

QLDC Council  
1 September 2022

Report for Agenda Item | Rīpoata moto e Rāraki take [7]

Department: Community Services

Title | Taitara Mount Iron Acquisition, supplementary easement approvals under the Reserves Act (Gas and batter easements)

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

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- 1 The purpose of this report is to consider granting gas and batter easements over parts of the Mount Iron reserve, currently in the process of being acquired.

RECOMMENDATION | NGĀ TŪTOHUNGA

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- 2 That Council:
  1. **Note** the contents of this report;
  2. **Approve** an underground service easement for the right to convey gas to Rockgas Limited over Area A on Lot 1 DP 539513 (or successors) subject to the Reserves Act 1977, with the extent of that easement identified in **Attachment B**;
  3. **Approve** a batter easement to Allenby Farms Limited over Areas ZG, RB & ZH on Sections 3 & 4 SO 573783 (or successors) subject to the Reserves Act 1977, with the extent of that easement identified in **Attachment C**;
  4. **Agree** that no easement fees be payable, in line with existing commercial agreements with both parties;
  5. **Delegate** authority to approval final terms and conditions of the easements and execution authority to the General Manager Community Services; and
  6. **Agree** to exercise the Minister's consent (under delegation from the Minister of Conservation) to granting of both easements.

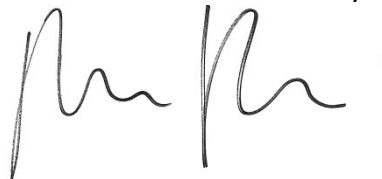
Prepared by:



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Manager

11/08/2022

Reviewed and Authorised by:



Meaghan Miller  
Acting Community Services  
General Manager

18/08/2022

## CONTEXT | HOROPAKI

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- 3 The Council has entered into an agreement to purchase parts of Mount Iron in Wanaka. This was approved by the Council at their meeting of 16 December 2021.
- 4 The land affected by this proposal has current legal description of Lot 1 DP 539513 and Lot 2 Deposited Plan 539413 and will be given new legal descriptions through the acquisition process.
- 5 Council has resolved to classify the land being acquired from Allenby Farms Limited (AFL) as Recreation Reserve through the acquisition process.
- 6 A separate agreement is already in place between AFL and Rockgas Limited which provides for a gas easement on Lot 1 DP 53951, running adjacent to the State Highway. As a condition of the purchase agreement between Council and AFL, the Council is bound to honour this existing easement agreement. The gas line has been installed for some years and provides gas to the Three Parks subdivision area, including to the Wanaka Recreation Centre.
- 7 Council's Mount Iron purchase agreement with AFL, also provides for a future batter easement on their main access road to Rob Roy Lane. The batter is not currently constructed but may be required by AFL in the future.

## ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

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- 8 The Council is currently working through the acquisition requirements associated with the purchase of Mount Iron and Little Mount Iron from AFL and is likely to transact in the first half of 2023.
- 9 There are a number of agreements and conditions in place binding both the Council, AFL and other third parties such as Rockgas Ltd which complicate the acquisition process.
- 10 In order to acquire the land as quickly as possible, some of the commercial agreements have been negotiated to be completed after the acquisition is completed. This report seeks approval from Council in accordance with the future reserve classification of the land, to register the easements once the transaction has been completed.
- 11 Attached to this report are plans to show the location of the 2 proposed easements.

### **Gas Easement in favour of Rockgas Ltd**

- 12 Shown on **Attachment B**, the underground infrastructure location is in accordance with the agreement previously reached between Allenby Farms Limited and Rockgas Limited.
- 13 The easement corridor is as per the previous approval to Rockgas Limited and, upon final survey, is proposed to be 3m wide and approximately 725 m long.
- 14 Typically, a one-off easement fee is required for new easements over Council land, QLDC's as per the Easement Policy 2008. However, as AFL have already granted the easement, and Council are bound to accept the easement, no easement fee is payable.

