

RECOMMENDATIONS OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

THE GRANTING OF AN EASEMENT UNDER SECTION 48(1)(F) RESERVES ACT 1977

Applicant:	Graham and Rosemary Crawford, Kathryn and Scott Hutchison, and Luke Snelling (Property owners of 91, 93 and 99 Youghal Street, Wānaka)
Application:	Application for the granting of an easement over Recreation Reserve under s48(1)(f) of the Reserves Act 1977
Location:	Wānaka Golf Course Recreation Reserve
Legal Description:	Part Section 11 Block XLIX TN OF Wānaka
Hearing Panel:	Councillor Quentin Smith (Chairperson) Councillor Niki Gladding Councillor Barry Bruce
Decision Date	Friday, 10 October 2025

SUMMARY OF DECISIONS

1. Pursuant to section 120 of the Reserves Act 1977, this recommendation is made by a delegated committee made up of three councilors from the Queenstown Lakes District Council.
2. Pursuant to Section 120 the committee recommends **GRANTING** the application for easement under s48(1)(f) of the Reserves Act 1977 subject to conditions.

1. SUMMARY OF APPLICATION

The property owners of 91, 93 and 99 Youghal Street, Wānaka are seeking a realignment of an existing right of way, along with a right to drain water easement over a small part of the Wānaka Golf Course Recreation Reserve (the Reserve) at the top of Youghal Street. The additional easement area proposed is 396m². The area of the reserve is legally described as Part Section 11 Block XLIX TN OF Wānaka. The proposed easement area is shown in Appendix 2 (red area on the map – parts B and C).

The property owners of 91, 93 and 99 Youghal Street currently access their property via a private driveway (chip sealed, of variable width) from the top of Youghal Street. The driveway is located across multiple properties including the Wānaka Golf Course Recreation Reserve, the adjoining private property at 89 Youghal Street, and 91 and 93 Youghal Street.

An existing legal right of way exists to access the three properties from Youghal Street (**Public Road**) but is a limited width (purple area in the map in Appendix 2 – parts A, E and F). 85-87 Youghal Street also has access to part of the existing right of way (**Part A in Appendix 2**). The driveway is only partly located in the existing right of way and is encroaching into reserve land and private land without approval. The property owners believe the driveway may have been built by a previous owner, but the origin of the driveway is unknown. The construction of the driveway was not undertaken in accordance with proper construction standards.

The easement is being sought to resolve the unauthorised driveway encroachment. The easement would be adjacent to the existing right of way and would realign and legalise the existing driveway. The land over which the easement is being sought is recreation reserve subject to the Reserves Act 1977 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 through parts of the reserve land.

If the easement is approved, it is expected the property owners will relocate and formalise the driveway that is currently encroaching onto the private property at 89 Youghal Street into the existing and proposed easement corridor. It will be constructed in accordance with Council's relevant codes of practice and any requisite consents. 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 the district plan and any resource consent if required.

2. RESERVES ACT REQUIREMENTS

Reserves Act 1977 - Section 48 (1)

Section 48 (1) of the Reserves Act 1977 provides for *'the administering body, with the consent of the Minister and on such conditions as the Minister thinks fit, may grant rights of way and other easements over any part of reserve for'*

(f) providing or facilitating access or the supply of water to or the drainage of any other land not forming part of the reserve or for any other purpose connected with any such land.

‘Minister’ refers to the Minister of Conservation, with this power being delegated to Council via the ‘Reserves Act 1977 Instrument of Delegation for Territorial Authorities’ dated 12 June 2013. This authority is not further delegated, as such only full Council can grant consent of the Minister.

Reserves Act 1977 – Section 48 (2)

Subsection 2 outlines the process for requirement for notification and hearing of an easement application;

(2) Before granting a right of way or an easement under subsection (1) over any part of a reserve vested in it, the administering body shall give public notice in accordance with section 119 specifying the right of way or other easement intended to be granted, and shall give full consideration, in accordance with section 120, to all objections and submissions received in respect of the proposal under that section.

Section 48(6) sets out further powers to grant easements to any person where Council is the administering body in which the reserve is vested, and states:

Rights of way and other easements may be granted under this section to any person, including, notwithstanding any rule of law to the contrary, the administering body in which the reserve is vested, and, where the right of way or other easement is granted to the administering body, covenants and agreements in respect of any such transaction may be entered into by the administering body in the one capacity so as to bind or benefit the administering body in the other capacity as fully and effectually as if the administering body were a separate person in each capacity.

Reserves Act 1977 – Section 119

Section 119 (1) states *‘Where this Act requires anything to be publicly notified or refers to public notification, the subject matter shall, unless this Act specifically provides otherwise, be published as follows:*

(b) where the notification relates to any other reserve or proposed reserve, it shall be published—

(i) once in a newspaper circulating in the area in which the reserve or proposed reserve is situated; and

(ii) in such other newspapers (if any) as the administering body decides:’

Reserves Act 1977 – Section 120

Consideration of application by hearing panel under section 120:

- (d) the administering body, shall give full consideration to every objection or submission received before deciding to proceed with the proposal; and*
- (e) where the action proposed by an administering body requires the consent or approval of the Minister and is recommended to the Minister for his or her consent or approval under any provision of this Act, the administering body shall send to the Minister with its recommendation a summary of all objections and comments received by it and a statement as to the extent to which they have been allowed or accepted or disallowed or not accepted.*

Reserves Act 1977 – Section 121

Section 121 of the Act allows the Minister to impose conditions:

- 121 Where under any provision of this Act the consent or approval of the Minister is required, he or she may give his or her consent or approval subject to such conditions as he or she thinks fit.*

3. PUBLIC NOTIFICATION AND HEARING PROCESS

Public notification

In accordance with section 48(2) and section 119 of the Reserves Act 1977, QLDC publicly notified the proposed easement which was open for submissions between 17 April and 21 May 2025. The public notice was published in the Otago Daily Times on 17 April 2025 and the Wānaka Sun on 18 April 2025. Six submissions were subsequently received during the notification period. A summary of submissions received is outlined in Section 4 of this report.

Hearing process

In accordance with section 120, a hearing was held on 13 August 2025 to give full consideration to all objections and submissions received in respect of the proposal. The hearing panel heard submissions from the applicant and five submitters who wanted to be heard. The hearing was held at the Wānaka Recreation Centre at 10AM.

The hearing was adjourned to allow the Applicant time to prepare a reply to the submissions by 27 August 2025, and the Applicants were directed to share these with the submitters. The Applicant sought two further extensions on 28 August 2025 and 10 September 2025, and these were granted by the Panel. The extensions were both for justifiable reasons and enabled the Applicant to finalise discussions with the Wānaka Golf Club, the Lessee of the Reserve, and the party allegedly most affected by the proposal.

These discussions will also result in information that is relevant to this decision and is helpful to the Panel in its decision-making.

Right of Reply

A Right of Reply was received on 24 September 2025.

In its reply submissions, the applicant confirmed several revisions made since the August 2025 hearing to address submitter concerns about the proposed easement over part of the Golf Course Recreation Reserve. The design has been refined to reduce the easement width to the minimum required under the Council's Code of Practice (approximately 4.5 m) and to limit any disturbance to reserve land. Updated indicative plans demonstrate that access can be realigned within this narrower corridor while maintaining safety and functionality. Minor batter-slopes, if needed, would be grassed and landscaped rather than permanently occupied.

The applicants have volunteered new conditions confirming that construction cannot proceed until resource consent and engineering approvals are obtained, and that the final works must comply with those approvals. They also report that the Golf Club has informally indicated no objection to the revised design, though concerns about stormwater remain. The applicants maintain that stormwater and technical design matters are outside the scope of the easement decision and will be managed through the consent process.

In response to submitters such as the Burnside Trust, the applicants reject requests for additional conditions, noting they are unsupported by evidence and inconsistent with case law. The revised proposal, they argue, further minimises reserve impacts and satisfies section 48(1)(f) of the *Reserves Act 1977*, providing an appropriate and proportionate response to the issues raised.

The Applicant's full reply is contained in **Appendix 3**.

Hearing was reconvened on the 7 October 2025. Friends of Bullock Creek (**FOBC**) sought leave to make a further submission on the re-proposal contained in the applicant's right of reply. This was declined as to allow further submissions would be inconsistent with the principles of justice, and in the spirit of fairness to all submitters and the Applicant, who would have been entitled to have a further right of reply.

The recommendation at the hearing was made by the panel subject to a final written recommendation being finalised.

DECISION UNDER SECTION 48(1)(f) RESERVES ACT 1977

4. S120 ASSESSMENT

Consideration of application by hearing panel under section 120

- (d) *the administering body, shall give full consideration to every objection or submission received before deciding to proceed with the proposal; and*
- (e) *where the action proposed by an administering body requires the consent or approval of the Minister and is recommended to the Minister for his or her consent or approval under any provision of this Act, the administering body shall send to the Minister with its recommendation a summary of all objections and comments received by it and a statement as to the extent to which they have been allowed or accepted or disallowed or not accepted.*

Additionally, sections 48 and 121 of the Act allow the Minister to impose conditions

- 121 *Where under any provision of this Act the consent or approval of the Minister is required, he or she may give his or her consent or approval subject to such conditions as he or she thinks fit.*

In the case of this easement application, full Council (under delegated authority from the Minister of Conservation) has the authority to approve or decline the easement. The hearing panel is making a recommendation to full Council to approve (with or without conditions) or decline the easement application.

Submissions received

Submitter	Summary of submission	Hearing panel comment
Kim Badger, Wānaka Golf Club	Matter of principle – concern about creation of further rights of way over golf course land. Concern about the potential for the easement to generate vehicle access to the golf course. Concern that Council’s role is to retain the reserve for recreation and not to privatise it. Concern about section A & B of the proposed easement in front of 89 Youghal Street. The width could lead to parking where stray golf balls could land. This is a safety risk to people and property and puts the Golf Club and its users at risk of liability. Requested the following conditions on the proposed easement: • The existing driveway on 89 Youghal Street is removed. • The new carriageway complies with Council standards and is no wider than 6m. • An earthworks plan is produced prior to any work happening. • Signage ‘no stopping’ and ‘no parking’ to be erected and enforced. • A barrier is formed (at applicant’s expense) to stop people driving onto the reserve. • The Wānaka Golf Club and users are issued full indemnity for any damage to people or property. • No access to the easement from 89 Youghal Street. • The Wānaka Golf Club is reimbursed for any expenses related to this application. Consideration of the needs of the land based on it being a golf course.	Acknowledge potential impacts and that they have been minimized by changes to proposal and recommended conditions will also allay concerns in respect of the Golf Club’s concerns. Acknowledge concerns held by the Golf Club in respect of liabilities arising from their permitted activities on the reserve, but this is a matter between the parties and is outside of the scope of this application. As set out in the decision, any construction or works for which consents are required, will require the Applicant to consult with the Golf Club. Any council permits for works on its land will also require consultation with the Golf Club.

