation and run off of sediment

An Environmental Management Plan (EMP) has been prepared for the proposal and is attached as **Appendix D**. This details the proposed erosion and sediment control measures and provided these measures are in place for the duration of the works and they are actively monitored and maintained, the potential adverse effects in relation to soil erosion, generation and run off are anticipated to be avoided or mitigated to be less than minor.

Landscape and visual amenity

The subject site is located within a medium density residential area and therefore no adverse effects upon landscape values are anticipated.

The proposed earthworks are to allow for the development of the subject site which is within a zone that allows for residential development as a permitted activity. Furthermore, the visual amenity effects of the earthworks phase of the development will be temporary and the proposed retaining walls will be predominantly screened once the buildings are constructed on the site. Accordingly, the effects in this regard are considered to be less than minor.

Effects on infrastructure, adjacent sites and public roads

There is no existing infrastructure located within the subject site therefore no adverse effects are anticipated with regard to infrastructure.

No over-excavation will be required for the construction of the proposed retaining walls given the setbacks being provided from the boundaries and therefore there will be no adverse effects upon the adjacent sites and public roads.

Land stability

The setback of the cut faces from the boundary will enable the stability of the adjoining properties to be maintained. Each of the cut faces will be protected by poly sheeting and cuts will be monitored by a geotechnical engineer.

Effects on water bodies, ecosystem services and biodiversity

The subject site does not adjoin, nor is it in close proximity to any waterbodies nor areas of significant biodiversity values or ecosystem services. Notwithstanding, the measures proposed in the EMP (**Appendix D**) will ensure that sediment and dust is contained within the subject site. Consequently, less than minor effects upon water bodies, ecosystem services and biodiversity are anticipated.

Cultural, heritage and archaeological sites

No effects in this regard are anticipated. The subject site is within an established residential area in which no cultural, heritage and archaeological effects have been identified.

Nuisance effects

Aside for the dust and sedimentation effects addressed above, the only other potential nuisance effect anticipated is construction noise. The proposal will meet the construct noise standards in the PDP for construction noise.

Natural hazards

The Council's hazard mapping identifies a nil to low risk for liquefaction for the subject site. This risk will be addressed through the design of the foundations of the buildings.

Functional and positive effects

The proposed earthworks will allow for the construction of a residential unit and flat on the site which is consistent with the intended use of the subject site under the PDP.

11 Public and Limited Notification Assessment

Section 95 of the Act sets out the statutory tests (steps) for determining whether a resource consent application requires public or limited notification. These are addressed below.

11.1 Public Notification

The following is an assessment of the proposal against the steps within Section 95A of the Act.

Step 1 – Mandatory public notification

This is not required as:

- The Applicant does not request public notification.
- Provided a request is reasonable, the Applicant is unlikely to refuse to provide further information or refuse the commissioning of a report under Section 92(2)(b) of the Act.
- The application does not seek to exchange recreation reserve land under Section 15AA of the Reserves Act 1977.

Step 2 – Public notification precluded

Public notification of this resource consent application is not precluded as:

- Public notification of this resource consent application is not precluded by any rule or national environmental standard.
- The proposal is not for a controlled or boundary activity.
- The proposal is not a prescribed activity.

Step 3 – Public notification is required in certain circumstances

There are no circumstances which require public notification of this proposal as:

- There is no National Environmental Standard which requires public notification.
- As detailed below, the adverse effects of the activity on the environment will not be more than minor.

Step 4 – Public notification required in special circumstances

No special circumstances are considered to exist in relation to the proposal.

Overall, it is considered that the proposal can be processed without public notification

11.2 Limited Notification

The following is an assessment of the proposal against the steps within Section 95B of the Act.

Step 1 – Notification of certain groups and affected persons

No notification is considered to be required under Step 1 as the proposal will not affect:

- Any protected customary rights groups
- Any customary marine title groups

The proposal is also not on or adjacent to, and will not affect, any land subject to a statutory acknowledgement.

Step 2 – Limited notification precluded

Limited notification of this resource consent application is not precluded as:

- Public notification of this resource consent application is not precluded by any rule or national environmental standard.
- The proposal is not for a controlled activity.

Step 3 – Notification is required in certain circumstances

There are no circumstances which require limited notification of this proposal as:

- The proposal is not a boundary activity.
- As detailed above, the adverse effects of the activity on people will not be minor or more than minor.

Step 4 – Notification in special circumstances

No special circumstances are considered to exist in relation to the proposal.

Overall, it is considered that the proposal can be processed on a non-notified basis.

12 Assessment against Policy Framework

12.1 Proposed District Plan

Chapter 8 – Medium Design Zone

The objectives of most relevant to the assessment of the proposal are 8.2.2 and 8.2.3 as set out below along with their supporting policies:

8.2.2 Objective - Development contributes to the creation of a new, high quality built character within the zone through quality urban design solutions which positively respond to the site, neighbourhood and wider context.

Policies

8.2.2.1 Ensure buildings address streets and other adjacent public space with limited presentation of unarticulated blank walls or facades to the street(s) or public space(s).

