

Full Council

27 November 2025

Report for Agenda Item | Rīpoata moto e Rāraki take [3]

Department: Community Services

Title | Taitara: Easement for right of way and right to drain water 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 Council under delegation from the Minister for Conservation to consider granting a right of way and right to drain water easement in favour of the property owners of 91, 93 and 99 Youghal Street, Wānaka, over part of the Wānaka Golf Course Recreation Reserve.

Recommendation | Kā Tūtohu

That the Council:

1. **Note** the contents of this report;
2. **Approve** the right of way and right to drain water easement for 91, 93 and 99 Youghal Street over part of the Wānaka Golf Course Recreation Reserve under section 48(1)(f) of the Reserves Act 1977, as recommended by the Council's hearing panel on 10 October 2025 and subject to the following conditions:
 - a. Subject to schedule 5 of the Land Transfer Regulations 2018, the Reserves Act 1977 and Council policies;
 - b. 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 in Appendix A;
 - c. No parking shall be allowed on the right of way over the reserve land, within the easement;
 - d. The applicant shall install a sign that the carriageway is for private resident vehicles only and there shall be no restriction to the access of pedestrians and cyclists across the right of way; the signage shall be approved by Council's Parks and Reserves Manager;
 - e. The applicant shall be responsible for all consents, permits or permissions where additional works are undertaken in the recreation reserve;

- f. 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. Any departure from Council's Code of Practice must be approved by Council;
3. **Delegate** authority to approve the final terms and conditions including commencement, fees and execution authority to the General Manager, Community Services, provided all relevant requirements of the Easement Policy 2008 are met; and
4. **Agree** to the exercise of the Minister's consent (under delegation from the Minister of Conservation) to the granting of the identified easements over Council Reserve Land.

Prepared by:



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5 November 2025

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Reviewed and Authorised by:



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Context | Horopaki

1. The property owners of 91, 93 and 99 Youghal Street, Wānaka (**the property owners**) applied to Council for the extension 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 area of the reserve is legally described as Part Section 11 Block XLIX TN OF Wānaka.
2. The property owners currently 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 including the Wānaka Golf Course Recreation Reserve, the adjoining private property at 89 Youghal Street, and 91 and 93 Youghal Street. Figure 1 below shows the location.



Figure 1: Location of area (existing driveway is approximately marked in blue).

3. An existing legal right of way exists to access the three properties from Youghal Street (public road) (**Purple area in the map in Appendix 1 – parts A, E and F**). 85-87 Youghal Street also has access to part of the existing right of way (**Part A in Appendix 1**). The driveway is only partly located in the existing right of way and is encroaching into reserve land and private land without approval. The origin of the driveway is unknown, but the property owners believe it may have been built by a previous owner. The construction of the driveway was not undertaken in accordance with Council's Code of Practice and there are concerns that stormwater is not being appropriately managed.
4. The easement is being sought to resolve the unauthorised driveway encroachment and to implement proper stormwater management. The proposed easement is adjacent to the existing right of way and will realign and legalise the existing driveway. The additional easement area is 351m² as shown in Attachment 1 (**red area in the map – parts B & C**). This is smaller than the area originally applied for (396m²) and has been reduced by the property owners through the public notification, hearing and deliberations process.
5. A summary of the existing and proposed right of way areas set out in the map in Attachment A is included in the table below.

Area	Size	Property easement is over
Existing ROW - Area A (Purple in Attachment A)	N/A	Wānaka Golf Course Recreation Reserve
Existing ROW - Area E (Purple in Attachment A)	N/A	93 Youghal Street
Existing ROW – Area F (Purple in Attachment A)	N/A	91 Youghal Street
Proposed ROW – Area B (Red in Attachment A)	240m²	Wānaka Golf Course Recreation Reserve
Proposed ROW – Area C (Red in Attachment A)	111m²	Wānaka Golf Course Recreation Reserve

6. The land over which the easement is being sought is classified as a 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 the reserve land.
7. If the easement is approved, the property owners will be responsible for relocating and formalising the driveway that currently encroaches onto the private property at 89 Youghal Street into the existing and proposed easement corridor. 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, Council's relevant codes of practice and any resource consent (if required). This will include meeting Council's standards for stormwater management.
8. Normally, Council discourages easements across its reserves as it has a responsibility to protect reserves for current and future public use.