Submitter	Summary of submission	Hearing panel comment
	The Wānaka Golf Club to be included in decisions on the design and construction of the new carriageway.	
The Burnside Trust represented by Gallaway Cook Allan	Support for the easement is limited and based on the following: • The existing formed access over 89 Youghal Street is removed and remediated • The illegal culvert draining stormwater from Council's reserve to 89 Youghal Street be removed and no stormwater enter 89 Youghal Street • The easement is also a benefit to OT 14B/728.	Acknowledge that the BT is not party to application, and the matter of remediation is civil matter, and alleged illegal works and culvert are separate to this process, and out of scope of this recommendation.
Huw Davies	Concern granting the easement would set a precedent for other neighbours to seek easements affecting the use of the Wānaka Golf Course.	Panel is comfortable that circumstances here are unique and will not create precedent. Each application for an easement is assessed on its merits.
Roger Gardiner, Friends of Bullock Creek Trust	A preliminary stormwater assessment should be undertaken prior to the easement being granted due to concerns about stormwater capacity. The outstanding legal matter regarding stormwater flows on the lower part of Youghal Street is resolved before any easement is granted.	Acknowledge the potential impact of stormwater on Bullock Creek, but this issue is largely out of scope of the application. Engineering of construction of accessway and stormwater related to the easement must be undertaken in accordance with SCOP, and an Assessment of Environmental Effects would need to accompany any application for consent and would be appropriately assessed by Council's engineers at that stage of the process.

Submitter	Summary of submission	Hearing panel comment
Graeme Gibbons	Encroachment should be granted but only if all the conditions set out by the golf course are met. Costs to put the easement right should be met by the applicants.	Refer to comments re Golf Club – costs of easement are for the applicant to meet, not Council.
Neville Harris	Reluctant support for the easement. Ensure it does not set a precedent for further applications from neighbours requesting access to golf course land. The Golf Club should be reimbursed for their costs for preparing a submission and appearing before the Council panel.	As per comments above for Huw Davis and Graeme Gibbons.

5. DECISION OF PANEL

The panel heard and engaged in discussion with all the submitters who attended the hearing and have read all the written submissions and materials submitted by the applicant and the submitters.

The panel identified a number of key issues from the submissions and in response to the application in the process of the hearing including but not limited to the following:

1. Potential impacts on the Wanaka Golf Club activities and operations.
2. The re-establishment of the existing drive over 89 Youghal Street.
3. The potential stormwater impacts on the reserve, on 89 Youghal street and on the downstream environments of bullock Creek.
4. The width and engineering requirements of the drive.
5. Costs associated and incurred as a result of the easement and works.
6. The cost and associated valuation of the easement.
7. Enforcement of any conditions.

While the panel acknowledged the complexities and interrelationship of a range of external issues, its function under the Act is to consider the easement which is relatively narrow in scope.

The applicant has made helpful amendments to the application including reducing the width of the easement in Area B from 3m to 1.5m. The carriageway of 3m width can be accommodated within the easement.

Unfortunately, the applicant stopped short of offering conditions relating to specific design, so the panel has imposed conditions to cover this off.

The Panel also acknowledged and discussed the potential impact of the easement on the operation of the Golf Course, and particularly, the impact of the easement on the lease agreement over the reserve.

The panel had no information before it to confirm what the position of the Golf Club is in light of the final proposal, but it was clear to the panel that the Applicant's proposal has gone some way to address the Golf Club's concerns. The panel was also comforted by assurance from the Applicant and officers that any additional work to be done outside the easement (including batters and landscaping) will require the Applicant to follow a process that will require further engagement with the Golf Club.

The panel acknowledges the constructive input of the Golf Club during the process and its efforts to engage in a meaningful way.

It would have been helpful to have a formal response from the Golf Club to the amended application. However, the panel was satisfied that the impacts of the proposed additional easement and realignment of the carriageway will be minor in scope and will have minimal impact on the use of reserve by the Golf Club, particularly with the recommended conditions that should alleviate the Golf Club's concerns over parking.

The panel also makes a point of saying that the easement has a financial value and is expected to be valued and a commensurate fee should be charged to the applicant in accordance with council policy. While not exclusive occupation the proposed easements and carriageway totaling 351m² means that the Applicant would receive a reasonable benefit, and as such, should be valued accordingly.

The panel also notes that 89 Youghal street (is not party to the application) but will have a benefit in respect of a Right of Way (ROW) over the existing 3m width but will have no legal access over the additional 1.5m of area **B**. This may create some complexity regarding construction and cost sharing arrangements associated with the construction but that is outside of the scope of this recommendation and is for the parties to resolve.

The panel reached a majority decision on the proposed recommendation. As Chair, I note that there was a dissenting view, and Councilor Gladding's comments are recorded at Appendix 5 of this Recommendation.

In the majority view, the easement will formalise a long-standing access issue, improve compliance, and will have a minor or not material effect on the recreational use of the Reserve, nor is its design contrary to the amenity and landscape values of the reserve.

Looking at all of the matters, including the application, amended application, applicant's submissions and its right of reply, the survey plans, submissions and views of the community and the Golf Club, the actual intensity of what is proposed and its impact on public land - and the matters for which we must consider under the Reserves Act, the panel recommends that the easement be GRANTED by Council in accordance with section 48(1)(f) of the Reserves Act 1977, subject to the conditions set out below at paragraph 6.3.

6. OTHER RELEVANT MATTERS

6.1 Civil Matters

There are a range of civil matters relating to issues between neighbours, including the historic encroachment over 89 Youghal Street, that cannot be addressed through this hearing.

While it would be the panel's anticipation that the encroachment area will be reinstated Council has no controls or powers over private land,

6.2 Regulatory Matters

The panel has concerns over the allegedly illegal earthworks on Council's road reserve and the associated effects on Bullock Creek. While again – this is out of scope of this matter, the panel is hopeful that the matter will be fully resolved in the near future.

6.3 Specific easement conditions

The following additional conditions are recommended

The following additional conditions will assist in managing the potential impacts of the easement on the reserve and will partially respond to some of the submitter's concerns.

The panel acknowledges that both the applicant and some submitters recommended conditions, and we have recommended that these either be accepted or rejected as appropriate.

- 1. The carriageway is to be restricted and should be formed to a width of 3m for the first 40m of the easement in general accordance with the cross section at appendix A .*
- 2. No parking shall be allowed on the ROW over the reserve land, within the easement.*
- 3. The applicant shall install a sign that the carriageway is for private residence vehicles only and there shall be no restriction to the access of pedestrians and cyclists over the ROWs. The signage shall be approved by Council's Parks and Reserves Manager.*
- 4. The applicant shall be responsible for all consents, permits or permissions where additional works are undertaken in the recreational reserve.*
- 5. The construction of the accessway and drainage shall be in accordance with the RMA, Building Act, Council's Subdivision Code of Practice and all engineering approvals. A departure from Council's Code of Practice must be approved by Council.*

Standard Easement conditions

In addition to specific conditions recommended by the panel there will be a number of standard conditions required by the Lands Transfer Regulations, The Reserve Act and Council policies.

Land Transfer Regulations 2002 (SR 2002/213) (as at 12 November 2018) Schedule 4 Rights and powers implied in easements – New Zealand Legislation

7. DECISION ON EASEMENT PURSUANT TO S48(1)(F) RESERVES ACT 1977

The Panel, in a decision prepared by the Chair, recommends that the easement proposed by the Applicant is **GRANTED**.

The decision is MAJORITY; with Councilor Gladding Opposed for the reasons set out in Appendix 5.

The matter shall now be referred to Council as delegated authority for the Minister under the Reserves Act 1977.

Prepared by:



Quentin Smith
CHAIR OF THE HEARING PANEL

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8. APPENDICES LIST

APPENDIX 1 - Officers Report

Hearing Panel

13 August 2025

Report for Agenda Item | Rīpoata moto e Rāraki take [1]

Department: Community Services

Title | Taitara: Hearing report for proposed easement for 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 to present the submissions received on the proposed easement over the Wānaka Golf Course Recreation Reserve (the Reserve). The Wānaka Upper Clutha Community Board approved the proposed easement for public notification at the meeting on 27 March 2025. Council approved the members of the hearing panel at their 26 June 2025 meeting.

This report also provides an analysis of the submissions on the proposed easement. The submission pack (Attachment B) contains all submissions received and officers' comments. This report is intended to support a Hearings Panel (the Panel) of Councillors who conduct a hearing of submissions received. The hearing provides members of the public who have made a submission the opportunity to speak to their submission.

Recommendation | Kā Tūtohuka

That the Hearing Panel:

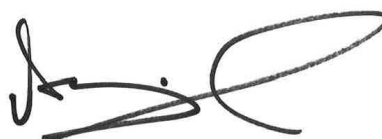
1. **Note** the contents of this report;
2. **Note** all submissions received on the proposed easement and hear any submitters who wish to speak to their submission; and
3. **Recommend** to Council (following the hearing) whether to recommend approval of the easement (and any conditions) following the public consultation process.

Prepared by:



Name: Kat Banyard
Title: Senior Parks Advisor
24 July 2025

Reviewed and Authorised by:



Name: Ken Bailey
Title: GM Community Services
31 July 2025

Context | Horopaki

1. The property owners of 91, 93 and 99 Youghal Street, Wānaka, access their properties via a private driveway (chip sealed, of variable width) from the top of Youghal Street. The driveway is located across multiple properties. It crosses the Wānaka Golf Course Recreation Reserve (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 A – parts A, F and E). 85-87 Youghal Street also has access to part of the existing right of way (Part A in Attachment A).
3. The driveway is only partly located in the existing right of way. It is encroaching into reserve land and private land without approval. The section of the Reserve being encroached on is legally described as Part Section 11 Block XLIX TN OF Wānaka.
4. The Reserve is recreation reserve subject to the Reserves Act 1977 (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 through parts of this reserve land.
5. The construction of the driveway was not undertaken in accordance with proper construction standards, and there are concerns that stormwater is not being appropriately managed resulting in uncontrolled silt and sediment flow into Bullock Creek.
6. To address the unauthorised driveway encroachment, the property owners of 91, 93 and 99 Youghal Street have applied to Council for a new easement and 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 encroachment.
7. If the easement is approved, the property owners' intention is to relocate and formalise the driveway that is currently encroaching onto the private property at 89 Youghal Street into the proposed easement corridor. The total area comprising the existing and new easement will need to allow for a driveway of a width that enables larger vehicle or emergency service access. It must be constructed in accordance with Council's relevant codes of practice. The property owners will be responsible for the works and associated costs, which will need to be completed to Council's satisfaction and in accordance with the district plan and any resource consent if required.
8. The area of reserve land (410m²) identified as the proposed footprint for the new easement is along the edge of the reserve. An easement would not impact the existing walking and biking trail or access into the Reserve from the top of Youghal Street.

