

Wānaka-Upper Clutha Community Board

27 March 2025

Report for Agenda Item | Rīpoata moto e Rāraki take [2]

Department: Community Services

Title | Taitara: Notification of right of way and right to drain water easement over part of the Wānaka Golf Course Recreation Reserve

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is for the Wānaka-Upper Clutha Community Board (WUCCB) to consider whether to publicly notify a right of way and right to drain water easement over a small area of the Wānaka Golf Course Recreation Reserve (the Reserve). This is in accordance with the process set out under s48 of the Reserves Act 1977 (The Act).

Recommendation | Kā Tūtohu

That the Wānaka-Upper Clutha Community Board:

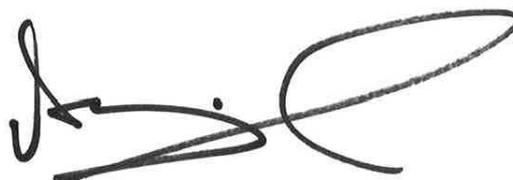
1. **Note** the contents of this report;
2. **Approve** the intention to notify a right of way and right to drain water easement in accordance with Section 48(1)(f) of the Reserves Act 1977 in favour of the owners of 91, 93 and 99 Youghal Street, Wānaka over part of the Wānaka Golf Course Recreation Reserve in Wānaka (Part Section 11 Block XLIX TN OF Wānaka); and
3. **Appoint** three members of the Wānaka-Upper Clutha Community Board (to be named) to form a hearing panel to hear any submissions and make a recommendation to Council.

Prepared by:



Name: Kat Banyard
Title: Senior Parks Advisor
7 March 2025

Reviewed and Authorised by:



Name: Ken Bailey
Title: General Manager, Community Services
7 March 2025

Context | Horopaki

1. The property owners of 91, 93 and 99 Youghal Street, Wānaka, access their properties via a driveway (chip sealed, of variable width) from the top of Youghal Street. The driveway is located across multiple properties including the Reserve, the adjoining private property at 89 Youghal Street, and 91 and 93 Youghal Street (see map in Attachment A). The property owners believe the driveway may have been built by a previous owner, but the origin of the driveway is unknown.
2. A legal right of way exists to access the three properties from Youghal Street (the public road) but is a limited width (purple area in the map in Attachment B – parts A, F and E). The driveway is only partly located in the existing right of way and is encroaching into reserve land and private land without approval.
3. The construction of the driveway was not undertaken in accordance with proper roading construction standards, and there are concerns that stormwater is not being appropriately managed resulting in uncontrolled silt and sediment flow into Bullock Creek.
4. The section of the Reserve being encroached on is legally described as Part Section 11 Block XLIX TN OF Wānaka. The land is recreation reserve subject to the Act and is leased from Council by the Wānaka Golf Club (Golf Club) for the purpose of a golf course. There are also trails used for walking and biking. A map of the leased area is shown in Attachment C.
5. The Reserve Management Plan for the Reserve from the 1990s does not anticipate these easements, and they are not for the purpose of the activity on the Reserve.
6. In accordance with Section 48(1)(f) of the Act, and a delegation from the Minister of Conservation, Council has authority to grant right of way and other easements.
7. Section 48(2) of the Act requires the Council to publicly notify a right of way or other easement over a reserve.

Analysis and Advice | Tatāritaka me kā Tohutohu

8. To resolve the unauthorised driveway encroachment, the property owners of 91, 93 and 99 Youghal Street have proposed a realignment of the right of way along with a legal right to drain water easement over the Reserve (red area in the map in Attachment B – parts B, C and D). The easement would be adjacent to the existing right of way and will realign and legalise the existing driveway.
9. If the easement is approved, the property owners will relocate and formalise the driveway into the proposed easement corridor. The total area comprising the existing and new easement will allow for a driveway of a width that allows for larger vehicle or emergency service access. It will be constructed in accordance with Council's relevant codes of practice. The property owners will be responsible for all the works, and the cost of the works, which will be completed to Council's satisfaction and in accordance with any resource consent.

