

BEFORE WAIKATO DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act
1991 (Act)

AND

IN THE MATTER of the Proposed Waikato District Plan:
Designations by Chorus

**Statement of Evidence of Chris Horne
on behalf of Chorus New Zealand Limited**

27 March 2020

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Introduction

Qualifications and Experience

1. My name is Chris Horne. I am a resource management consultant and director of the resource and environmental management consulting company, Incite. I hold the qualifications of Bachelor of Arts (Geography), and Master of Regional and Resource Planning, both gained at the University of Otago. I am a member of the New Zealand Planning Institute.
2. I have been asked by Chorus New Zealand Limited (Chorus) to give planning evidence on their behalf in relation to their designation roll overs and proposed new designations.
3. I have over 25 years' professional experience in the field of resource management. During this time I have assisted a number of telecommunications network providers as a consultant planner including Telecom New Zealand Limited and its two successor companies Chorus and Spark New Zealand Limited (Spark), Teamtalk Limited, Vodafone New Zealand Limited, Two Degrees Mobile Limited, and New Zealand Police Information and Technology Group (Police Radio Network). Work I have assisted these organisations with has included site selection studies, project consenting, designations, and assistance in responding to resource management plans and reviews. I was a member of the reference group including the Telecommunications Industry, Government Departments and Local Government New Zealand involved in the development of the *Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2008*, and later provided advice to the New Zealand Police on the subsequent update of the 2016 regulations now in force: *Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016* ("NESTF").
4. I have assisted Chorus and Spark and the previous entity for these two companies Telecom New Zealand Limited in a number of similar exercises to designate existing telecommunications sites where previous designations have been allowed to lapse. This has included 14 sites confirmed in the Auckland Council District Plan: Isthmus Section in 2011, 9 sites confirmed in the Auckland Council District Plan: North Shore Section in 2013, 4 sites confirmed in the Waipa District Plan in 2014, 11 sites confirmed in the Rotorua District Plan in 2015 and five sites confirmed in the Whakatane District Plan in 2016.

Overview of Evidence

5. The s42A report for designations sets out the relevant statutory considerations for considering designation rollovers and notices of requirement for new designations. Accordingly, I have not replicated this material and adopt the s42A report in this regard. The overall recommendation in the s42A is to confirm the existing and proposed designations, with conditions for the new designations as requested by Chorus with some minor amendments.

6. As I will outline, Chorus have requested that 8 existing designations are rolled over without modification, and that 25 new designations for existing strategic facilities are included in the District Plan. To avoid repetition of the notice of requirement and s42A report, my evidence focusses only on matters raised in the s42A report, or where I consider that further commentary will assist the Commissioners. Topics I will cover are:
 - Chorus designation strategy;
 - National Planning Standard designation descriptor;
 - Designation rollovers;
 - New designations (purpose and conditions);
 - Submissions received;
 - Corrections to designating schedule for U30; and
 - Conclusions.

7. I support the conclusions and recommendations in the s42A report with the exception of some minor matters as set out in my evidence which I have discussed with the reporting planner and that I understand she will support.

Chorus Designation Strategy

8. Chorus is an approved requiring authority under the RMA for their network utility operations, including the projects and works related to that network utility operation. This enables both Chorus to give notices of requirement for designations. Their strategy is to designate all of their strategic sites such as exchanges and radio/microwave sites where they are the owner of the site. These strategic sites are critical for the overall operation of the telecommunication system – they are the

interconnection points that all telecommunications operators rely on for the overall system to function. Chorus uses a standard notation to describe the purpose of their designations, namely “*telecommunication and radiocommunication and ancillary purposes*”. Chorus aims for national consistency in respect of the conditions that apply to any new designations, so as to provide more certainty around future network planning.