9. 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.
10. 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.
11. 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.
12. A right of way essentially grants the specific property owners the right to pass and repass over the easement area. A right to drain water allows water (such as rainwater, springs etc.) to be conveyed in any quantity over the easement area.

Analysis and Advice | Tatāritaka me kā Tohutohu

13. Six submissions were received on the proposed easement over the Wānaka Golf Course Recreation Reserve via email to QLDC between 17 April and 21 May 2025.
14. Five submitters indicated they wanted to speak at a public hearing. The schedule of submitters is attached as Attachment C.
15. Officers' comments responding to each submission in alphabetical order are outlined in Attachment B.
16. Of the six submissions received:
 - 2 - Support with conditions
 - 1 - Neutral with conditions
 - 3 - Opposed
17. Key themes that arose through the submissions were:

Setting a precedent

Concerns were raised that supporting this easement would set a precedent for future applications from neighbours of the Reserve for easements which could impact on the use of the Reserve.

Ball strike risk

Concerns were raised that if this easement is approved, it will lead to parking in the right of way and therefore increase the risk of ball strike. Submitters don't believe this should be the responsibility of the Golf Club or its users.

Stormwater management

Concerns were raised that a decision is being made without the stormwater needs of the whole catchment being assessed and that there are issues with the current run off in relation to a private property outside the proposed easement area.

18. Some of the issues raised through submissions are outside the scope of the decision on the proposed easement.
19. This report recommends that the hearing panel receives the submissions and recommends to Council whether the easement should be approved. No options have been considered as this report supports a process set out in the Act for consultation on a proposed easement.

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 holding a public hearing aligns with the Act which has a robust process following 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. The Council has publicly notified this proposed easement in accordance with the Act. The Wānaka Golf Club who hold a lease over the existing Reserve have also been directly consulted regarding this easement application.

Māori Consultation | Iwi Rūnaka

23. The Council has not specifically consulted with iwi regarding this matter. It is considered low risk as it relates to the realignment of an existing easement.

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 continuing the process set out in the Act to process an easement application regarding reserve land. This will aid planning for the future of this area of the Reserve.

Financial Implications | Kā Riteka ā-Pūtea

26. The applicants 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 9. 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 Reserves Act 1977 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 Local Government Act 2002 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. The continuation of the public notification process through a public hearing supports democratic local decision making. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.

32. The recommended option:

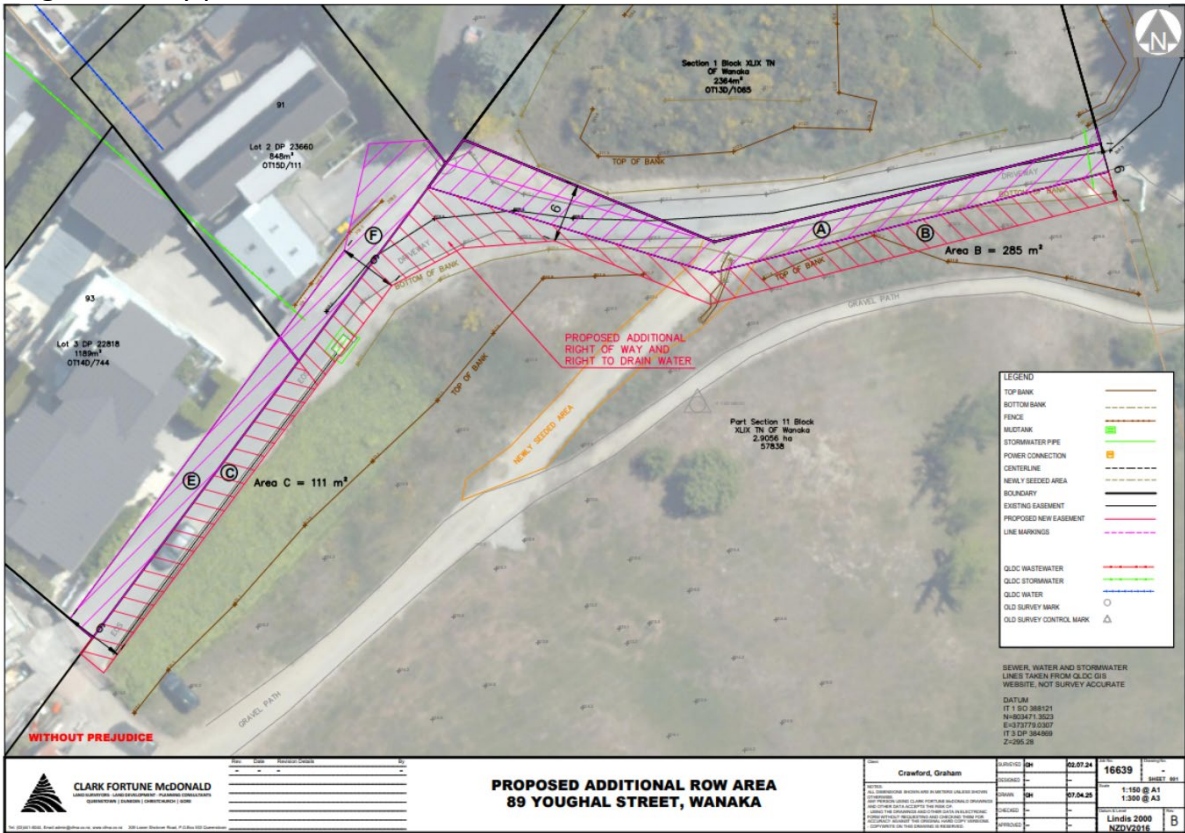
- Can be implemented through current funding under the Long Term Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not significantly alter the intended level of service provision for any significant activity undertaken by or on behalf of the Council or transfer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

Attachments | Kā Tāpirihaka

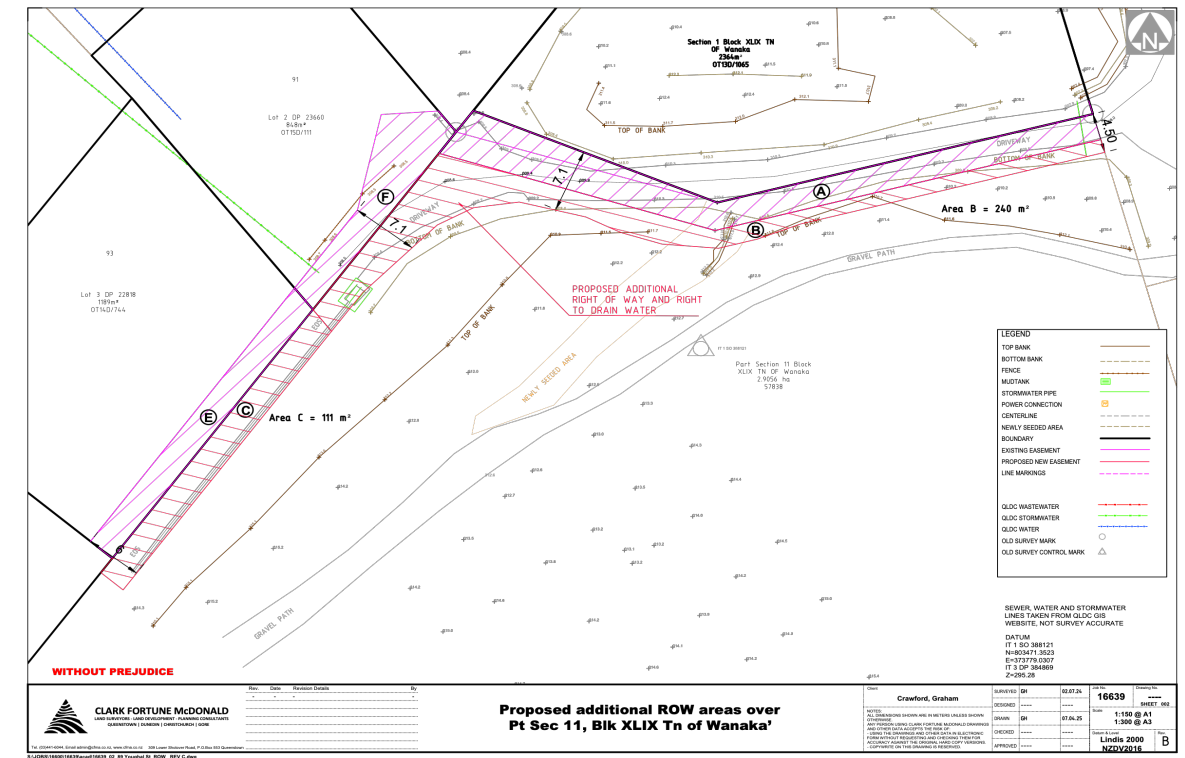
A	Map of proposed additional right of way and right to drain water easement
B	Submissions pack
C	Schedule of submitters

APPENDIX 2 – Applicant’s Survey Plan

Original survey plan



Survey plan from Right of Reply



APPENDIX 3 – Applicant’s Right of Reply

BEFORE THE QUEENSTOWN LAKES DISTRICT COUNCIL

UNDER

the Reserves Act 1977

IN THE MATTER

of a proposed easement for right of way
and right to drain water over part of the
Wanaka Golf Course Recreation
Reserve

BY

**GRAHAM AND ROSEMARY
CRAWFORD, KATHRYN AND SCOTT
HUTCHISON, AND LUKE SNELLING**

Applicants

APPLICANTS' REPLY SUBMISSIONS

Dated: 24 September 2025

TODD & WALKER law
LAWYERS | NOTARY PUBLIC

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MAY IT PLEASE THE HEARINGS PANEL:

Introduction

- [1] These reply submissions are presented on behalf of Graham and Rosemary Crawford, Kathryn and Scott Hutchison, and Luke Snelling (the **Applicants**) in relation to submissions presented at the hearing on 13 August 2025.
- [2] Following the hearing, the Hearings Panel approved an extension of time to a furnish a right of reply, due **by 24 September**. The Applicants are grateful for the extension which has allowed them to undertake further consultation and discussion with submitters.
- [3] This reply will address the following matters:
 - (a) Summary of the Applicant position in support of grant of easement
 - (b) Revised proposal and conditions
 - (c) Response to key submitter concerns
 - (d) Conclusion

Summary of the Applicant position

- [4] As submitted in the hearing, the Applicants are in a difficult position where they have inherited a circumstance where the access to their properties has been misaligned to registered easement corridors.
- [5] To correct this and realign the access, provide for a safe and appropriate width that will comply with new CoP standards, and to ensure any other environmental effects are suitably mitigated, the Applicants will need to:
 - (a) Obtain landowner approval from Council (i.e. the easement subject to this process); and
 - (b) Negotiate and agree with Council on the terms for an agreement to grant easement (a separate process to this hearing); and
 - (c) Obtain resource consent and / or engineering approval for the accessway extension area to be formed (a separate process to this hearing).