15 Under the terms of the existing easement agreement, Council is expected to benefit by connection fees, through the gas line.

#### **Batter Easement in favour of Allenby Farms**

16 Shown on **Attachment C**, this easement is a condition of the signed purchase agreement with AFL.

17 The batter easement may be required in the future subject to accessway upgrades. A design for the batter is therefore not available, however an area has been agreed and surveyed as part of the acquisition survey.

18 As per the Rockgas easement, the granting of this easement is an existing condition of contract, and a fee is not payable.

19 Under the Reserves Act 1977, Ministerial consent is required before an easement can be granted over a reserve. This consent is now delegated to Council and must be granted prior to the easements being lodged with LINZ.

20 Granting an easement is permitted by the Reserves Act 1977, provided that any such easement must first be publicly notified in accordance with Section 48(2) unless as per Section 48(3) it can be shown that people's ability to enjoy the reserve is not affected and there is no long-term effect on the land. These matters are considered below:

#### **Gas Easement**

##### Are the rights of the public in respect of the reserve, likely to be permanently affected?

21 Installation of the gas line has already taken place, and long term there will be only minor detrimental effect on the ability of the public to use and enjoy the reserve. The area is now fully reinstated. There may be limited minor inconvenience through maintenance of the line in the future only.

##### Does the easement materially alter or permanently damage the reserve?

22 Aside from during maintenance, this easement will not affect the ability of the reserve to provide for its current purpose and covers only a small portion of the total future reserve land available at Mount Iron.

#### **Batter Easement**

##### Are the rights of the public in respect of the reserve, likely to be permanently affected?

23 Long term there will be only minor detrimental effect on the ability of the public to use and enjoy the reserve during the construction period. Given there are multiple access points into the wider reserve area, it is not expected that access to the reserve will be affected during or after construction.

Does the easement materially alter or permanently damage the reserve?

24 The batter, whilst placed upon the reserve, will not materially alter the overall nature of the reserve, nor will it have any long-term effect on the reserve. This is because it covers only a very small area of the future reserve land and is a condition of it being able to be purchased as reserve.

25 Taking into account the above factors, it is not considered either easement will permanently affect the reserve or the ability of people to use and enjoy the reserve and therefore it is recommended public notification is not deemed necessary.

26 Option 1 To approve the easements.

*Advantages:*

27 Will ensure that the purchase of Mount Iron can be completed as quickly as possible for the benefit of the wider community.

28 Ensures that existing commercial agreements can be adhered to by the Council.

29 Ensures that existing and future easements are recorded formally and secured in accordance with the Reserves Act 1977.

*Disadvantages:*

30 Will encumber areas of the future reserve land.

31 Option 2 Decline the easements.

*Advantages:*

32 None noted.

*Disadvantages:*

33 Would not ensure that the purchase of Mount Iron can be completed as quickly as possible for the benefit of the wider community.

34 Would not enable existing commercial agreements to be adhered to by the Council.

35 Would not ensure that existing and future easements are recorded formally and secured in accordance with the Reserves Act 1977.

36 This report recommends **Option 1** for addressing the matter because it enables a timely acquisition of the property, whilst adhering to existing commercial terms.

**CONSULTATION PROCESS | HĀTEPE MATAPAKI:**

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**> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA**

- 37 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it involves future Council reserve land, however the impact of the decision is minor.
- 38 The persons who are affected by or interested in this matter are Allenby Farms Ltd, Rockgas Ltd and residents, rate payers and visitors to the district.
- 39 Public notification is not required as noted earlier in the report.

**RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA**

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- 40 This matter relates to the Community & Wellbeing risk category. It is associated with RISK00009 within the QLDC Risk Register. This risk has been assessed as having a High inherent risk rating.
- 41 The approval of the recommended option will support the Council by allowing us to implement additional controls for this risk. This shall be achieved by the timely acquisition of the property and adhering to existing commercial agreements.

**FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA**

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- 42 As Council is bound by existing agreements, no fees are chargeable in this instance.

**COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA**

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- 43 The following Council policies, strategies and bylaws were considered:
- Significance and Engagement Policy
  - Easement Policy 2008
  - Reserves Act 1977
- 44 The recommended option is consistent with the principles set out in the named policy/policies.
- 45 This matter is not included in the Ten Year Plan/Annual Plan but will not have any impact on it.

**LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE**

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- 46 In order to grant easements over reserve land, Council must follow the required process set out under the Reserves Act 1977.

**LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA**

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47 The recommended option:

48 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. It will help meet the current and future needs of communities by allowing infrastructure that supports the community to be installed. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.

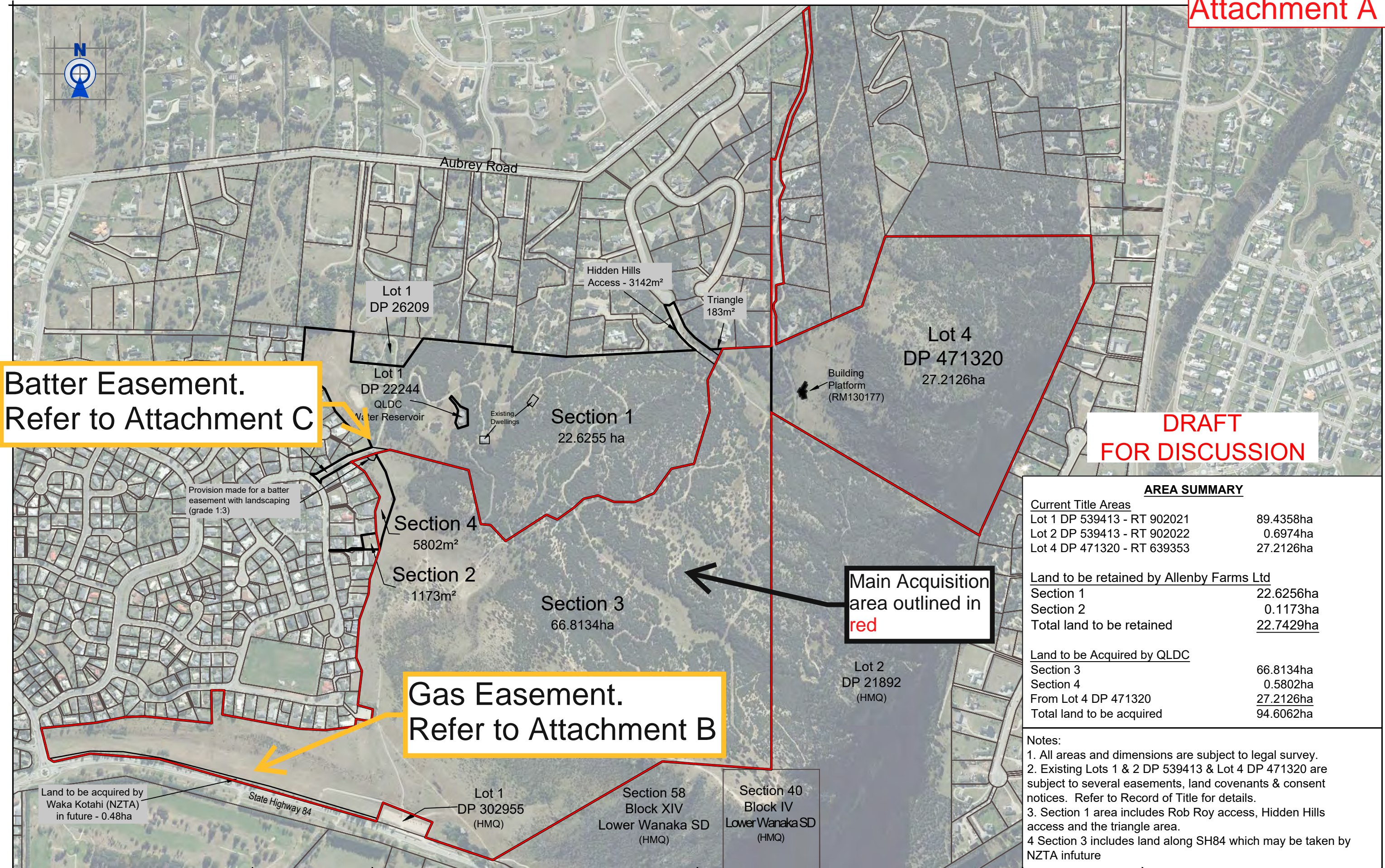
49 Is consistent with the Council's plans and policies; and