9. Chorus is seeking to roll over its existing designations without modification, and to have new designations included for a number of its existing strategic facilities that are not currently designated. They are not seeking these new designations to facilitate any specific projects. Most exchanges and radio/microwave sites on Chorus owned land are designated throughout the country. There is no fundamental difference between the sites that are designated in the former Franklin District Plan, and those that are not designated in the former Waikato District Plan. Seeking these designations is consistent with how these facilities are dealt with in most district plans nationally and within the area subject to the former Franklin District Plan.
10. In the absence of designations, all new works, even where these are designed to provide improved environmental performance, are subject to the rules of the District Plan, which may require resource consents to be obtained. The District Plan/consenting process is uncertain and potentially lengthy and costly. Telecommunication and radiocommunication services are dynamic and are subject to rapid change. Accordingly, the use of the designation mechanism allows adjustments and changes that may be required from time to time to accommodate changes in technology and customer demands, as well as the provision of efficiency and environmental performance improvements (e.g. upgrades of air-cooling equipment and generators). I have personally been involved in resource consent applications to undertake work that will reduce noise effects (e.g. emergency generator upgrade at Torbay Exchange, and a major air conditioning upgrade at Papatoetoe Exchange) prior to these facilities being designated in the relevant district plans.
11. Standardised designations allow Chorus to carry out works in a consistent manner nationally. They also provide Chorus a degree of certainty as to the nature of works they can undertake on any particular site, and accordingly enables them to undertake wider network planning with a higher degree of on-going certainty. Designations also identify the current and potential future use of the sites to the community, and therefore should ensure there are no surprises for adjacent property owners and occupiers,

particularly where they are moving into an area and/or adjacent to an existing telecommunications site.

12. Any works will still also be subject to an outline plan process which also enables the Council to request changes if there are any design aspects they consider need addressing. Chorus proposes conditions in their notice of requirement for new designations, which are consistent with conditions that have been sought and confirmed on new designations in other jurisdictions.

National Planning Standard Descriptor

13. The existing and proposed Chorus designations are all denoted with a “U” in the recommended designation schedule and conditions in the s42A report. The first set of National Planning Standards released in 2019 includes a designation standard. Aside from format matters, Table 15 includes Requiring Authority unique identifiers to be used in district plans. The unique identifier for Chorus is CNZ. Accordingly, I recommend that the designations are confirmed with a CNZ identifier rather than a U identifier.

Designation Rollovers

14. Chorus has sought that 8 existing designations be rolled over without modification. These are all located in the Franklin Section of the Waikato District Plan. There were no submissions lodged on these designations when the Proposed Plan was notified. Accordingly, pursuant to Clause 9(3) of the First Schedule to the Resource Management Act 1991 (“RMA”), the territorial authority cannot make any recommendation on these existing designations and they must be included in the Proposed Plan when it becomes operative. These designations have been included in the designation schedule as U1-U8 in the s42A report.

15. I note that the s42A report refers to these designations as modifications due to changes to the purpose and legal descriptions¹. However, in my opinion these are not modifications for the following reasons:

Change in Purpose

16. The purpose is not changing. In the Franklin District Plan the schedule of the then Telecom (now Chorus) designations had the purpose of *“telecommunication and*

¹ See paragraph 261 of s42A report

radiocommunication and ancillary purposes” for the first of the designations in the schedule, followed by “*as above*” for all subsequent designations. When part of the Franklin District Plan was included in Waikato District, I understand that at least one of these designations still referred to “*as above*” and Chorus simply requested it be changed to the full purpose in the schedule for national consistency. I have since checked the online version of the operative Waikato District Plan and the full purpose now appears for all 8 of the existing designations. Therefore, no modification to purpose is proposed as part of this roll over.

17. Chorus also asked for some information in the schedule to be updated to correctly reflect the requiring authority as Chorus and not Telecom, current legal descriptions and correct site areas. While I did not prepare the rollover notice, I understand that these changes were only corrections and that no change to the existing spatial extent of Chorus sites being designated was requested.

18. I can confirm that the details in the schedule of designations for U1-U8 recommended in the s42A report reflects what was requested by Chorus.

New Designations

Designation Purpose

19. Chorus is the requiring authority with financial responsibility for the new designations. The objective of Chorus is to provide a World Class telecommunication and radiocommunication network, to enable the most up to date products and services available to be delivered via its local access network to the community.

20. Chorus requests the same designation purpose notation nationally. That standard purpose is “*telecommunication and radiocommunication and ancillary purposes*”. That purpose accurately reflects the core network activities of Chorus, which is a telecommunications infrastructure provider with a network that uses both ‘hard’ cable links, and ‘wireless’ radio links reliant on antennas to transfer information. Equipment associated with these activities may include the obvious hardware such as the cables or antennas, as well as support structures and equipment buildings/cabinets etc.