9. In this situation the existing easement is inadequate and there are no practical alternative options to formalise the easement or gain compliance. If left as it is, Council's options would include more formal enforcement, which would not resolve the encroachment and access issues.
10. The proposed easement will not impact the existing walking and biking trail or access into the reserve from the top of Youghal Street and does not impact the Golf Club's use of the land to any greater degree than the existing easement.
11. The Reserve Management Plan (**RMP**) for the reserve was adopted in the 1990s and does not anticipate an easement of this style as it is not for the purpose of the activity on the reserve.
12. Notwithstanding this, Section 48(1)(f) of the Act 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 the 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.'

13. The Minister of Conservation's power has been 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.
14. A right of way will grant the specified property owners with a private benefit, and this includes the right to pass and repass over the easement area. A right to drain water allows water (such as rainwater, springs, soakage or seepage) to be conveyed in any quantity over the easement area.

Public notification, hearing and deliberations

15. The Act requires a process to be followed when Council considers an easement over a reserve. This includes public notification of the proposed easement. How this process was followed is set out below.
16. The Wānaka-Upper Clutha Community Board approved the public notification of the proposed easement at their meeting on 27 March 2025.
17. The proposed easement was publicly notified in accordance with section 48(2) and section 119 of the Act and was open for submissions between 17 April and 21 May 2025. Six submissions were received.
18. A public hearing was held on 13 August 2025 to consider all objections and submissions received. This was in accordance with section 120 of the Act. The hearing panel made up of Councillors Smith, Gladding and Bruce heard submissions from the property owners (as one applicant) and the five submitters who wanted to be heard.
19. The hearing was adjourned to allow the property owners time to prepare a reply to the submissions. The right of reply was received on 24 September 2025.

20. The public hearing and deliberations were reconvened on 7 October 2025 where the hearing panel considered the submissions and the applicant's right of reply. The recommendation at the hearing was made subject to a final written recommendation being finalised.

Analysis and Advice | Tatāritaka me kā Tohutohu

21. The recommendation of the hearing panel dated 10 October 2025 (Attachment B) sets out the process followed under the Act, the relevant sections of the Act for consideration, a summary of the submissions received and the recommendation and reasoning of the hearing panel.
22. The hearing panel voted to recommend to Council that the easement is granted with relevant conditions through a majority vote (with Councillor Gladding opposed for reasons set out in Appendix 5 of Attachment B).
23. 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.
24. Option 1 Approve the proposed easement over part of the Wānaka Golf Course Recreation Reserve.

Advantages:

- Will have a minimal impact on the reserve's use as a golf course or its users.
- Will resolve a long-standing reserve encroachment and access issue while supporting the prevention of other illegal road formations in the area.
- Opportunity to support the construction of a new driveway that meets Council's current standards, including for stormwater management e.g. Council's Subdivision Code of Practice.

Disadvantages:

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

25. Option 2 Decline the proposed easement over part of the Wānaka Golf Course Recreation Reserve.

Advantages:

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

Disadvantages:

- The property owners 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.
- There will be a missed opportunity to support the construction of a new driveway that meets Council's current standards, including for stormwater management.

26. This report sets out options for the Council to consider. The hearing panel heard the evidence and made its own recommendation which accords with **Option 1**.

27. The hearing panel recommendations record that the panel considered an easement would address a long-standing reserve encroachment and access issue, improve compliance and would have a minor effect on the recreational use of the reserve. The design is not contrary to the amenity and landscape values of the reserve.

28. 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 property owners.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

29. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy 2024 because reserve land is identified as a strategic asset however the additional easement area is small with minor effects.

30. 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.

31. The Council publicly notified this proposed easement and held a public hearing and deliberations in accordance with the Act.

Māori Consultation | Iwi Rūnaka

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

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

33. 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.
34. The approval of the recommended option will allow Council to implement additional controls for this risk. This will be achieved by completing the process set out in the Act to process an easement application over reserve land. This will aid planning for the future of this area of the reserve.

Financial Implications | Kā Riteka ā-Pūtea

35. 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

36. The following Council policies, strategies and bylaws were considered:
- Significance and Engagement Policy 2024
 - Easement Policy 2008
 - RMP for the Wānaka Golf Course Recreation Reserve
37. The recommended option is consistent with the principles set out in the named policies with more analysis set out in section 7. It is not anticipated in the RMP.
38. This matter is not included in the Long Term Plan/Annual Plan.

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

39. 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

40. 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. Council's decision making on an easement application following the public notification process set out in the Act supports local decision-making. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.

41. The option recommended by the Hearing Panel:

- Does not require funding through the Long Term Plan or Annual Plan;
- Is broadly 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 revised easement facility
B	Recommendation from the hearing panel for Council – Easement over the Wānaka Golf Course Recreation Reserve