50 Would not alter significantly 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 | NGĀ TĀPIRIHANGA**

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A	Overview Plan
B	Rockgas Easement Plan
C	Allenby Farms Easement Plan



**Batter Easement.  
Refer to Attachment C**

**DRAFT  
FOR DISCUSSION**

**Gas Easement.  
Refer to Attachment B**

**Main Acquisition  
area outlined in  
red**

AREA SUMMARY	
<b>Current Title Areas</b>	
Lot 1 DP 539413 - RT 902021	89.4358ha
Lot 2 DP 539413 - RT 902022	0.6974ha
Lot 4 DP 471320 - RT 639353	27.2126ha
<b>Land to be retained by Allenby Farms Ltd</b>	
Section 1	22.6256ha
Section 2	0.1173ha
<b>Total land to be retained</b>	<b>22.7429ha</b>
<b>Land to be Acquired by QLDC</b>	
Section 3	66.8134ha
Section 4	0.5802ha
From Lot 4 DP 471320	27.2126ha
<b>Total land to be acquired</b>	<b>94.6062ha</b>

- Notes:**
1. All areas and dimensions are subject to legal survey.
  2. Existing Lots 1 & 2 DP 539413 & Lot 4 DP 471320 are subject to several easements, land covenants & consent notices. Refer to Record of Title for details.
  3. Section 1 area includes Rob Roy access, Hidden Hills access and the triangle area.
  - 4 Section 3 includes land along SH84 which may be taken by NZTA infuture