10. The area of reserve land (410m²) identified as the proposed footprint for the new easement is in an area of the Reserve that isn't used by the Golf Club. Further, an easement would not impact the existing walking and biking trail or access into the Reserve from the top of Youghal Street.
11. Council generally discourages easements across its reserves as it has a responsibility to protect reserves for current and future use, and not to provide a private benefit, which is what a right of way would do. However, in this situation the existing easement is misaligned and there are no practical alternative options. The existence of a previously established right of way makes the realignment of the easement in this location logical and appropriate.
12. The proposed easement is appropriate because:
 - it will have minimal impact on the reserve's primary use as a golf course;
 - it will not impact or impede on existing public use of the reserve;
 - the easement conditions will require the standard of the driveway to be improved to meet Council's Subdivision Code of Practice. This provides an opportunity to ensure stormwater is appropriately managed from this area and is not adding to any existing catchment stormwater issues; and
 - it will formalise legal access (currently happening without approval) across the Reserve to 91, 93 and 99 Youghal Street.
13. No change to the Golf Club lease is required. The Golf Club has been made aware of the easement application and has raised concerns about:
 - the potential for this to set a precedent that would apply to other landowners bordering the golf course.
 - liability to the golf club from ball strike risk, associated with the risk of people parking on the right of way.
14. Council officers are continuing to have conversations with the Golf Club about the impact on their lease which we believe is minimal.
15. Final conditions of approval shall be determined and presented at a future WUCCB meeting, following public consultation and hearings (if needed).
16. This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002 (LGA).
17. Option 1 Agree to publicly notify the easement to the property owners at Youghal Street in the Reserve.

Advantages:

- Will allow public comment on the use of this area of the reserve.
- If approved, there will be minimal impact on the reserve's use as a golf course or its users.
- If approved, it will prevent other illegal road formations in this area (as has previously occurred as shown in Attachment A).

Disadvantages:

- If approved, an area of the reserve will be encumbered by an easement that provides property rights to the applicants.

18. Option 2 Decline the public notification of the easements to the property owners at Youghal Street in the Reserve.

Advantages:

- An area of the reserve will not be encumbered by an easement, which means there will be no possible impact on the reserve or its users.

Disadvantages:

- The applicants will continue to use the existing driveway impacting on the reserve without permission. Or Council will require the driveway to be relocated into the existing right of way which would only provide narrow, partially restricted access to their properties.
- Missed opportunity to require upgrades to the stormwater management from the easement area.

19. This report recommends **Option 1** for addressing the matter because it will enable Council to receive public submissions, assess any concerns and gauge public interest in the matter. Council will then be able to make an informed decision on whether to approve the easement. There will be a neutral cost to Council and the ratepayers as the cost to prepare and register the instrument will be covered by the landowners.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

20. This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy 2024 because notification of the easement aligns with the Act which has a robust process involving public notification.

21. The persons who are affected by or interested in this matter are users of the Reserve, the applicants, and the Golf Club. The public could be affected to the extent that it is public reserve. However, the easement does not provide exclusive rights to the property owners to exclude the public from this part of the Reserve. The easement merely enables right of way for the property owners across public land.

22. Public notification will ensure the public can submit on the proposal and is a requirement of the Act.

Māori Consultation | Iwi Rūnaka

23. The Council will notify local Iwi of the public notification.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

24. This matter relates to the Community & Wellbeing risk category. It is associated with RISK10005 Ineffective planning for community services or facilities within the QLDC Risk Register. This risk has been assessed as having a high residual risk rating.

25. The approval of the recommended option will allow Council to implement additional controls for this risk. This will be achieved by allowing public the opportunity to submit on the easements.

Financial Implications | Kā Riteka ā-Pūtea

26. The applicant will be responsible for Council's legal fees for preparing, negotiating and finalising the easement agreement.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

27. The following Council policies, strategies and bylaws were considered:

- Significance and Engagement Policy 2024
- Easement Policy 2008
- Reserve Management Plan for the Wānaka Golf Course Recreation Reserve

28. The recommended option is consistent with the principles set out in the named policies with more detail set out in section 11. It is not anticipated in the Reserve Management Plan.