21. The use of the term “*ancillary purposes*” is designed to cater for the range of support equipment and activities necessary to operate a telecommunication and radiocommunication network. For example, it may include air conditioning plant to cool

equipment, back-up generators for emergency back-up power, diesel fuel storage tanks to store fuel for back-up generators, and on-site car parking for contractors. These are all components necessary for the effective operation of the core telecommunication and radiocommunication equipment.

22. The Chorus designations being rolled over already use this designation purpose. No concerns with the proposed designation purpose have been raised in the s42A report.

23. In my opinion it is appropriate to confirm the designations with this purpose to enable the core telecommunications functions of these sites to be undertaken.

Conditions

24. The notice of requirement for the new designations sets out the proposed conditions for each site and the rationale for them. In broad terms they cover:

- Restrictions on masts and antennas;
- Circumstances where outline plans are not required for minor works
- Noise controls (i.e. air conditioning plant and backup generators where installed)
- Radiofrequency fields

25. The designations are grouped into zone sensitivity (e.g. rural, business, living), with some differences in conditions such as the allowable height of masts and antennas, and relevant noise controls between these zone groupings. Height in relation to boundary controls apply from sensitive adjoining sites.

26. The reporting planner has recommended that the majority of these conditions be confirmed as sought in the s42A report, and accordingly I have only discussed the areas where changes to the conditions in the notice of requirement have been sought. Aside from the specific conditions discussed below I support the set of conditions recommended by the reporting planner in Appendix 4 to the s42A report.

U20 9 Wainui Road, Raglan

27. The Proposed Plan has a sight line control for a navigation beacon. Chorus proposed a condition that any building or structure must not protrude into the Raglan navigation

beacon height restriction plane. The reporting planner recommends a change to this condition requiring a survey to be undertaken prior to constructing any building or structure to confirm that they will not protrude into the height restriction plane, along with an advice note confirming that the sightlines for the navigation beacon is a coastal protection rule in terms of Regulation 51 of the NESTF².

28. I generally agree with the proposed amendments. In regard to the survey, in my opinion this should only be required for a building or structure where it is likely to be in relatively close proximity to the sight line plane to avoid unnecessary surveys for minor works. Investigations undertaken by the reporting officer concluded that the sight line plane slopes between 10.3 m to 12.9m above ground level over the site³. Accordingly, in my opinion the requirement for survey should only apply for proposed buildings and structures exceeding 8m in height above ground level. Accordingly, I recommend the following amendment (shown in **bold underline**) to the s42A recommended version of proposed Condition 6 applying to U20:

For site U20 (9 Wainui Road, Raglan), a survey shall be undertaken prior to constructing any building or structure **exceeding 8m in height above ground level** to confirm that they will not protrude into the Raglan navigation beacons' height restriction plane.
Advice Note: Rule 17.1.1 of the Proposed Waikato District Plan, which protects the sightlines of the Raglan Navigation Beacons, is a coastal protection rule in terms of the NESTF regulation 51. Therefore, under regulation 56, the rule prevails over the NESTF which otherwise permits a 15m high mast.

29. I have discussed this with the reporting planner and understand that she is happy to support this amendment.

U15 608 Matangi Road, Matangi

30. Similar to the issue with U20 at Raglan, the Matangi site is located under the Waikato Regional Airport Obstacle Restrictions. Chorus proposed a condition that any building or structure must not protrude into the obstacle limitation surfaces of Waikato Regional Airport. The reporting planner recommends a change to this condition requiring a survey to be undertaken prior to constructing any building or structure to confirm that they will not protrude into the obstacle limitation surfaces⁴.

² See paragraph 275 of s42A report.

³ See paragraph 274 of s42A report

⁴ See paragraph 276 of s42A report

31. At the time of the notice of requirement was prepared, no specific investigations into the height of the airport obstacle limitation surfaces had been undertaken. The Matangi site is located under the Waikato Regional Airport Conical Surface. The conical surface ranges from 95m above the Moturiki datum on the inner side rising to 202m on the outer side. Publicly available information from Land Information New Zealand shows that the Moturiki datum is approximately 3m above sea level. The height above sea level of the 608 Matangi Road site taken from Google Earth is approximately 55m above sea level and therefore approximately 52m above the Moturiki Datum. A 15m pole as enabled by the designation conditions would therefore only be a worst case of approximately 67m above the Moturiki Datum and have a safe headroom to the conical surface even taking into account any inaccuracy margin in the Google Earth data, particularly as it is located towards the outer edge where the height allowance is 202m above the Moturiki Datum. Therefore, in my opinion it is unnecessary to survey compliance for any work enabled by the designation given the large margin of clearance. Screen shots of the location of the site under the conical surface, the conical surface height restrictions and a Google Earth image showing elevation above sea level of the Chorus site are attached in Appendix 1.