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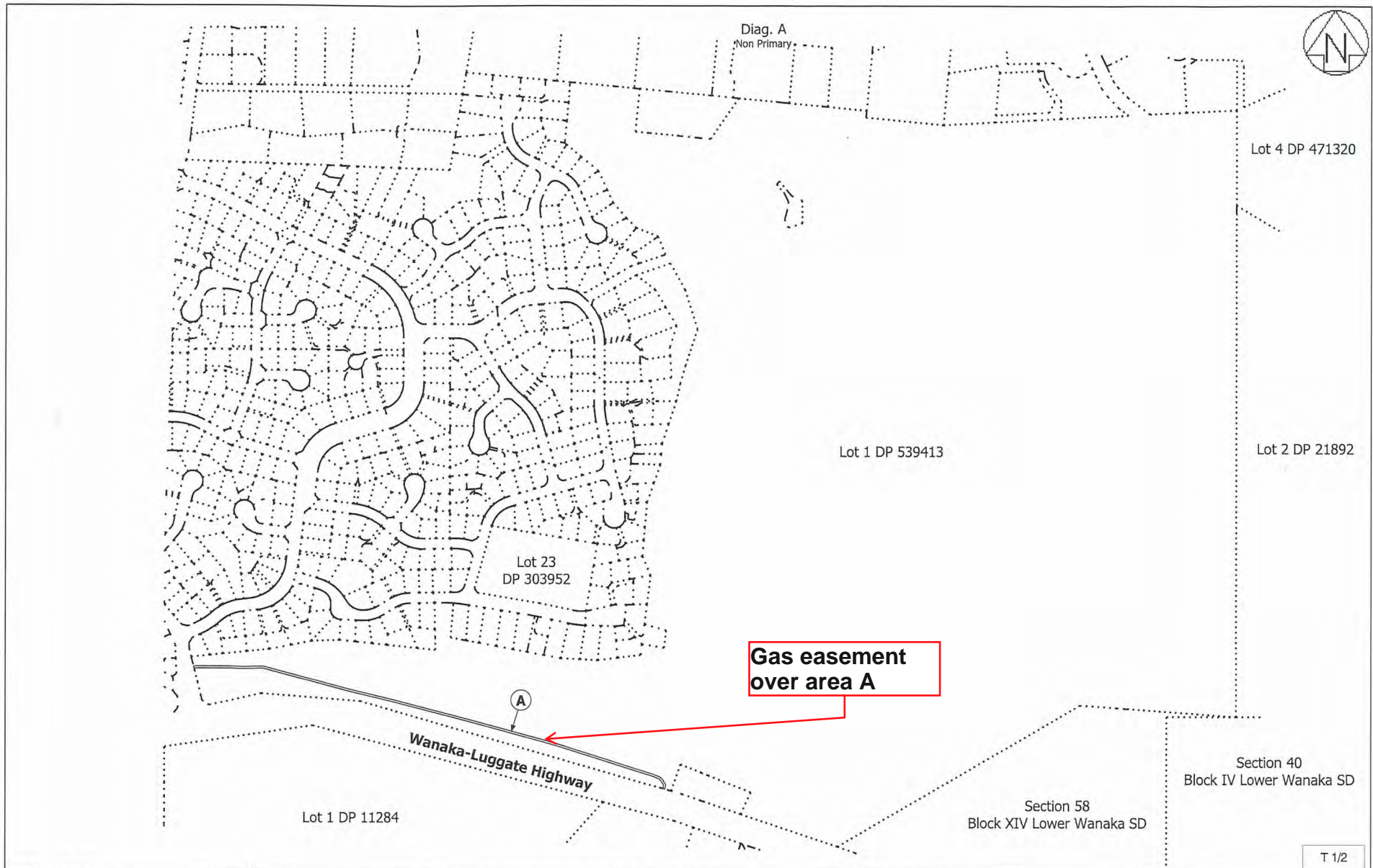
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Client & Location:  
**Allenby Farms Ltd/QLDC**

Purpose & Drawing Title:  
**Mt Iron & Little Mt Iron  
Legalisation Scheme Plan**