29. This matter is not included in the Long Term Plan/Annual Plan.

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

30. Council must follow the provisions of the Act when granting easements over reserve land.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

31. Section 10 of the LGA states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. Allowing public notification will inform the community and assist with democratic decision making. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the LGA.

32. The recommended option:

- Can be implemented through current funding under the Long Term Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not significantly alter the intended level of service provision for any significant activity undertaken by or on behalf of the Council or transfer the ownership or control of a strategic asset to or from the Council.

Attachments | Kā Tāpirihaka

A	Map of existing informal driveway
B	Map of proposed additional right of way and right to drain water easement
C	Map of area leased by the Wānaka Golf Club

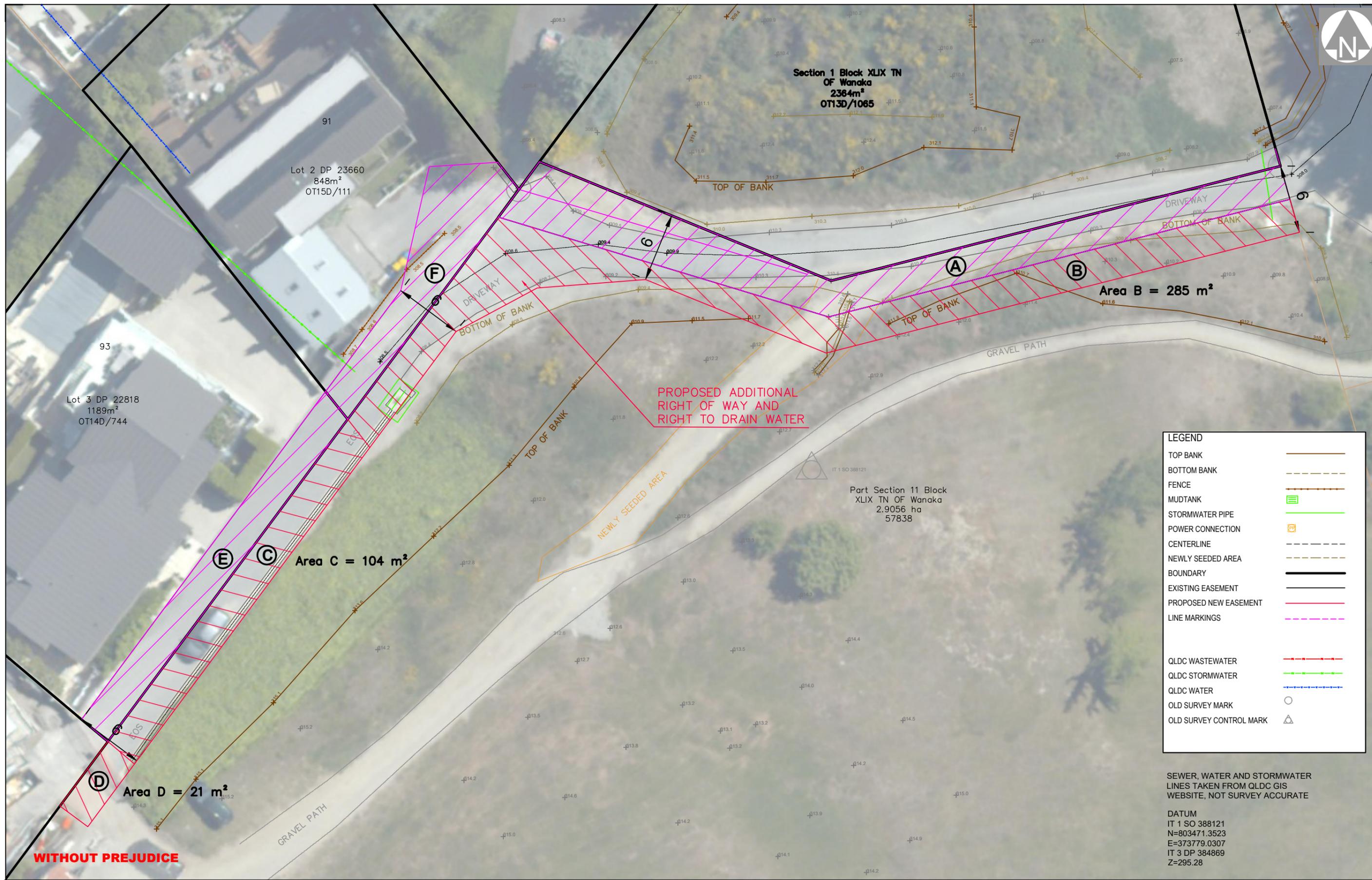
Attachment A: Map of existing informal driveway