- [6] There is no prescribed order within which the above steps must be taken. In this instance, it will be most efficient for the Applicants to first have certainty over an easement approval. This will ensure that they have reasonable assurance to invest in any consenting / EA design approval process, rather than committing to the same with a risk of 'falling short' in obtaining Council's landowner approval after consenting. It is Counsel's recent experience in consenting processes that Council's preference is to ensure landowner approval is obtained or authorised prior to progressing consenting.
- [7] It is important the Panel heed the Council's legal advice provided by Ms Davenport, and consider clearly what is / is not in scope of this process.
- [8] The Applicant position is that this process is solely about the grant of easement rights over Reserve land. That decision is determined in accordance with Council's easement policy (2008) and the Reserves Act. It is not to be conflated with the other steps to be taken above, including matters of technical detail on stormwater design, engineering, and formation standards. The Hearing Panel does not have any sufficient technical details to determine the same which have been put forward by experts in accordance with the Environment Court code of conduct.

Revised proposal and conditions

- [9] Following the hearing, the Applicants engaged their surveyor to prepare updated plans showing indicative design options that would meet CoP standards, provide appropriate access options, and consider ways that the proposed Easement could be even further narrowed to reduce submitter concerns (particularly the Golf Club).
- [10] The indicative access design is included as **Attachment A** to this reply. This is provided *for information purposes only*, to give a better understanding of the likely future design and is not subject to approval in this process. Any such design will require separate approval from Council's planning and / or engineering departments and be subject to related conditions.

- [11] However, the attachment does demonstrate the feasibility of access design within the sought easement corridor, and the possibility of a slightly narrower facility to reduce Reserve land required.
- [12] The revised proposal reduces the width of the new portion of the accessway to be constructed down to the minimum compliant with the CoP. This would reduce the width of the facility to a 4.5m (combined)¹ easement width for the first 50m or so from the access, then increasing to provide widening at the bend (required for CoP passing bay and fire truck turning radius) then matching into the existing 6m formation at the existing sump.
- [13] In terms of dealing with how the earthworks cut is to be dealt with, the indicative design attached includes possible batter slopes which may extend very slightly outside the easement corridor into the Reserve land, but well clear of the existing pedestrian/cycle trail. If batter slopes are required in any final design, those would need approval by the landowner (Council) before formation, which would include an agreement as to any landscaping and grassing once constructed. In this way, the batters (if required) should not be thought of as land taken from the Reserve, given they would effectively be a similar form of grass / landscaping as to that which currently exists, would not be permanently occupied or built on, or used for right of way. In this regard, they are not required to be contained in the proposed easement, but the Hearings Panel can take comfort in any future design and approval process being subject to landowner (Council) approval and related conditions.
- [14] To ensure submitter concerns are addressed in respect of future design and stormwater management, the following conditions are volunteered to be imposed on this decision under s48(1) to grant the easement. Note that other conditions on a final easement may also eventuate as the Applicants and Council negotiate the same.

¹ Of which only 1.5m is new easement subject to this application and 3m is existing easement.

- (a) *The Easement is subject to obtaining resource consent and / or engineering approval (as the case may be required) for the construction or realignment of the ROW.*
- (b) *The construction / realignment of the ROW shall be carried out in accordance with any relevant resource consent and / or engineering approval (as the case may be required).*
- (c) *The Easement facility shall be generally consistent with the dimensions shown on [the scheme plan attached to this decision], subject to any amendments required by any relevant Council resource consent and / or engineering approval (as the case may be required).*

[15] For completeness, the Applicants maintain the position that the width of the easement as initially sought and notified is appropriate on the basis of the effects on the Reserve and in accordance with the Council's Easement policy 2008.² However, a narrowing has been offered to address submitter concerns as far as possible. The last condition italicised above is to provide some flexibility for the Applicant in the unforeseen circumstance that a minor adjustment may be required to the extent of the Easement shown in **Attachment B**.

[16] In response to the revised proposal, Ms Badger for the Golf Club informally advised the Applicants that there was no issue with the revised proposal. She however maintained concerns as to stormwater management. The Applicant's position, as set out further below, is that is an effect not arising from grant of the Easement and is to be managed separately.

Responses to submitter key concerns

[17] Submitters raised similar and overlapping concerns. These are grouped by theme below and responded to.

² Applicant opening submissions.

Historical issues and encroachment

- [18] A number of submitters³ raised issues of historical activities and encroachments, and the extent to which the Applicants are possibly benefiting from a non-compliance that they contributed to themselves. Such statements were not substantiated by any clear evidence.
- [19] The Applicants have confirmed to Counsel (including Mr Crawford, the longest resident Applicant) that they were not responsible for the accessway construction in its current location.
- [20] There is no clear evidence before the Hearings Panel in respect of the process and timeline for construction, signoff and approval by Council, or what other neighbouring landowners have contributed to any present (alleged) stormwater issues. All information presented in terms of various theories around what landowner has contributed to particular works and issues is anecdotal only.
- [21] In any event, it is submitted such matters are irrelevant to the Panel's determination as to grant of an easement under s 48(1). What is done is done, and this process is a first step to allow the Applicants to assist in correcting a situation that has been inherited.

Conditions imposed on easements under the Reserves Act 1977

- [22] Mr Page, for the Burnside Trust submitter, referred to *Opua Coastal Preservation Inc v Far North District Council*⁴ as authority on easements being granted under section 48 of the Reserves Act 1977 and subject to conditions. Mr Page sought a number of conditions be included in any grant of easement. Counsel notes that Mr Page did not advise this decision was reversed by the Supreme Court in *Schmuck v Opua Coastal Preservation Inc*.⁵
- [23] The facts of that case were that Mr Schmuck requested an easement over reserve land adjacent to his boatyard, in which he could wash down boats, discharge contaminants, and transport boats from his boatyard to

³ Including Dr Samson for the Burnside Trust and the Wanaka Golf Club

⁴ [2018] NZLR 538 at [58] and [78].

⁵ [2019] NZSC 118.

the slipway, among other activities. The Supreme Court reinstated the District Council's decision to grant the easements over the reserve land.

[24] It is not disputed that s48(1) of the Reserves Act clearly envisages that easements over reserve land may be granted on such conditions as the Minister (or administering authority where delegated) thinks fit.

[25] The conditions imposed on the easements sought by Mr Schmuck related to operational uses of his boatyard in the easement facility. The conditions reflected the wide and varying nature of activities he sought to undertake within the easement areas (as listed above). The appropriateness of particular conditions in any instance will be fact specific and the cases do not support any general proposition that the conditions proposed by the Burnside Trust are appropriate in this instance. Some comments in reply to those requested are set out below.

Condition requested	Applicant response
Grant, registration, formation, and maintenance of the Easement Areas is entirely at the cost 91, 93, and 99 Youghal Street	Dr Samson makes it clear he does not wish to financially contribute to this process, and he has not done so to date. The Applicants are taking all steps they can to correct and formalise access and will pay for costs in that process. It is not necessary or appropriate for the Council to concern itself with further details around party payment or share.
The existing informal access alignment within 89 Youghal Street shall, with the permission of the owner of that land, be rehabilitated (etc)	The new easement areas to be granted will enable the Applicants to suitably design and construct a safe access formation in a legally authorised place. The Applicants have no easement right to use the formation on 89 Youghal Street (and Dr Samson confirmed in the hearing

	he refused the request to formalise this advanced by the Applicants). What is an appropriate remediation plan, when, according to what conditions, and what share of costs is a private matter between parties. There is no evidence that it is the Applicants entirely who contributed to the current formation over 89 Youghal Street. It would be problematic for the Council to grant conditions relating to land which is not subject / party to the easement and the responsibility of oversight of the same. The Schmuck cases do not support such an outcome. Easement conditions are also registered against the title in perpetuity. The condition proposed by the Burnside Trust also relates to a one-off matter. As such, there are other avenues that are more appropriate to resolve this issue.
85 Youghal Street) shall have the benefit of new Easement Area B (but not contribute to costs).	As stated in the hearing, the Applicants approached Dr Samson prior to proceeding with this process and notification to invite him to contribute to costs and benefit from any increased easement area. Dr Samson did not agree. It is clear that he wishes to benefit from this proposal, create leverage through his counsel appearing, but not to contribute financially at all. The public notice for this proposal did not

	include 85 Youghal street and there may be an issue to include it now in terms of scope. Other submitters also appear to be opposed to such an outcome and the submissions from Counsel for Dr Samson appear to state he considers his access options fit for purpose anyway. There is nothing stopping 85 Youghal st seeking the benefit of an easement corridor over Area B in the future. The Applicants oppose this condition. conditions attached to the Easement should relate to land that is party to the easement – that is, the benefited or burdened land.
Stormwater from the Reserve, including the Easement Areas, shall not be permitted to enter 89 Youghal Street. This is to be achieved by the formation of kerb channelling formed on the north side of Easement Area A and shall be continuous to the junction of Youghal Street and thereafter formed from the corner of the Youghal Street northwards to meet the existing kerb channelling approximately adjacent to the frontage of 83 Youghal Street. To be clear, the Burnside Trust will not contribute to that cost.	The requested condition is highly technical in nature, will require specific design and likely engineering approval from Council, and should be a matter determined and approved by experts according to conditions imposed under the CoP and any consent. The position in the CoP is clearly that pre and post development flows must be equal and so such a condition does not add anything

[26] In the hearing, Mr Page suggested that the Applicants' proposal was 'half baked' and insufficient information has been put to the Hearings

Panel around conditions, design, and final formation of a revised accessway. The Applicants dispute this. They have followed Council's legal advice that such future design is a separate process and beyond the scope of this hearing. The conditions that Mr Page has requested are inappropriate for Council to impose, are not supported by the *Schmuck* case law provided, and are without a technical evidential base.

Incompatible uses – Golf club lease agreement

- [27] *Schmuck* confirmed that while an easement cannot be so extensive or invasive that it ousts the servient owner from the enjoyment and control of the servient tenement, every easement will bar some use of the servient land. The sole use of an easement for a limited purpose is not inconsistent with the servient owner's retention of possession and control.⁶
- [28] It is submitted that the limited use of the easement cannot be seen to exclude the Council, as the landowner of the servient tenement. As outlined in opening, the proposed Easement is located at the edge of the reserve and for the most part formalises the existing access alignment.
- [29] The lease agreement with the Wanaka Golf Club has not been identified as an issued by the Council.⁷
- [30] While the Golf Club raised issues in the hearing as to concerns of precedent, taking of usable land, and interference with its use arrangements, these were not supported by evidence. The very small easement area on the edge of the course does not appear to be currently used for golf, or possibly useable. There was no clear evidence as to ball strike risk already being an issue in this current location. This would not be increased by granting of the easement.
- [31] As with the Burnside Trust, a number of conditions were requested which are beyond the scope of this hearing, including in relation to the erection of signage and provision of indemnities.