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Drawn by:	KMB		
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		<b>W6361</b>	<b>3/12/2021</b>
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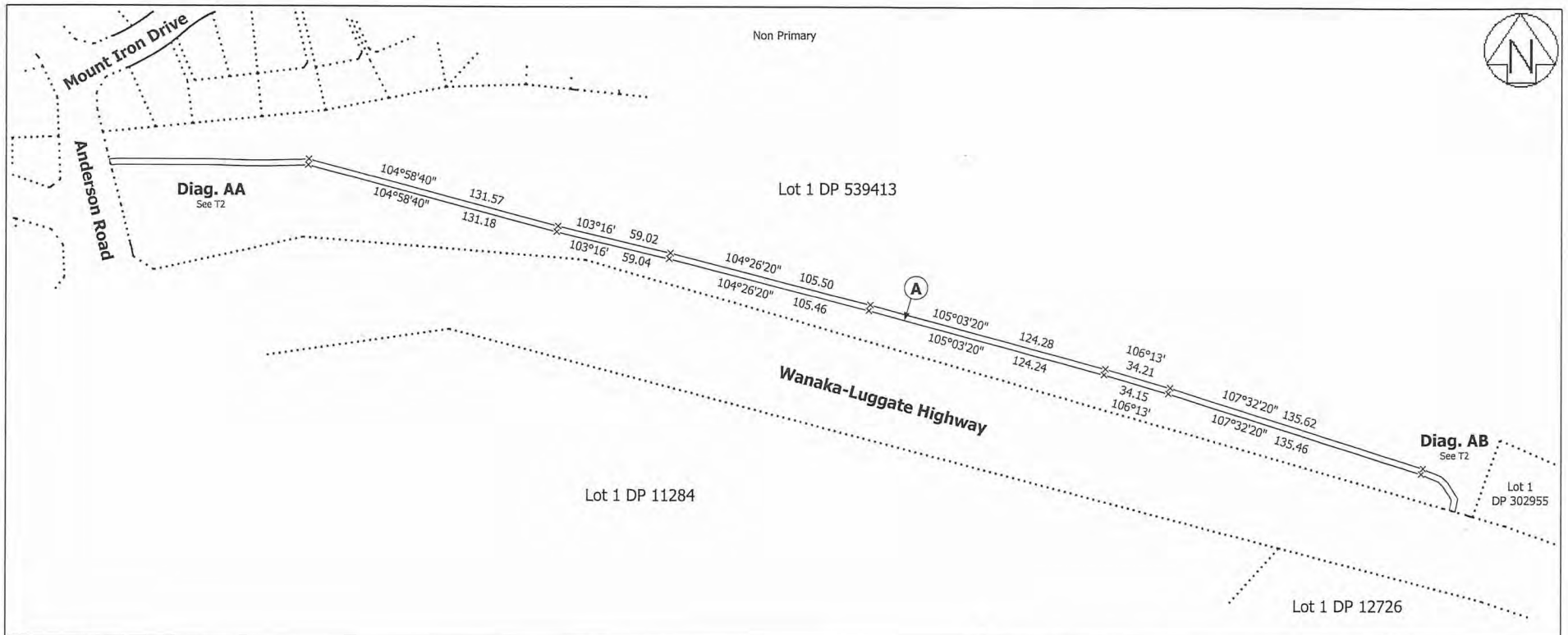
Easement over Section 3 SO 573783

Surveyor: Hayden Arthur Knight  
Firm: Clark Fortune McDonald & Associate

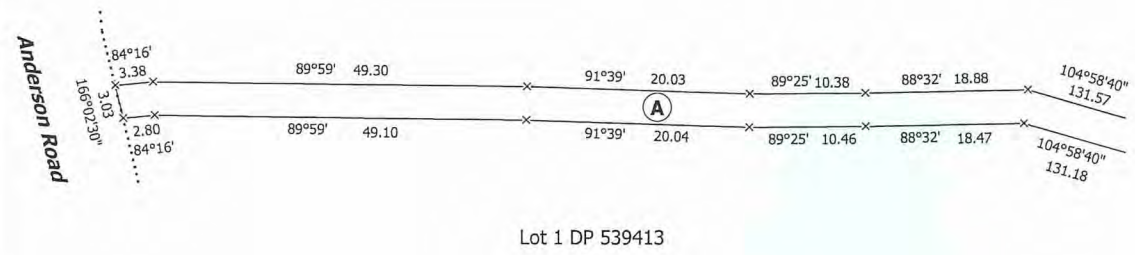
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**Diag. AA**  
Non Primary