Key:

- Blue lines – Approximate location of the current physical ROW
- Black lines – Property boundaries
- Orange box – Area of gravel driveway built without permission and remediated by Council in 2024



Attachment B: Map of proposed additional right of way and right to drain water easement



LEGEND	
TOP BANK	—
BOTTOM BANK	- - -
FENCE	- · - · -
MUDTANK	■
STORMWATER PIPE	—
POWER CONNECTION	⊠
CENTERLINE	- - -
NEWLY SEEDED AREA	- · - · -
BOUNDARY	—
EXISTING EASEMENT	—
PROPOSED NEW EASEMENT	—
LINE MARKINGS	- · - · -
QLDC WASTEWATER	- · - · -
QLDC STORMWATER	- · - · -
QLDC WATER	- · - · -
OLD SURVEY MARK	○
OLD SURVEY CONTROL MARK	△

SEWER, WATER AND STORMWATER LINES TAKEN FROM QLDC GIS WEBSITE, NOT SURVEY ACCURATE

DATUM
 IT 1 SO 388121
 N=803471.3523
 E=373779.0307
 IT 3 DP 384869
 Z=295.28

WITHOUT PREJUDICE

CLARK FORTUNE McDONALD
 LAND SURVEYORS - LAND DEVELOPMENT - PLANNING CONSULTANTS
 QUEENSTOWN | DUNEDIN | CHRISTCHURCH | GORE