32. I have discussed this with the reporting planner and understand that she is happy to support this position subject to adequate evidence of this clearance being provided at the hearing. I note that the designation is referred to in error as U5 in the s42A report and should be corrected to U15. This is a simple typographical error. I recommend that the s42A recommended version of proposed Condition 7 applying to U15 is struck out on the basis that it is no longer necessary.

~~For site U5 (608 Matangi Road), a survey shall be undertaken prior to constructing any building or structure to confirm that they will not protrude through the obstacle limitation surfaces for Hamilton Airport.~~

Drafting Notes for U19 and U26

33. The Notice of Requirement included some drafting notes for the benefit of Council staff assessing the notice which were not intended to be included as part of the designations. These appear in the s42A report version of the conditions in Appendix 4 as follows:

Designations U19*, U22, U23, U25, U26*, U32 in Residential and Country Living Zones

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*Note: U19 (1327 Orini Road) and U26 (between 773 and 767 Te Mata Road) are zoned Rural. However due to their locations within urban villages and proximity of residential buildings, conditions more compatible with residential and rural residential zoned sites have been applied. The lower height limit used for the Country Living Zone is adopted.

34. In my opinion the asterixis and associated drafting note are unnecessary and should not be included as part of the designation.
35. I have discussed this with the reporting planner and understand that she is happy to support this amendment.

Conditions for upgrades to existing masts and antennas applying to all proposed designations

36. Chorus sought a condition for upgrades to existing masts and antennas that they comply with the NESTF 2016 or any successor standard. The reporting planner recommends that reference to any successor standard is removed⁵. Chorus has confirmed that this change is acceptable to them.

Submissions Received

37. As outlined in the s42A report, 4 submissions were received on the proposed new designations. No submissions were received on the designation rollovers.
38. Of these submissions, two were by Chorus to correct errors in mapping and a legal description where the information in the notified Proposed District Plan was not the same as that included in the notice of requirement, whilst one in regard to U13 was only seeking clarification as to whether the proposed designation was by Chorus or Transpower.
39. The only substantive submission received is in regard to Designation U23 (1117 Tauwhare Road, Tauwhare). This submission received from Janet Boot requested that the designation exclude possible future cell phone transmitter/towers.
40. Chorus is not a cell phone network operator, but does use radio links on many of its sites which are the same generic technology. The proposed designation conditions would limit the scale of any mast and antennas in relation to adjoining residential or

⁵ See paragraph 277 of the s42A report.

rural residential properties via a height in relation to boundary control and maximum height of 15m. This maximum height could not be achieved within 12.5m of an adjoining site due to the height in relation to boundary control. As shown in Figure 1 below, this is a small site where the scale of any mast and antennas enabled by the designation would be limited under the proposed conditions.

41. Further, radiofrequency exposures must comply with the NESTF which sets radio exposure limits in accordance with *NZS2772.1 1999 radiofrequency fields – Maximum exposure levels – 3kHz to 300 GHz*. This standard is mandatory to be met as the designation will be made after the NESTF. Furthermore, the same requirement is replicated in the designation conditions. In my opinion the requirement to comply with this standard adequately protects the community from radio frequency exposures.
42. I note that the reporting officer reaches the same conclusion in paragraph 286 of the s42A report.



Figure 1: U23 Designation site, Tauwhare Road

43. In regard to the Chorus submissions, corrections to the designation mapping layer were requested for proposed designations U10 and U17 to match the information supplied with the notice of requirement. The reporting planner recommends that these mapping corrections be undertaken⁶. I attach the plans from the notice of requirement confirming the correct spatial extent of these sites to be included on the planning maps in due course.