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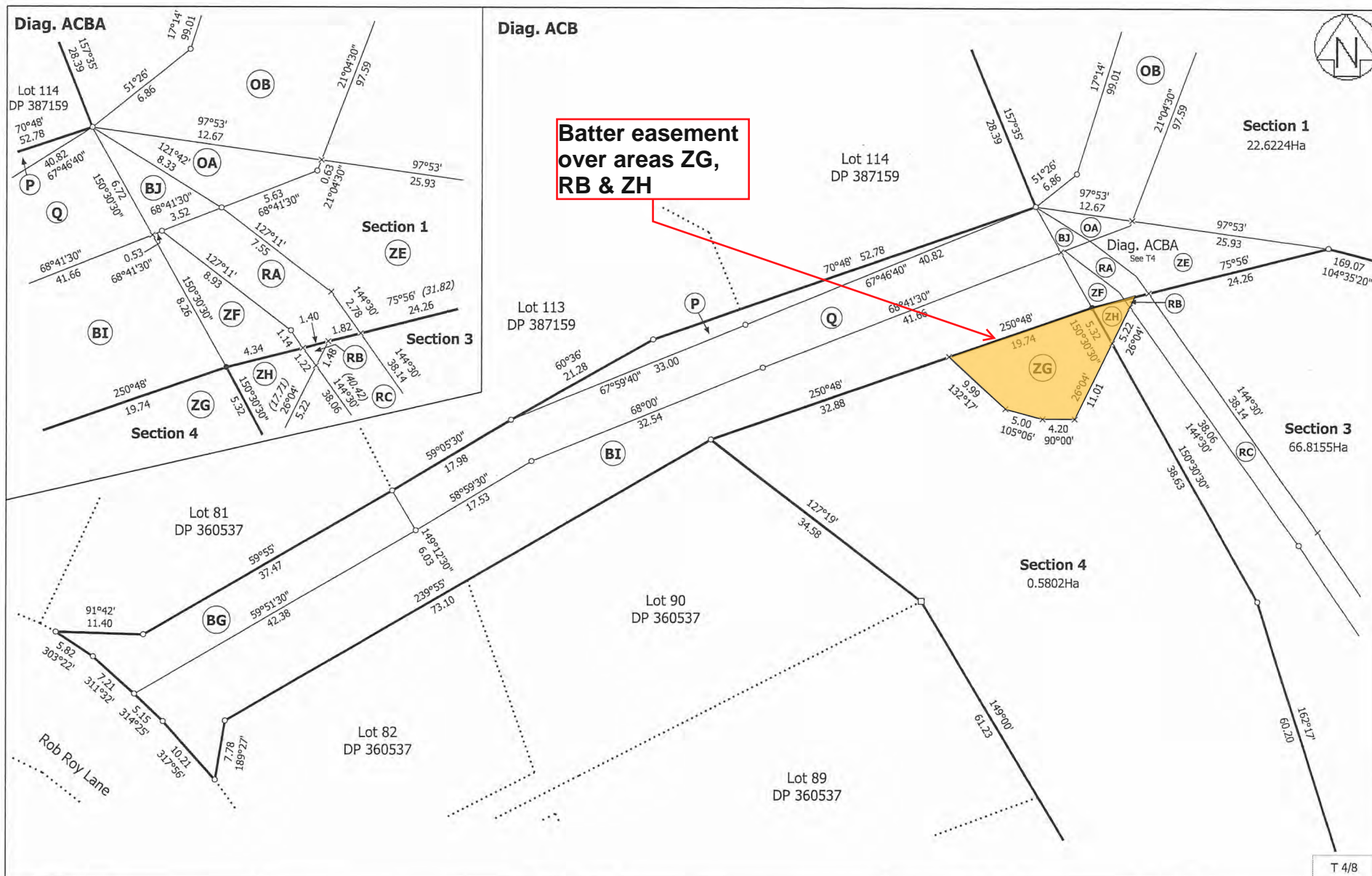
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Easement over Section 3 SO 573783

Surveyor: Hayden Arthur Knight  
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Title Plan  
 LT 574814  
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<p>Land District: Otago</p> <p>Digitally Generated Plan Generated on: 20/05/2022 3:43pm Page 14 of 18</p>	<p>Sections 1-4</p>	<p>Surveyor: Hamlin Boyde-Manson Firm: Paterson Pitts Limited Partnership (M)</p>	<p>Title Plan SO 573783 Approved on: 20/05/2022</p>
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