⁶ *Schmuck* at [88] citing *Moncrieff v Jamieson* [2007] UKHL 42 at [54]-[55].
⁷ See: Wanaka-Upper Clutha Community Board Council Report (27 March 2025) at [10].
Accessed at: <https://www.qldc.govt.nz/media/h4cfkzez/item-2-notification-of-easements-for-youghal-street.pdf>.

- [32] As noted above, the Golf Club indicated support for the revised proposal to the Applicants (however formal written notice of that was not provided). In any event, even if there was remaining opposition, the Council has the ability to grant the easement over leased land where it considers the two can co-exist.

Stormwater and formation issues and related conditions

- [33] The Friends of Bullock Creek Trust also requested that the effects of stormwater are considered prior to the easement being granted. As noted in submissions, stormwater design will be managed as part of the resource consent process. The Hearings Panel has no technical information before it to assist it in determining an appropriate suite of conditions.
- [34] As noted above, any future engineering and / or resource consent will ensure that CoP standards and District Plan standards are duly complied with. The Hearings Panel should have faith in the administration of those to appropriately control effects.

Conclusion

- [35] Given the above, it is considered that the effects of the proposed easement on recreational values will be de-minimus and the proposal will meet the purpose for the Reserve in that it does not significantly adversely affect landscape and natural values and the provision and/or protection of outdoor recreational activities. The proposed works do not impact on the ability of the Reserve to provide for recreational activities.
- [36] The area of the Easement is either already formed for access, or otherwise is a steep and very small area which is not actively used to enable recreation.
- [37] The Applicants intend to seek separate approvals under the District Plan and CoP that would ensure any effects of formation and construction of the access are suitably avoided, remedied or mitigated.

[38] Accordingly, all physical works of the proposed easement will be controlled by Council through the detailed design, certification and monitoring processes in the relevant conditions of consent.

[39] It is considered appropriate for the Hearings Panel to grant the proposal in accordance with Section 48(1)(f) of the Reserves Act 1977, and according to:

- (a) The conditions proposed above at [14]; and
- (b) Attachment B – the revised Easement facility.

Dated: 24 September 2025

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R E M Hill
Counsel for the Applicants

Attachment A – indicative design (for information purposes only)

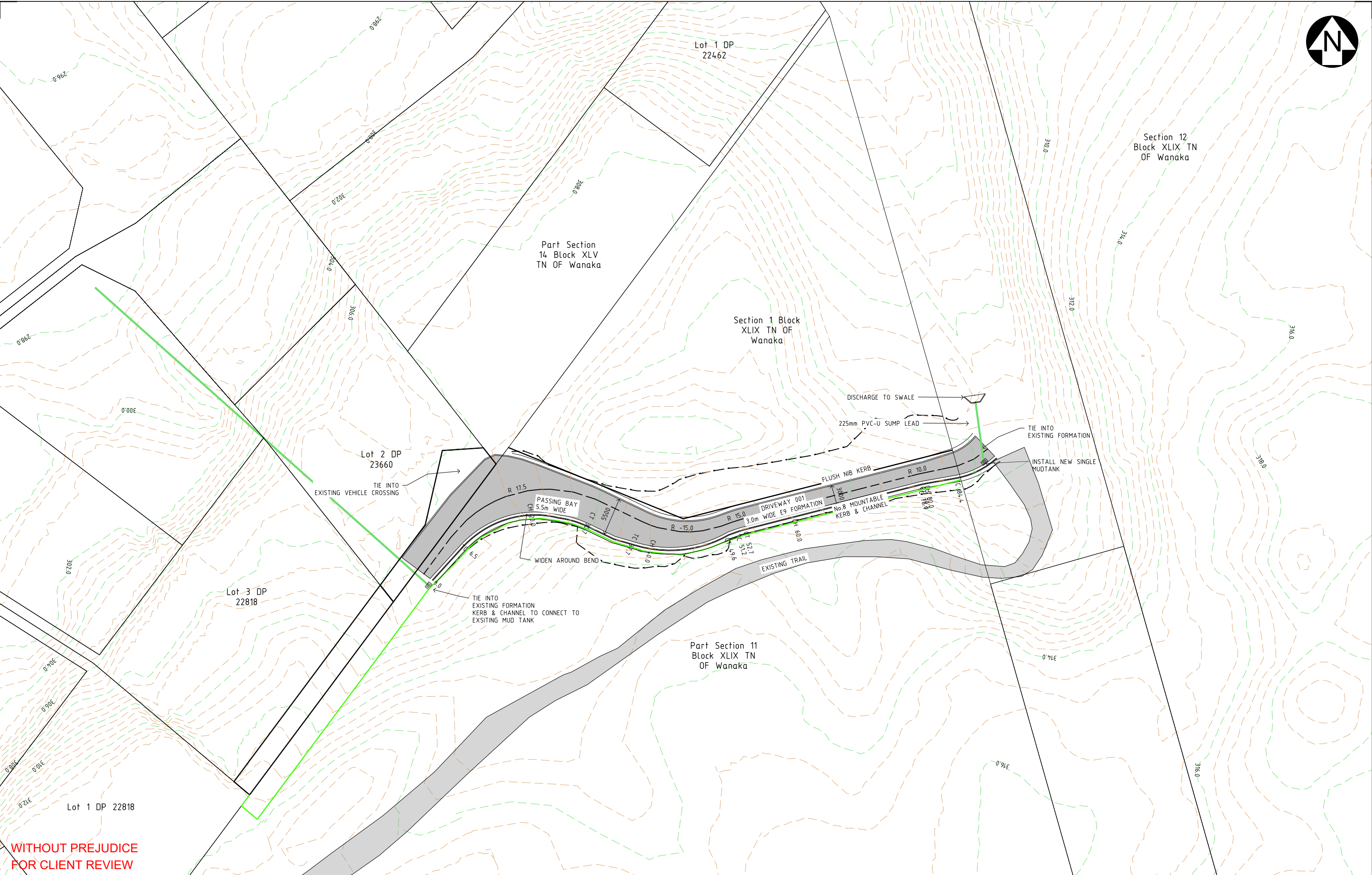
ENGINEERING DESIGN PLANS

DRIVEWAY REALIGNMENT - OPTION A BATTERS

ENGINEERING DRAWINGS

EARTHWORKS, ROADING AND SERVICES
JOB No. 16639
FOR
GRAHAM CRAWFORD
FOR CLIENT REVIEW

SHEET INDEX								
SHEET No	DRAWING TITLE	REVISION	SHEET No	DRAWING TITLE	REVISION	SHEET No	DRAWING TITLE	REVISION
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SHEET 002	DRIVEWAY LAYOUT - OVERVIEW	-	SHEET 027	-	-	SHEET 052	-	-
SHEET 003	EASEMENTS	-	SHEET 028	-	-	SHEET 053	-	-
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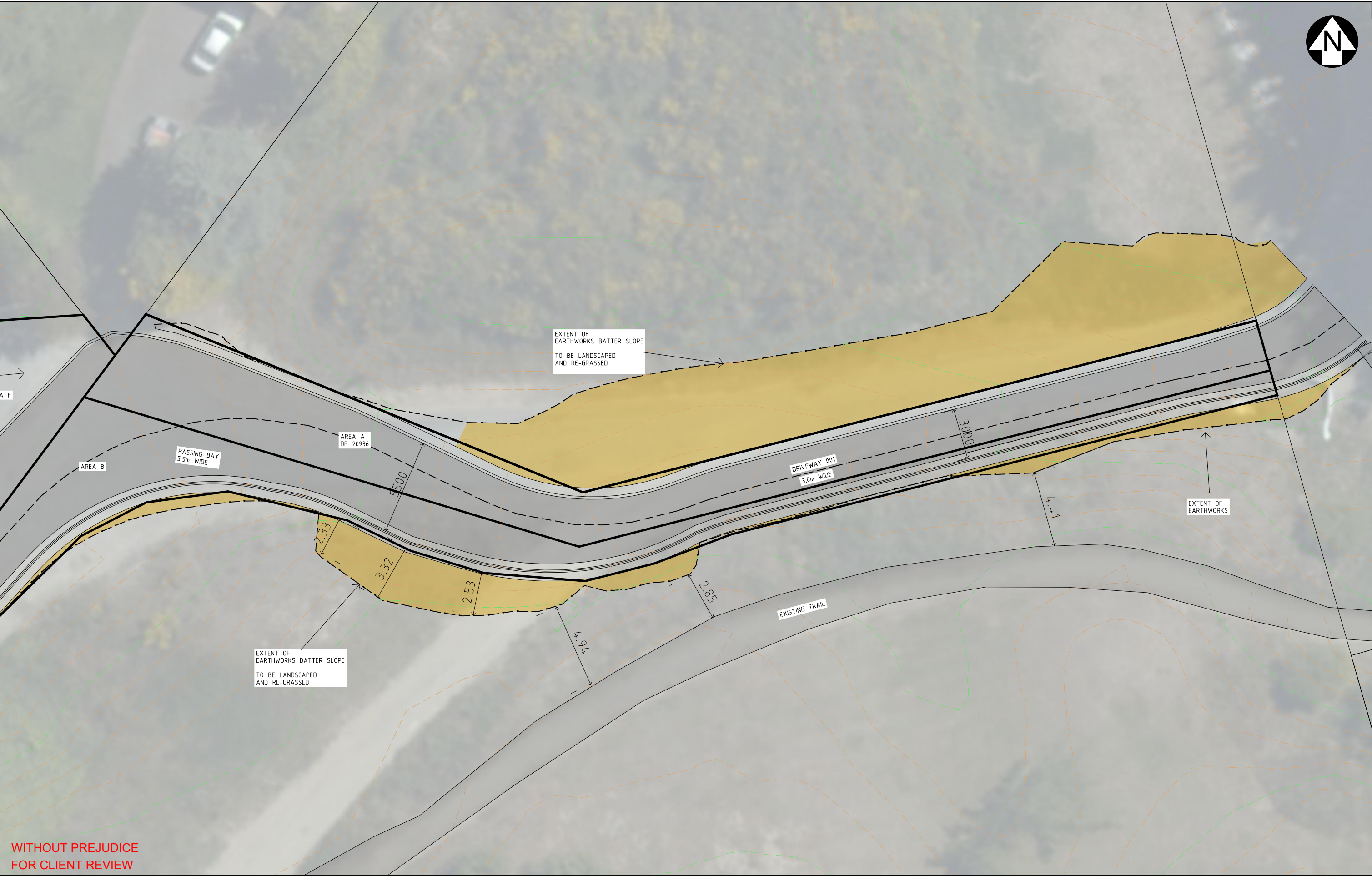
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DRIVEWAY REALIGNMENT - OPTION A BATTERS