44. Chorus also made a submission to correct the legal description of proposed designation U17. The required correction is shown in paragraph 279 of the s42A report as follows:

1.33 Analysis of Submissions on Notice of Requirement

279. The submissions from Chorus [648.42 and 648.43] request these amendments:

(a) correct the legal description for Designation U17 as follows:

U17	Telecommunication and radio communication and ancillary purposes	Private access track off Rutherford Road at rear of Pizzini Road, Orini	0.1233	Pt Lot 1 and Part Lot 2 DP 19278
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45. The reporting planner recommends that the submission to make this amendment is accepted⁷. However, this legal description has not been updated in the track change version of the designation schedule in Appendix E of the s42A report. In my opinion the Council's recommendation to the requiring authority should include this amended legal description to simplify the decision process for Chorus.

Corrections to U30 76 Johnsons Road, Ohinewai

46. Chorus supplied the following details in the notice of requirement for proposed designation U30 (C22 in the notice of requirement):

C22	76 Johnson Road, Ohinewai	Rural	Waikato River Catchment overlay	PT Allot 3481, Parish of Taupiri.
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47. However, the schedule included in the s42A report appears to have a minor typographical error in the legal description (Pt Allot 348 rather than 3481) and has changed the street address from 76 Johnsons Road to 76 Tahuna Road. The site

⁶ See paragraph 280 of s42A report.

⁷ See paragraph 280 of s42A report.

fronts both of these roads, but I have confirmed on the Council's GIS and Google Maps that the address should be 76 Johnson Road. Designation U30 appears in the schedule in the s42A report as follows:

U30	Telecommunication and radio communication and ancillary purposes	76 Tahuna Road, Ohinewai	0.0276	Pt Allot 348, Parish of Taupiri
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48. In my opinion the Council's recommendation to the requiring authority should include this amended legal description (Pt Allot 348¹) and change to address to 76 Johnson Road to align with the information in the notice of requirement to simplify the decision process for Chorus.

Conclusions

49. The reporting officer agrees that the designations being rolled over should be confirmed and the proposed new designations for existing facilities should be confirmed for the purpose of *"telecommunication and radiocommunication and ancillary purposes"* subject to conditions.

50. I support the set of conditions included in Appendix 4 to the s42A report with the following minor amendments to those conditions as set out in my evidence as follows:

U20 9 Wainui Road, Raglan

51. Amend Condition 6 applying to U20 as follows (shown in **bold underline**):

For site U20 (9 Wainui Road, Raglan), a survey shall be undertaken prior to constructing any building or structure **exceeding 8m in height above ground level** to confirm that they will not protrude into the Raglan navigation beacons' height restriction plane.
Advice Note: Rule 17.1.1 of the Proposed Waikato District Plan, which protects the sightlines of the Raglan Navigation Beacons, is a coastal protection rule in terms of the NESTF regulation 51. Therefore, under regulation 56, the rule prevails over the NESTF which otherwise permits a 15m high mast.

U15 608 Matangi Road, Matangi

52. Delete Condition 7 applying to U15.

~~For site U5 (608 Matangi Road), a survey shall be undertaken prior to constructing any building or structure to confirm that they will not protrude through the obstacle limitation surfaces for Hamilton Airport.~~

53. The designation number also needs to be amended from U5 to U15 in the schedule and all conditions.

Drafting Notes for U19 and U26

54. Delete the drafting notes applying to U19 and U26.

Designations U19*, U22, U23, U25, U26*, U32 in Residential and Country Living Zones

.....

~~*Note: U19 (1327 Orini Road) and U26 (between 773 and 767 Te Mata Road) are zoned Rural. However due to their locations within urban villages and proximity of residential buildings, conditions more compatible with residential and rural residential zoned sites have been applied. The lower height limit used for the Country Living Zone is adopted.~~

55. The following amendments to the designation and mapping to correct minor errors and omissions is also required”

Corrections to Mapping for U10 and U17

56. Correct the designation map layer for designations U10 and U17 in accordance the information included in Appendix 2 of this evidence.

Corrections to Designation Schedule for U17 and U30

57. Correct the legal description for designation U17 and the legal description and street address for U30 is set out in this evidence.

Designation Descriptor

58. I also recommend that the designation descriptor for Chorus designations be changed from “U” to “CNZ” to align with the 2019 National Planning Standards.