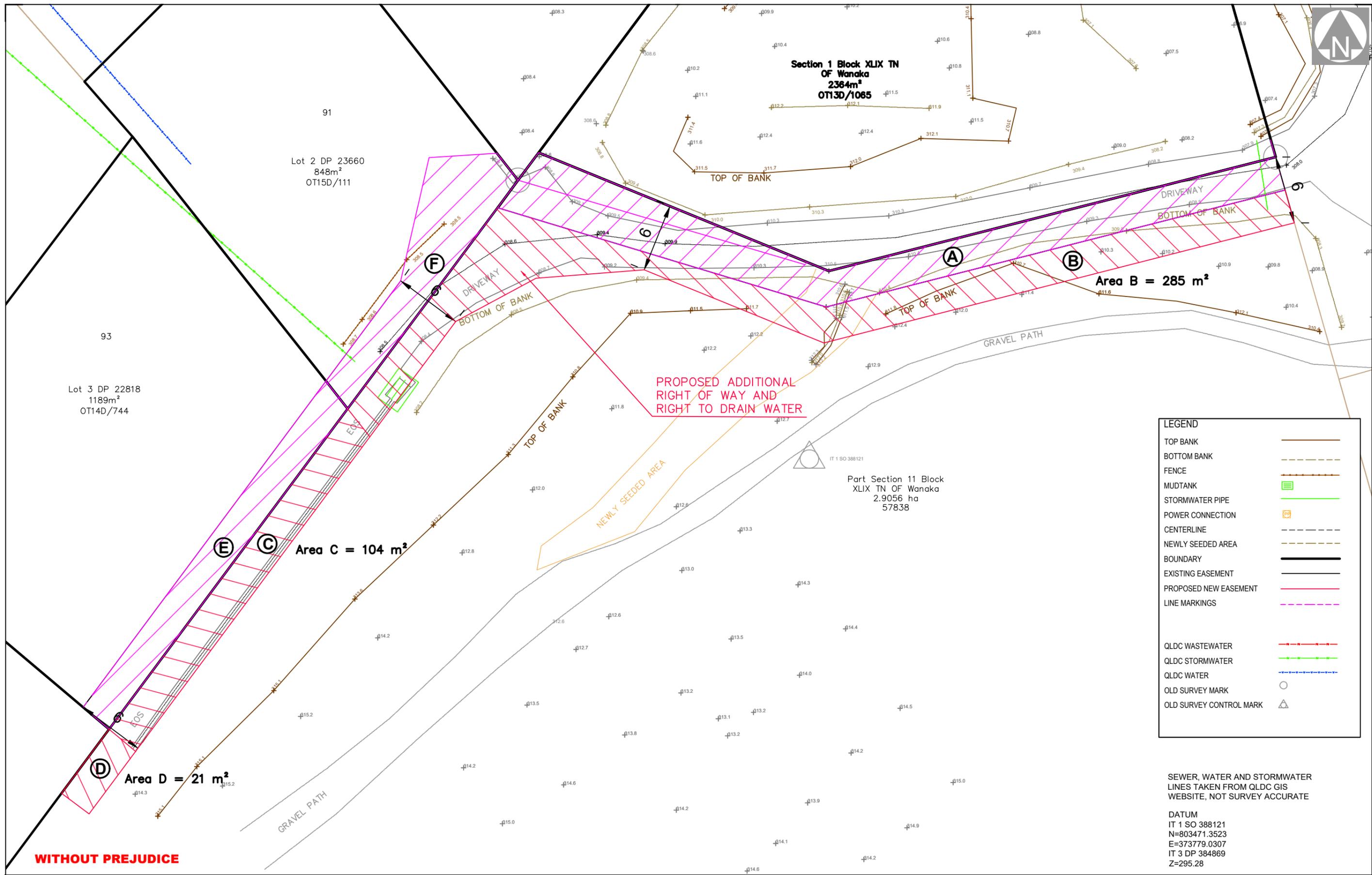
Rev.	Date	Revision Details	By
-	-	-	-

Tel. (03)441-6044, Email admin@cfma.co.nz, www.cfma.co.nz 309 Lower Shotover Road, P.O.Box 553 Queenstown

**PROPOSED ADDITIONAL ROW AREA
 89 YOUGHAL STREET, WANAKA**

Client	Crawford, Graham		SURVEYED	GH	02.07.24	Job No.	16639	Drawing No.	-
DESIGNED	-	-	DRAWN	GH	29.01.25	Scale	1:150 @ A1 1:300 @ A3	SHEET 001	
CHECKED	-	-	APPROVED	-	-	Datum & Level	Lindis 2000 NZDV2016	Rev.	A

NOTES:
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Lot 2 DP 23660
848m²
OT15D/111

Lot 3 DP 22818
1189m²
OT14D/744

Section 1 Block XLIX TN
OF Wanaka
2364m²
OT13D/1065

Part Section 11 Block
XLIX TN OF Wanaka
2.9056 ha
57838

Area B = 285 m²

Area C = 104 m²

Area D = 21 m²

PROPOSED ADDITIONAL
RIGHT OF WAY AND
RIGHT TO DRAIN WATER

LEGEND	
TOP BANK	—
BOTTOM BANK	- - -
FENCE	—+—+—+—
MUDTANK	■
STORMWATER PIPE	—
POWER CONNECTION	⊕
CENTERLINE	- - -
NEWLY SEED AREA	—
BOUNDARY	—
EXISTING EASEMENT	—
PROPOSED NEW EASEMENT	—
LINE MARKINGS	—
QLDC WASTEWATER	—
QLDC STORMWATER	—
QLDC WATER	—
OLD SURVEY MARK	○
OLD SURVEY CONTROL MARK	△

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CHECKED	-	-			NZDV2016		
APPROVED	-	-					

Attachment C: Map of area leased by the Wānaka Golf Club

Note: Leased area shown in orange