LAYOUT DETAIL

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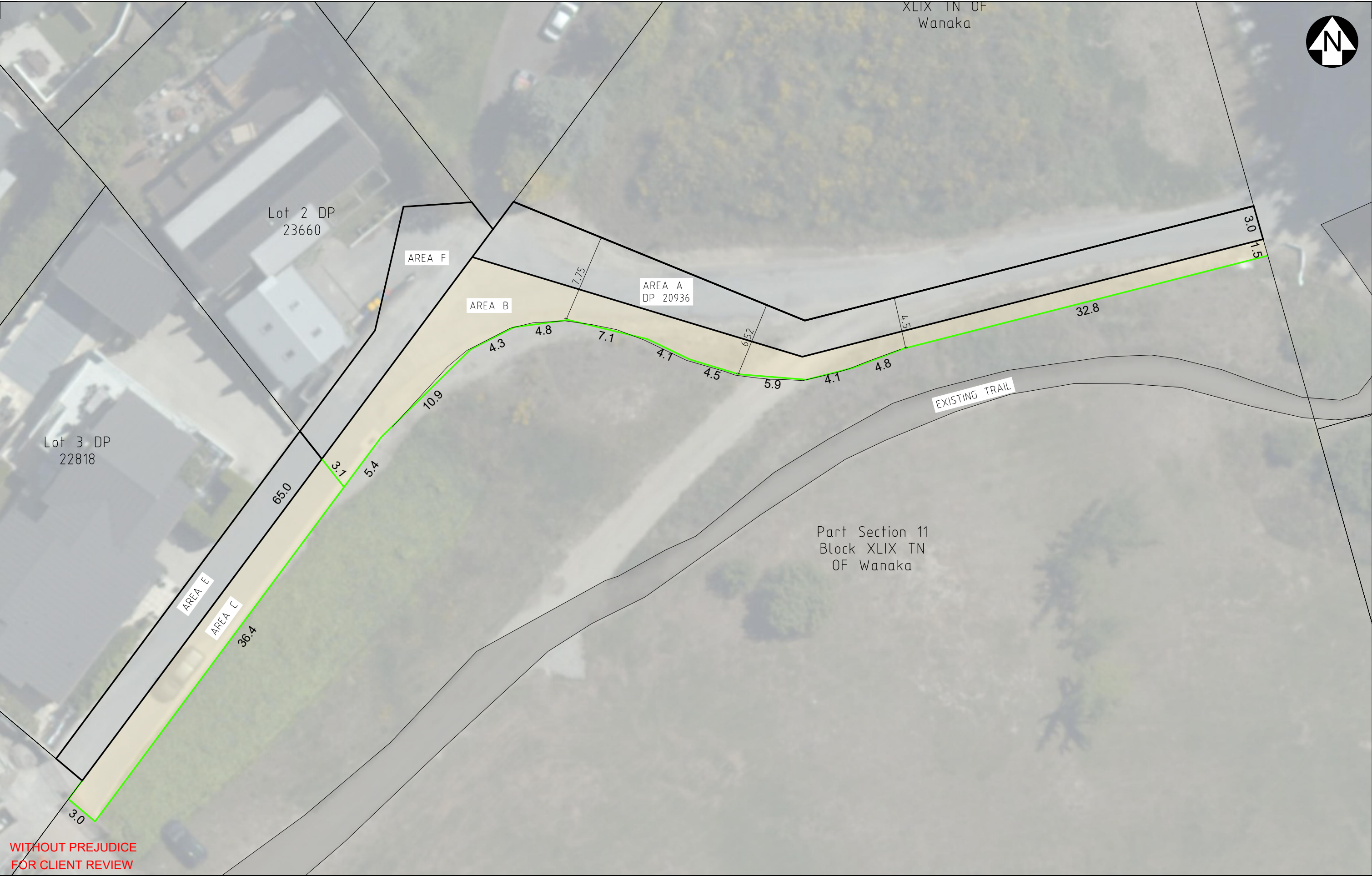
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DRIVEWAY REALIGNMENT - OPTION A BATTERS

LAYOUT OVERVIEW

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EASEMENTS

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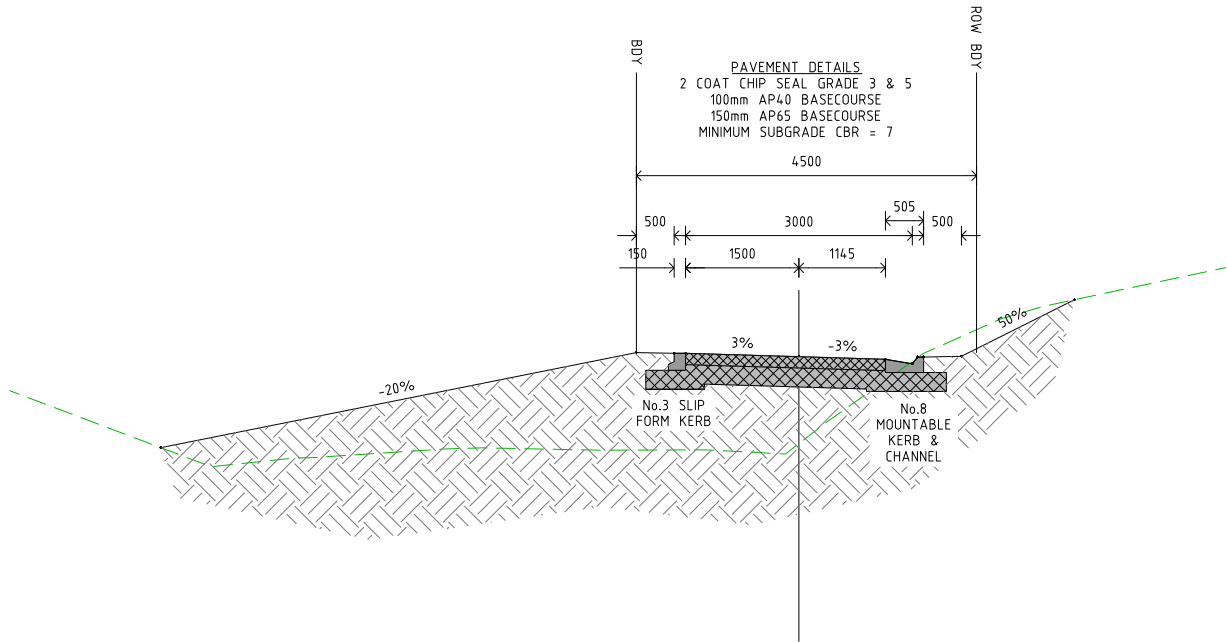
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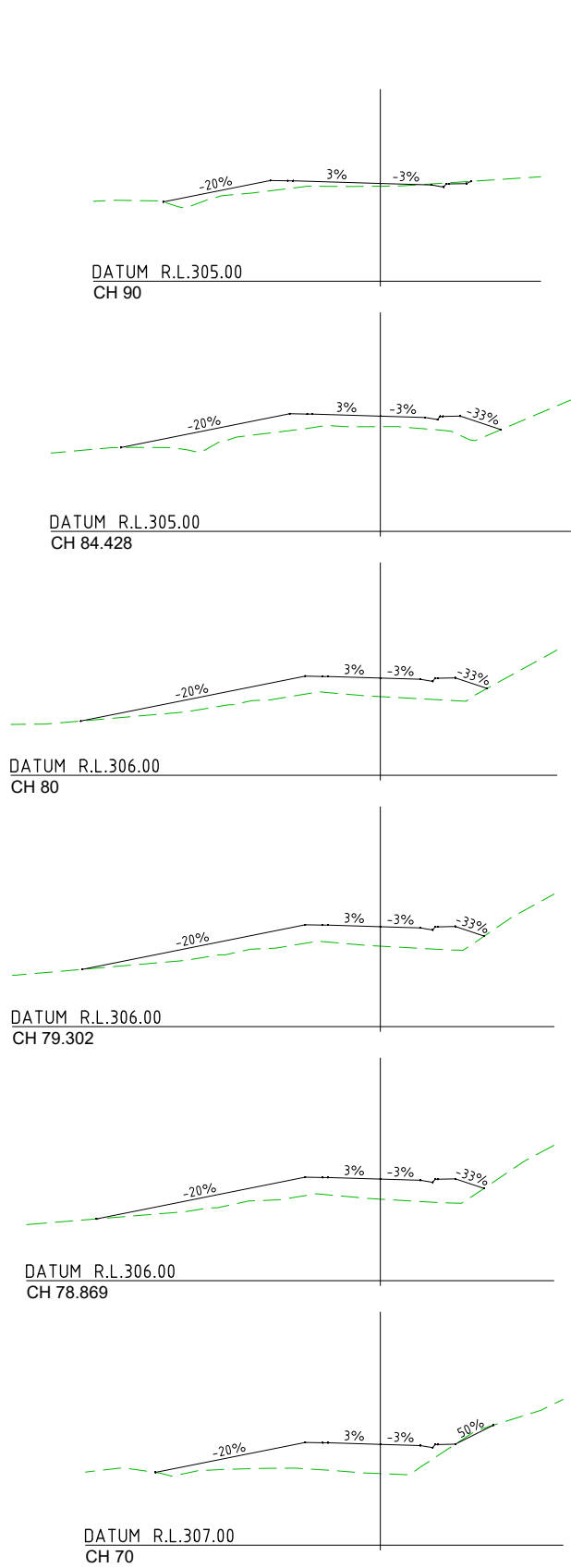
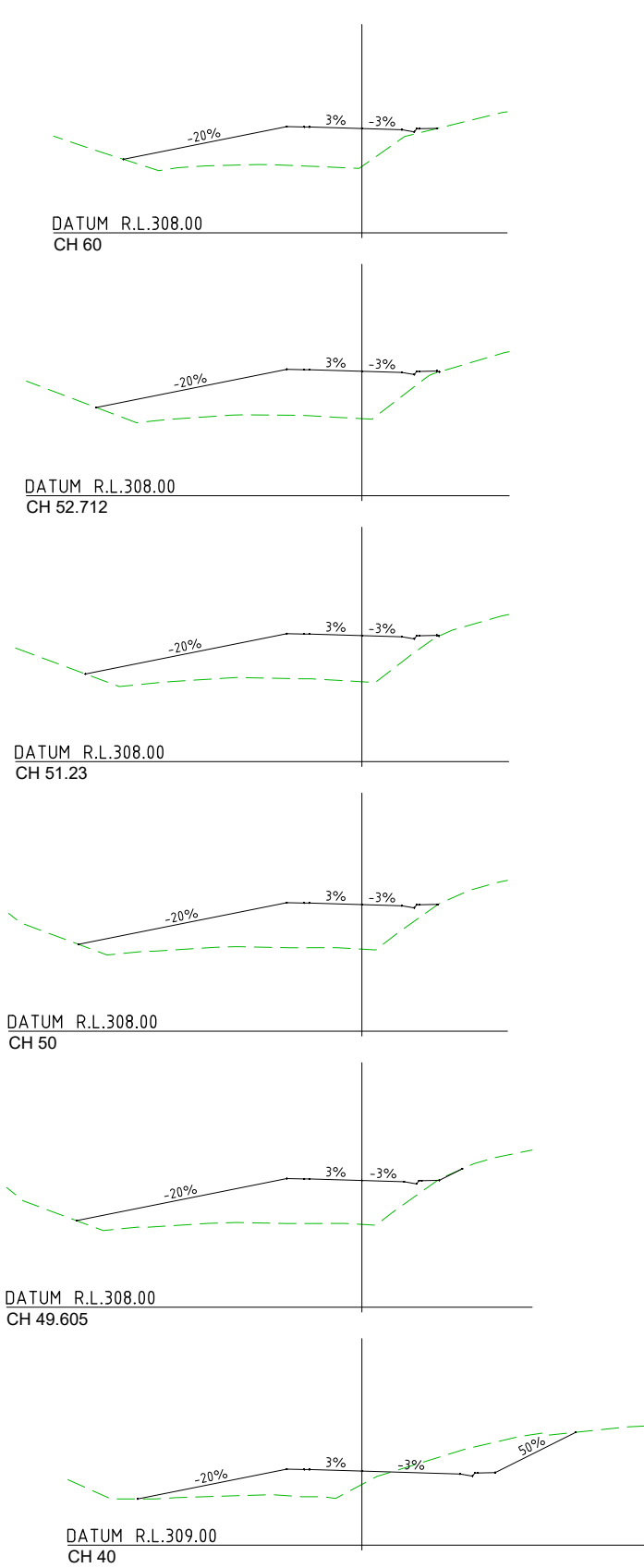
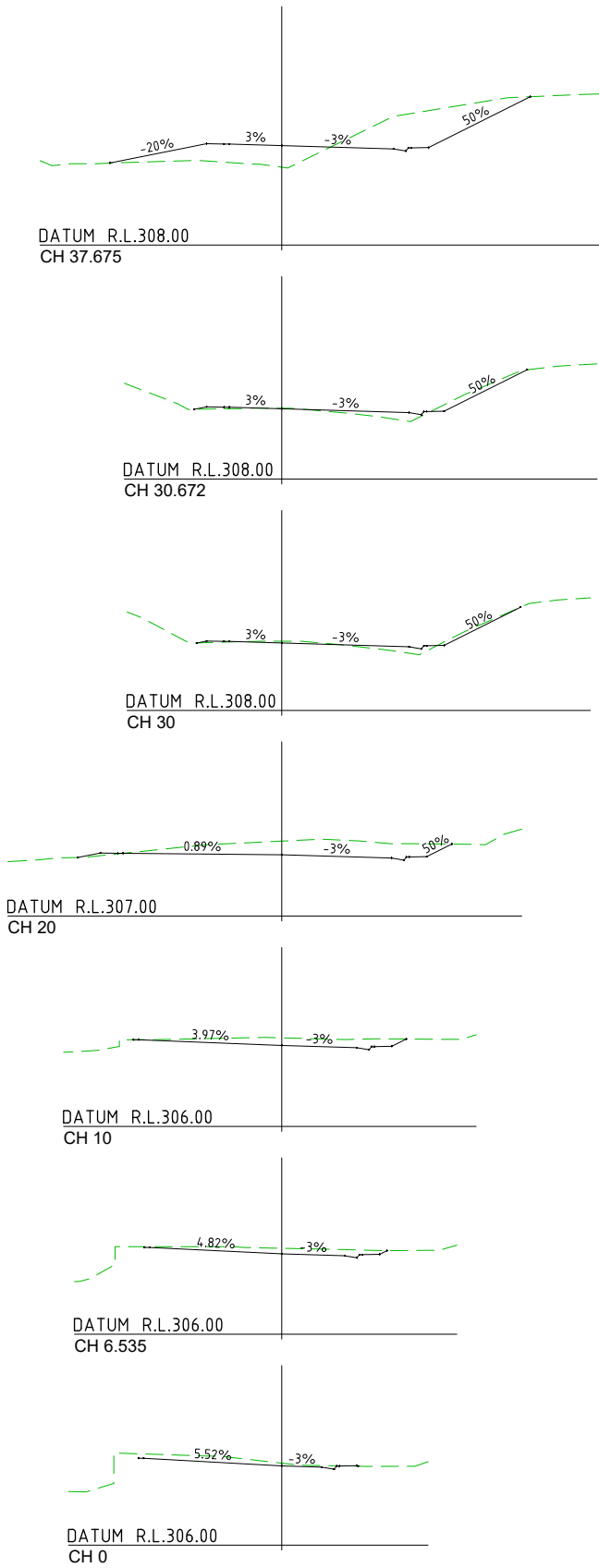
DRIVEWAY REALIGNMENT - OPTION A BATTERS