Appendix 1

Airport Obstacle Limitation Surfaces Details for U15

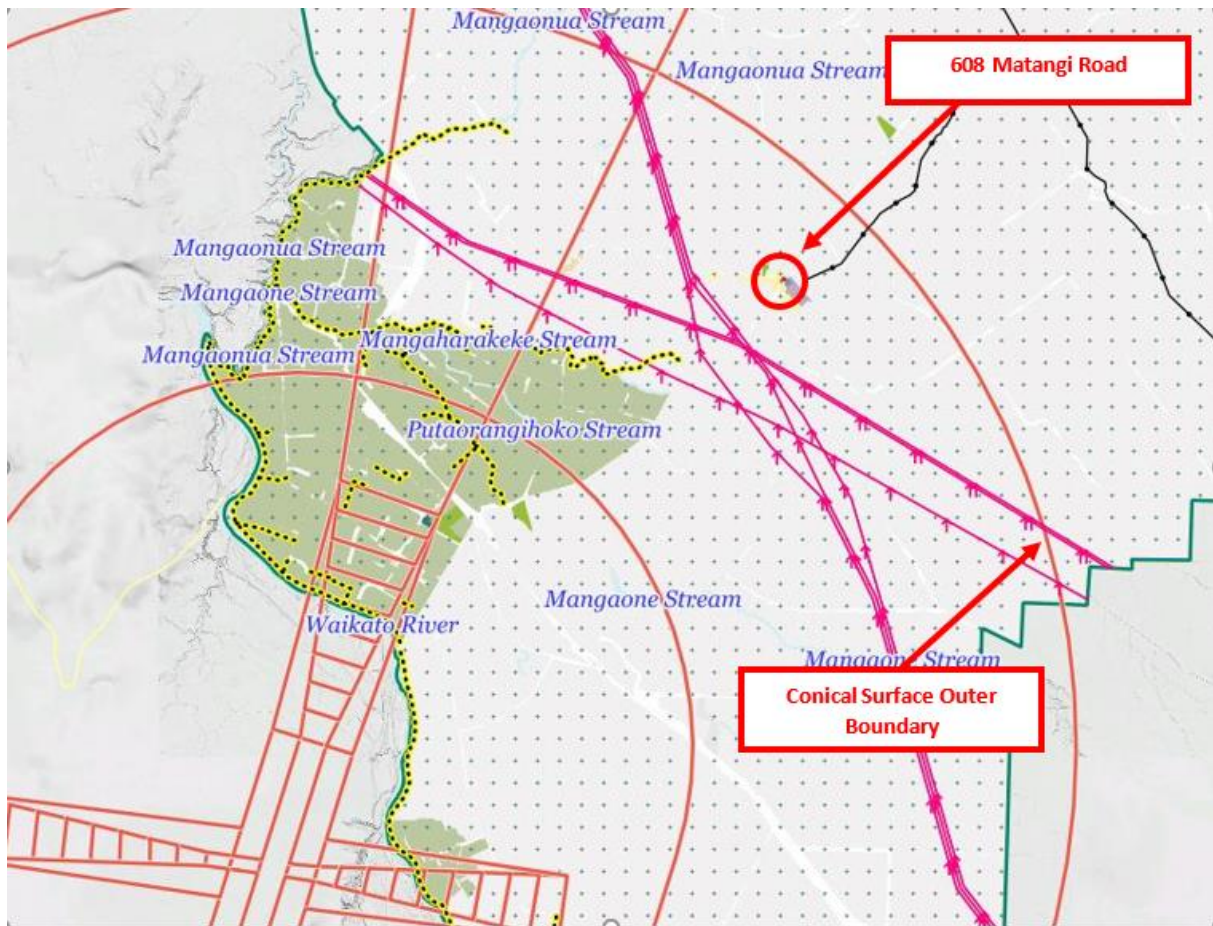


Figure A1.1 Location of site under Conical Surface

The Obstacle Limitation Surfaces associated with these runway strips are defined as follows:

5. Horizontal Surface

The horizontal surface is above the main runway with an elevation of 95m Moturiki Datum. The outer limits are at a locus of 4000 metres, measured from the periphery of the main strip.

6. Conical Surface

The conical surface slopes upwards and outwards from the periphery of the horizontal surface at a gradient of 1 vertical to 20 horizontal (1 in 20) to an elevation of 202m above Moturiki Datum.