8.2.2.2 Require visual connection with the street through the inclusion of windows, outdoor living areas, low profile fencing or landscaping.

8.2.2.3 Ensure street frontages are not dominated by garaging through consideration of their width, design and proximity to the street boundary.

8.2.2.4 Ensure developments reduce visual dominance effects through variation in facades and materials, roof form, building separation and recessions or other techniques.

8.2.2.5 Ensure landscaped areas are well designed and integrated into the design of developments, providing high amenity spaces for residents, and to soften the visual impact of development, with particular regard to any street frontage(s).

8.2.2.6 Require consideration of the relevant design elements identified in the Residential Zone Design Guide 2021.

The proposed residential unit addresses the street and provides a visual connection with the street through the location of windows along both the ground floor and first floor levels, the upper floor deck and the garage entry. Both levels do not have any areas of unarticulated blank walls facing the street.

The street façade of the proposed residential unit is designed so that articulation is provided via the variation in building materials and colours for the lower and upper floors and the window placement. The front setback area is also of suitable size for landscaping to be designed to soften the visual effects of the built form as viewed from the street.

A single garage is proposed and this is incorporated into the design of the residential unit. This ensures that the garage is not a dominant feature within the streetscape.

The design of the proposal has been developed through consideration of the Residential Zone Design Guide 2021, including the following features:

- A high level of private outdoor living space is provided on the site for the occupants of the residential unit and flat, including two separate terraced outdoor living areas within the backyard area and a deck accessed off the living area for the residential unit.
- The garaging for the residential unit has been designed to be a single garage only to minimise the visual impacts on the streetscape.
- Suitable space behind the front façade of the buildings is available for the location and storage of waste and recycling bins.
- A balance of privacy and natural surveillance has been achieved through the design, with major openings being located along the northern and southern elevations and smaller openings facing the adjoining properties to the east and west.
- The proposed materials and colours are consistent with those utilised in the surrounding area and the colours chosen reflect the local character and landscape. The materials chosen will also be durable.

8.2.3 Objective - Development provides high quality living environments for residents and provides reasonable maintenance of amenity values enjoyed on adjoining sites taking into account the changed future character intended within the zone.

Policies

8.2.3.1 Apply permitted activity and resource consent requirements based on recession plane, building height, setbacks and site coverage controls as the primary means of ensuring reasonable maintenance of neighbours' privacy and amenity values.

8.2.3.2 Where a resource consent is required for new development, reasonably minimise the adverse effects of the new development on the amenity values enjoyed by occupants of adjoining sites, and have particular regard to the maintenance of privacy for occupants of the development site and neighbouring sites through the application of setbacks, offsetting of habitable room windows from one another, screening or other means.

Taking into account the assessment in Section 10 above, the design of the proposal is considered to reasonably minimise the adverse effects on the amenity values enjoyed by occupants of the adjoining sites. The privacy of the adjoining property to the east is being maintained through limitation of windows along the elevation and the application of privacy glazing.

Chapter 25 – Earthworks

The relevant objectives and policies of this chapter enable earthworks that are part of subdivision, development, or access, provided they are undertaken in a way that avoids, remedies or mitigates adverse effects on communities and the natural environment.

Objective 25.2.1 seeks to ensure that earthworks are undertaken in a manner that minimises adverse effects on the environment, protects people and communities, and maintains landscape and visual amenity values. As outlined in Section 10 above, the proposed earthworks will be undertaken so to minimise erosion and sediment generation by employing the site management methods outlined in the EMP in **Appendix D**. The earthworks will not result in adverse landscape effects as the site is well within a residential area and the works will not affect the surrounding natural landforms and ridgelines, maintaining the amenity values and quality of the surrounding area. Furthermore, land stability will be maintained through the setback of the proposed cuts and monitoring.

The earthworks are therefore considered to be consistent with the relevant objectives and policies found in Chapter 25 of the PDP.

13 Other Matters

13.1 Consultation

No consultation has been undertaken in relation to the proposal.

13.2 Consideration of Alternatives

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

13.3 Monitoring

No ongoing monitoring is required other than of standard conditions of consent.

14 Part 2 of the Act

The PDP, insofar as it relates to the application site and proposal, is considered a valid, reasonably complete and certain planning document. It has already given substance to the principles in Part 2 of the Act as the plan was prepared in a manner that reflects Part 2, therefore no further assessment against Part 2 matters is considered to be necessary for this application. Regardless, the proposed development is considered to recognise and provide for matters outlined within Part 2 and achieve the purpose of the Act being sustainable management.

15 Conclusion

Consent is sought to construct a residential unit and flat along with associated earthworks.

The proposal is a restricted discretionary activity.

As outlined above, the proposal is expected to result in potential adverse effects upon the environment and people that are less than minor. The proposal has also been assessed as being consistent with the relevant objectives and policies of the PDP and considered against the principles in the Residential Zone Design Guide.

Overall, it is sought that consent is granted as proposed.

Attachments

Appendix A – Record of title
Appendix B – Consent notice and covenants
Appendix C – Proposed plans
Appendix D – Environmental management plan