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CROSS SECTIONS



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LONGSECTION - DRIVEWAY 001
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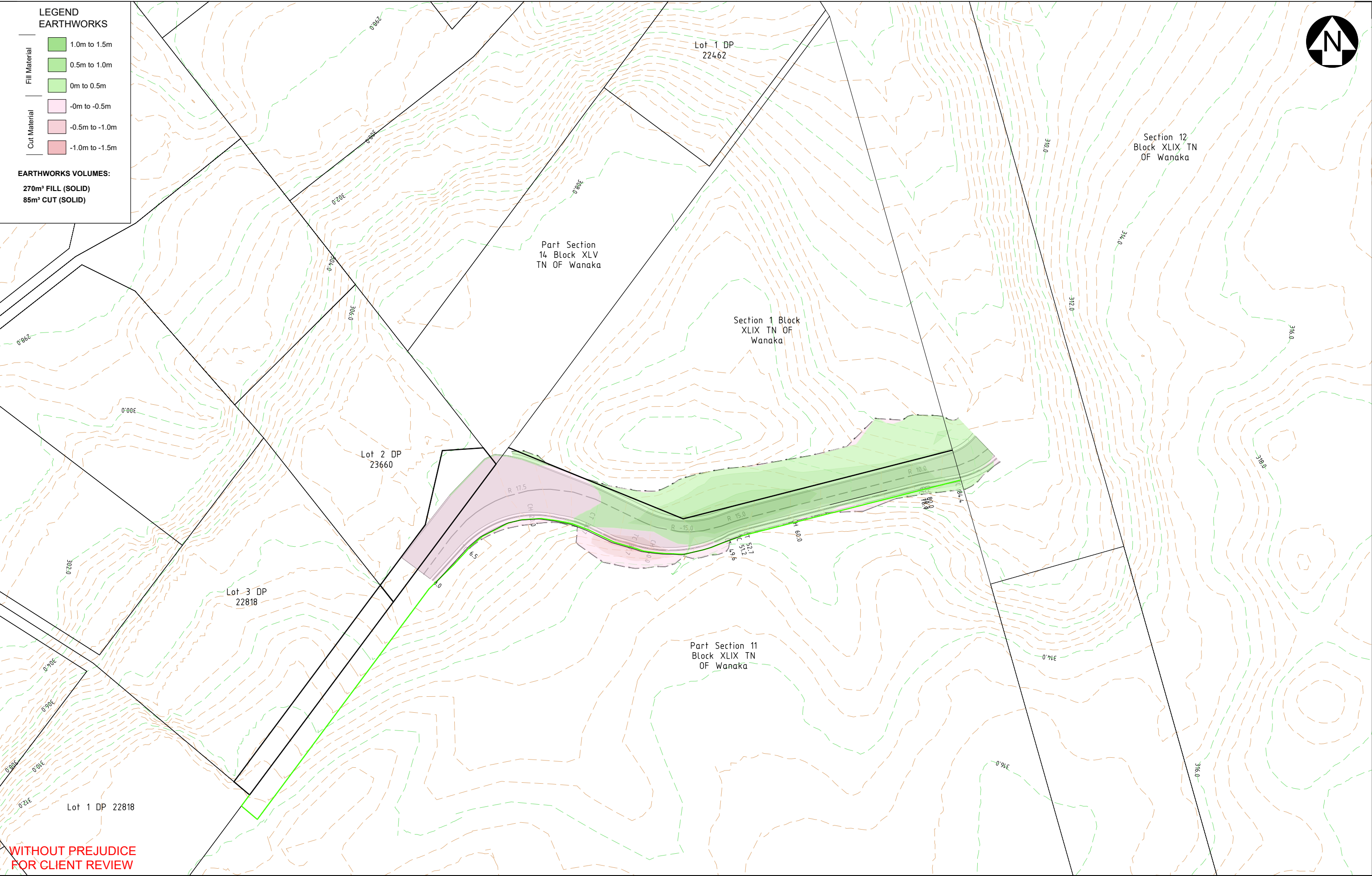
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DRIVEWAY REALIGNMENT - OPTION A BATTERS

LONG SECTION

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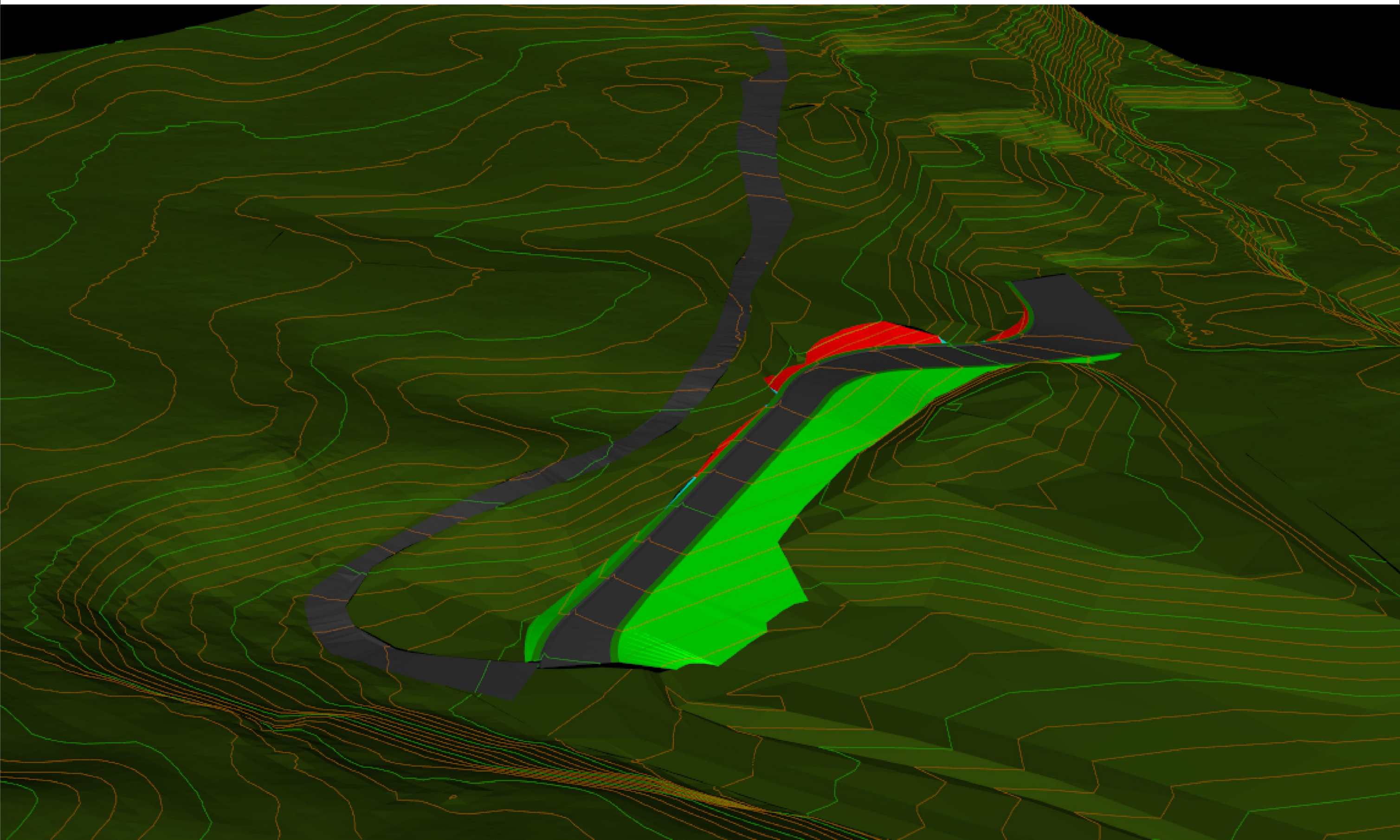
DRIVEWAY REALIGNMENT - OPTION A BATTERS