Figure A1.2 Conical surface height restrictions above Moturiki Datum



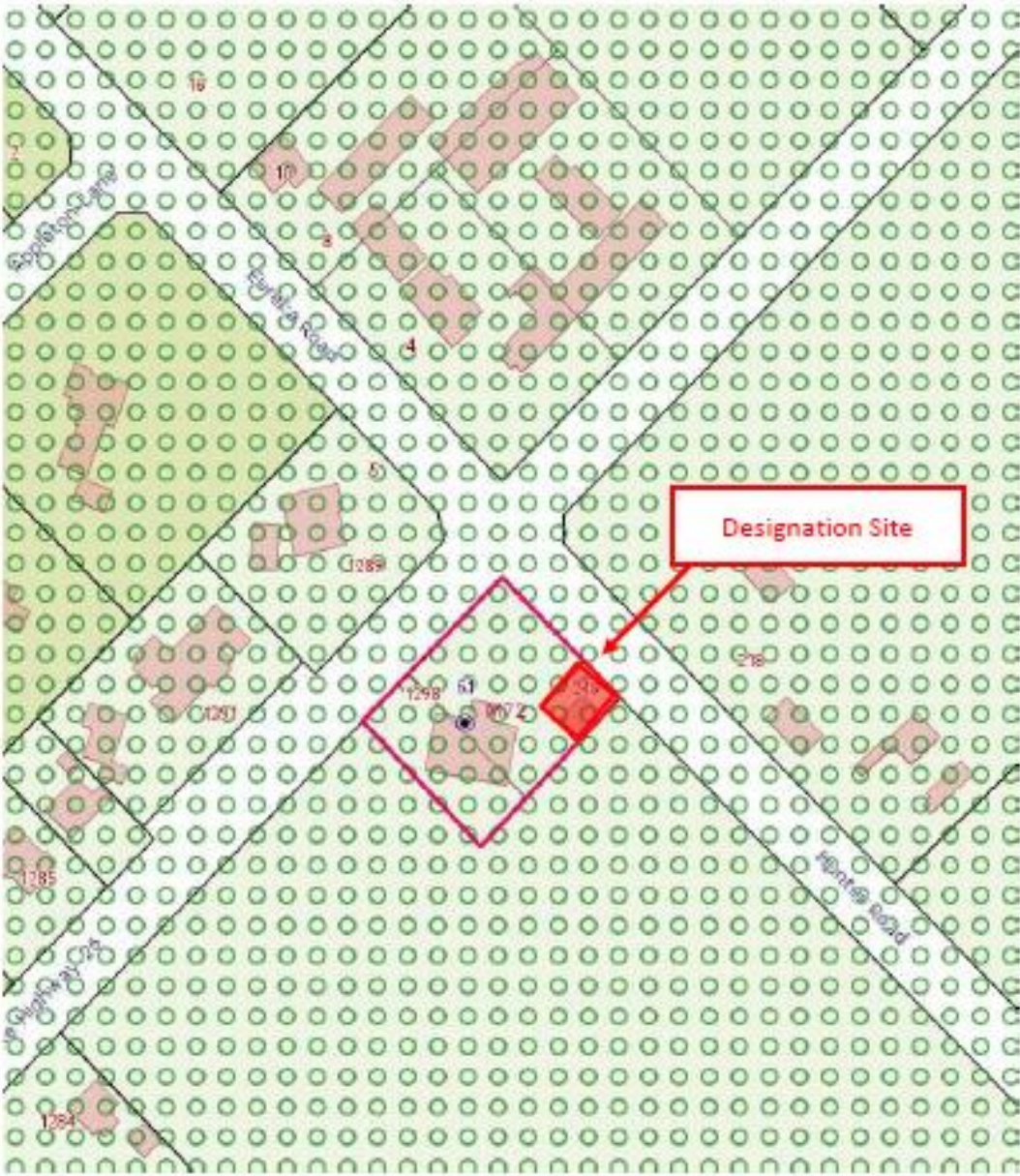
Figure A1.3: Google Earth image of 608 Matangi Road, elevation 55m above sea level

Appendix 2

Spatial Mapping for U10 and U17

Mapped Extent of Designation U10 (C2 in Notice of Requirement) to be included on designation layer of planning maps