EARTHWORKS VOLUMES

Client
GRAHAM CRAWFORD

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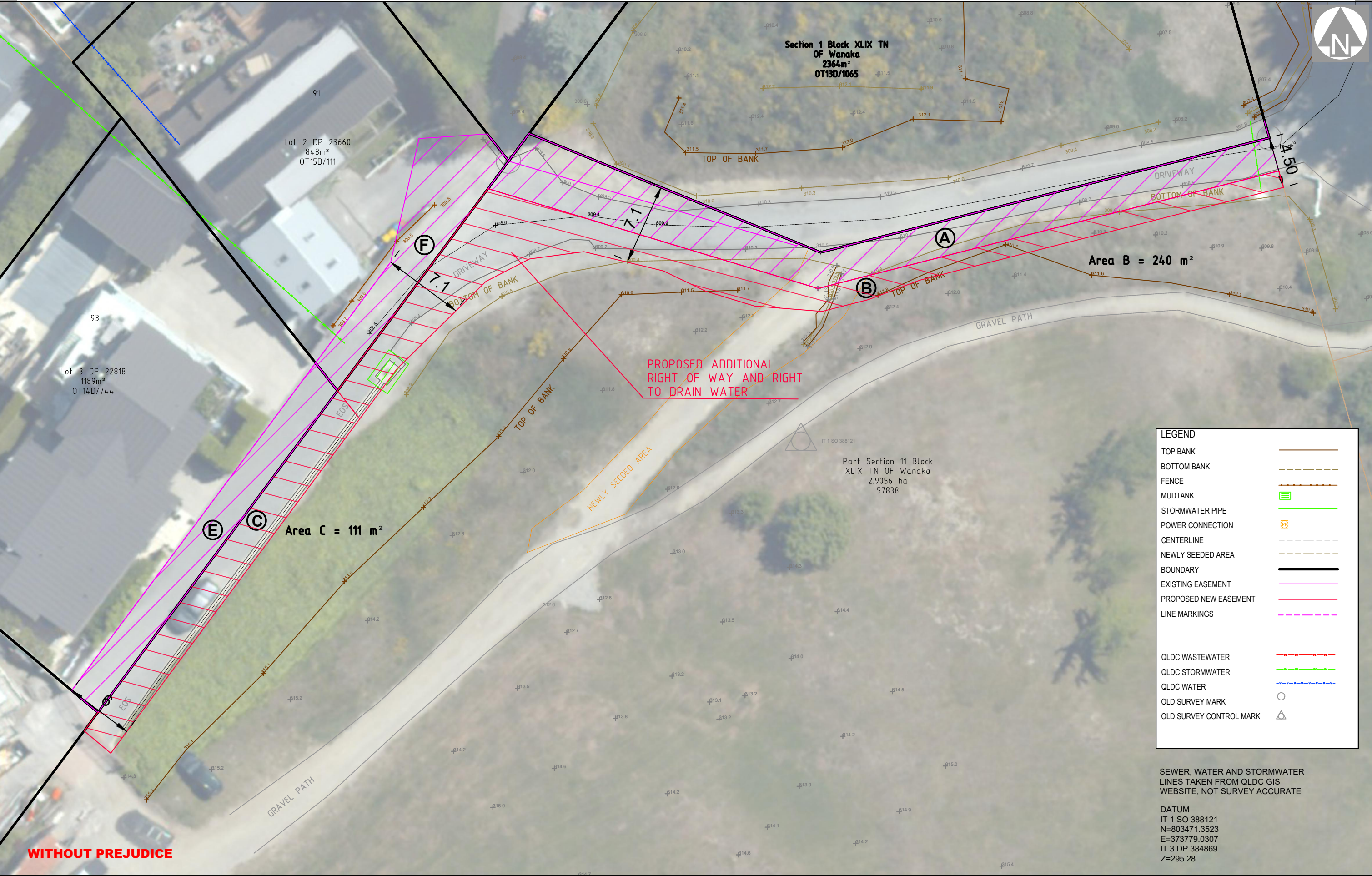
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DRIVEWAY REALIGNMENT - OPTION A BATTERS

3d PERSPECTIVE

Client GRAHAM CRAWFORD Notes: All dimensions shown are in meters unless shown otherwise. Any person using Clark Fortune McDonald drawings and other data accepts the risk of: - Using the drawings and other data in electronic form without requesting and checking them for accuracy against the original hard copy versions. - Copywrite on this drawing is reserved.	DESIGNED	BM	15.08.25	Job No.	16639	Drawing No.	E001
	DRAWN	BM	15.08.25	Scale	1:250 @ A1	SHEET08	
	CHECKED	BW	TBC		1:500 @ A3		
	APPROVED	BW	TBC	Datum & Level	LINDAS PEAK 2000 / NZVD 2016	Rev.	-

Attachment B – revised easement facility for approval



WITHOUT PREJUDICE

LEGEND	
TOP BANK	
BOTTOM BANK	
FENCE	
MUDTANK	
STORMWATER PIPE	
POWER CONNECTION	
CENTERLINE	
NEWLY SEEDD 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



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

Rev.	Date	Revision Details	By
-	-	-	-
-	-	-	-
-	-	-	-
-	-	-	-
-	-	-	-
-	-	-	-

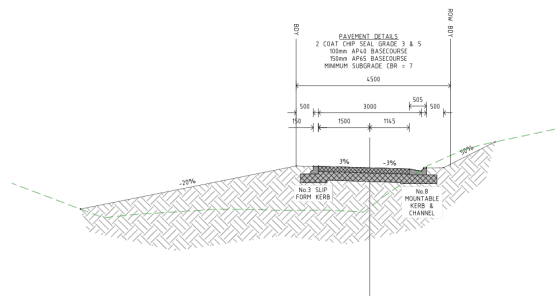
**Proposed additional ROW areas over
Pt Sec 11, Blk XLIX Tn of Wanaka'**

96

Client	Crawford, Graham	SURVEYED	GH	02.07.24	Job No.	16639	Drawing No.	----
DESIGNED	----				Scale	1:150 @ A1 1:300 @ A3		SHEET 001
DRAWN	GH	07.04.25			Datum & Level	Lindis 2000 NZDV2016	Rev.	B
CHECKED	----							
APPROVED	----							

NOTES:
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APPENDIX 4 - Typical cross section



WITHOUT PREJUDICE
FOR CLIENT REVIEW

CLARK FORTUNE McDONALD
LAND DEVELOPMENT, PLANNING CONSULTANTS
QUEENSTOWN | DUNEDIN | CHRISTCHURCH | AUCKLAND

Rev.	Date	Revision Details	By
-	-	-	-

DRIVEWAY REALIGNMENT - OPTION A BATTERS TYPICAL CROSS SECTION

Client	GRAHAM CRAWFORD	DESIGNED	BY	15.08.25	Job No.	16639	Drawing No.	E001
Notes:	All dimensions shown are in metres unless stated otherwise. Any variation to the design must be approved by the client. The client must ensure that the design is suitable for the intended use. The client must ensure that the design is suitable for the intended use. The client must ensure that the design is suitable for the intended use.							E001
Drawn	BY	15.08.25	Scale	1:50 @ A1				
CHECKED	BY	TBC	Scale	1:100 @ A3				
APPROVED	BY	TBC	Scale	1:100 @ A3				
					Drawn & Issued	15.08.25	Rev.	01
					LINDAS PEAK 2000 / NZD 2016			

APPENDIX 5 - Councillor Gladding's statement of reasons for dissenting view.

"My position differed from the majority. I was prepared to recommend granting the easement, but my approval was subject to the inclusion of a condition limiting the use of the easement to the existing number of dwelling units on the benefitted properties.

To be clear, I don't disagree with any of the conditions recommended in the decision – to my mind they go some way to addressing concerns raised by submitters. However, the easement instrument will endure, and development of the properties benefiting from the easement may occur in the future. If the ROW easement across the reserve land can be relied on to service more intensive development, that would likely increase traffic flows – possibly significantly.

Based on the submissions heard by the Panel, additional traffic could affect the rights of Wanaka Golf Club. Liability due to ball strike and the protection of 'buffer zones' were a key concern. The Club requested indemnity for liability for damage by golf balls in the easement area, but that relief has not been recommended in the decision.

Another Panel member noted, and I agree, that we cannot place conditions on the easement in anticipation of potential future development. However, we are able to limit the use of the easement to the existing number of dwelling units. This would ensure that more intensive land use would trigger the need for a new easement. That would provide an opportunity to hear from the Club, and to either decline the application or put in place new conditions to protect the rights of the Club. Noting that while development may trigger the need for other permissions/consents, those processes would not include elected members and do not guarantee consultation.

Finally, for the benefit of the Council (as the decision-maker), I want to provide some context in support of my position. The land to be burdened is Recreation Reserve, a Reserve Management Plan in place that supports the use and development of the land as a golf course, the land is zoned for golf, and the Wanaka Golf Club has a lease that effectively runs 'in perpetuity'. The Land Transfer Regulations 2018 state (at clause 10(3)) that "the grantor must not do and must not allow to be done on the burdened land anything that may interfere with or restrict the rights of any other party...". In addition, s48(1) of the Reserves Act 1977 allows the Council to grant the easement subject to any conditions it sees fit."