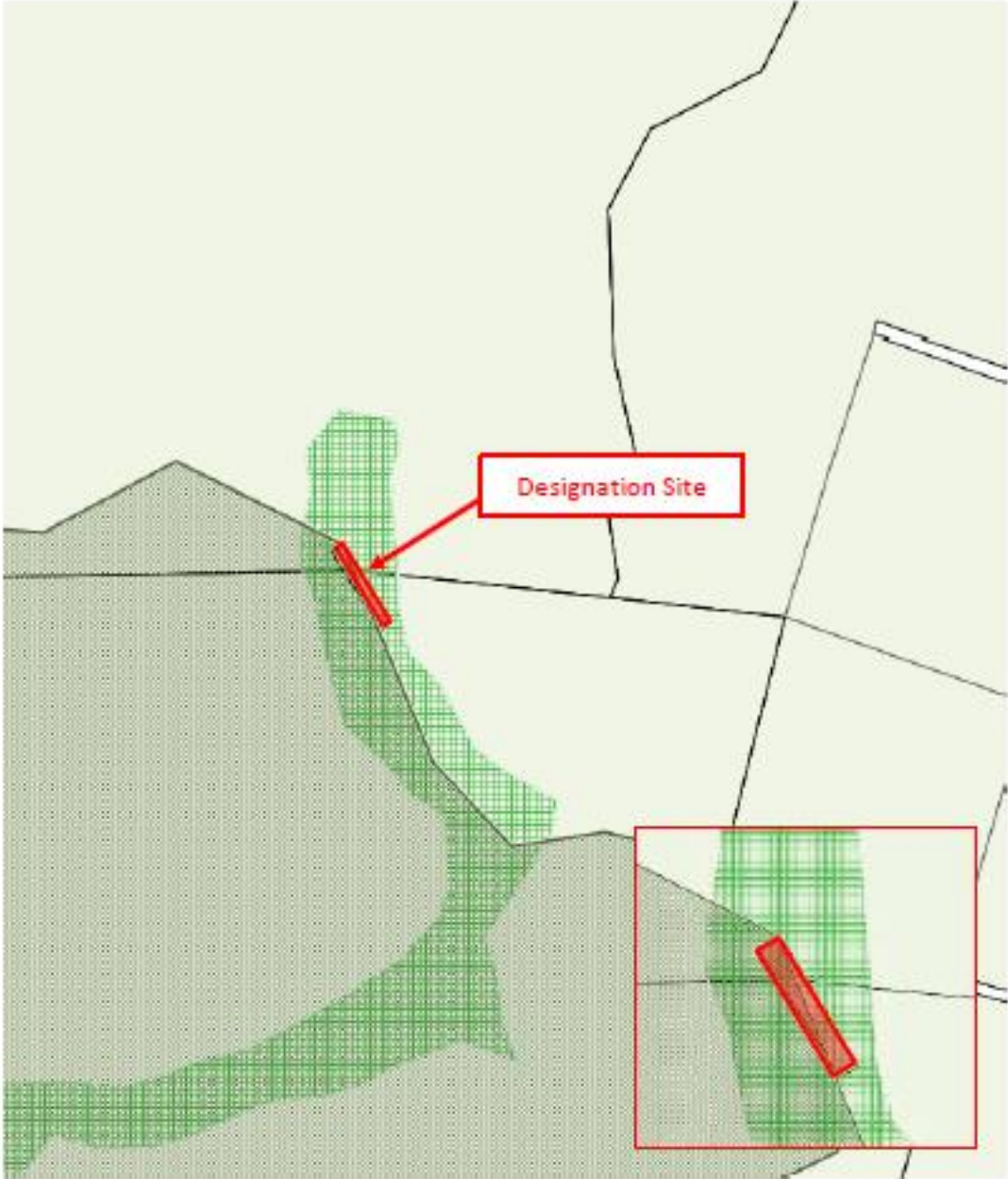
Site C2, 219 Hunter Rd, Eureka – District Plan Map



(Source: Waikato District Council GIS)

Mapped Extent of Designation U17 (C9 in Notice of Requirement) to be included on designation layer of planning maps

Site C9: Mt Pukemore, private access track accessed from Rutherford Rd – District Plan Map



(Source: Waikato District Council GIS)