

**IN THE ENVIRONMENT COURT
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA
KI TĀMAKI MAKĀURAU**

Decision [2024] NZEnvC 054

IN THE MATTER OF an appeal under clause 14 of the First
Schedule 1 of the Resource Management
Act 1991

BETWEEN HD LAND LIMITED
HAMPTON DOWNS (NZ) LIMITED
(ENV-2022-AKL-000037)
KIWIRAIL HOLDINGS LIMITED
(ENV-2022-AKL-000044)
WAKA KOTAHI NEW ZEALAND
TRANSPORT AGENCY
(ENV-2022-AKL-000048)
Appellants
AND WAIKATO DISTRICT COUNCIL
Respondent

Court: Alternate Environment Judge L J Newhook sitting alone under s
279 of the Act
Last case event: 22 December 2023
Date of Order: 25 March 2024
Date of Issue: 25 March 2024

CONSENT ORDER



HD Land Limited v Waikato District Council

- A: Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:
- (1) The various chapters in the Proposed Waikato District Plan be amended in accordance with Appendix 1 to this order (additions marked as underlined and deletions as ~~striketrough~~;
 - (2) the planning maps are amended in accordance with Appendix 2 to this order; and
 - (3) the appeals are otherwise dismissed.
- B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This consent order relates to appeals by New Zealand Transport Agency Waka Kotahi (**NZTA**), KiwiRail Holdings Ltd (**KiwiRail**) and HD Land Limited & Hampton Downs (NZ) Limited (**Hampton Downs**) against parts of the decisions of the Waikato District Council (**Council** or **Respondent**) in respect of the Proposed Waikato District Plan (**PDP**).

Background

[2] The specific relief sought by NZTA, KiwiRail and Hampton Downs with respect to Topic 5.1 and the Independent Hearings Panel's (**IHP**) decision on this are addressed below.

NZTA and KiwiRail

[3] NZTA and KiwiRail both made a submission and further submission on the PDP seeking a variety of amendments to numerous PDP chapters, from the strategic direction chapter through to submissions on various zone provisions where either

state highways or rail corridors traverse that zone. The scope of issues raised in both appeals include concerns about safety, provision for regionally significant infrastructure, the need for integrated land use and transport planning, managing the interaction between land use activities and the state highway/rail corridor network.

[4] The main points advanced in both NZTA's and KiwiRail's submissions and further submissions were that the PDP required new provisions requiring all new buildings, or alterations to existing buildings containing a sensitive activity, within 100m of a state highway carriageway or legal boundary of a railway corridor to be appropriately mitigated in relation to noise and vibration.¹ The rationale for this was that state highway and rail networks operate 24 hours a day, seven days a week and have the potential to impact people's health and wellbeing by reducing the amenity and enjoyment of their properties and disrupting sleep. NZTA and KiwiRail argued it was critical to ensure that undue restrictions were not placed on the operation of these transport networks, and that the health and wellbeing of those residing in, or occupying, nearby sites is protected.

[5] KiwiRail's submission also sought that the 5m setback which had been applied to sensitive land uses in the notified Residential, Rural, Countryside Living and Village zones apply to all new buildings and structures (not just buildings containing sensitive land uses), or alterations to existing buildings or structures. KiwiRail further requested that the 5m setback be applied to all zones traversed by a rail corridor, not just zones which enable residential activities. They sought this relief on the basis that managing the safety effects of landowners using land adjacent to the rail corridor to maintain or repair their buildings, which is the purpose of the proposed setback, is an issue relevant to *all* zones.

[6] Decision Report 13: Infrastructure (**Decision Report 13**) addressed the management of land transport linear infrastructure (i.e., the state highway and rail networks) and reverse sensitivity concluding that:²

¹ See KiwiRail's submission, dated 9 October 2018, page 8; and NZ Transport Agency submission, dated 9 October 2018, Attachment 3.

² Decision Report 13: Infrastructure at [203].

... it was inherently unfair that the burden of mitigating the noise generated by the railway or state highway would be borne by the adjoining landowners.

[7] Based on this assessment, the IHP rejected the relief sought by NZTA and KiwiRail with respect to the introduction of noise and vibration controls and the relief sought by KiwiRail in relation to expansion of the 5m rail corridor setback to all zones. The key reasons for the IHP's decision to reject the relief sought can be summarised as follows:³

- (a) Neither NZTA nor KiwiRail provided a satisfactory costs assessment of the proposed provisions;
- (b) The variables which affect noise generation are entirely beyond the control of adjoining landowners (e.g., the surface of the road, the frequency and type of traffic, surrounding topography and the width of the gap between the infrastructure and the edge of the designation);
- (c) The absence of any rules in the PDP requiring NZTA and KiwiRail to minimise the noise and vibration effects of their infrastructure on adjoining landowners;
- (d) The fact that NZTA and KiwiRail sought to apply the noise and vibration provisions to both new and existing buildings when, arguably, alterations to existing buildings do not create a new sensitive activity, nor a new reverse sensitivity effect;
- (e) The blunt nature of the 100m acoustic effects area when, particularly in the case of state highways, it is likely that this area would capture some areas of land where road noise is already at acceptable levels;
- (f) The lack of effort to create a set of provisions tailored specifically to the state highway and rail corridor noise experienced in the Waikato District; and

³ Decision Report 13: Infrastructure at [203] – [207].

- (g) The number of properties potentially affected by the proposed provisions and the likelihood that the landowners affected by the proposed provisions were not aware of the consequences of NZTA and KiwiRail’s submissions.

Hampton Downs

[8] Hampton Downs made a submission and further submission on the PDP seeking a variety of amendments to provisions relating to the special purpose zone – Hampton Downs Motorsport and Recreation Zone (**MSRZ**). In relation to setbacks, the submission expressed support for the building setbacks in the MSRZ insofar as they apply to external zone boundaries with roads or other properties, however they did not think that internal setbacks should be imposed. Hampton Downs did not make any specific submission on the need to remove the word ‘structure’ from Rule 26.3.5 – Building Setbacks – All Precincts (which is now known as MSRZ-S18).

[9] In Decision Report 25: Hampton Downs Motorsport and Recreation Zone (**Decision Report 25**), the IHP noted that the interested parties to the MSRZ topic (being Council, Hampton Downs and NZTA) had worked together to create an agreed package of provisions resolving all of the issues raised in the submissions and further submissions. This package of provisions was included as Attachment 1 to Decision Report 25 and recommended no changes to MSRZ-S18.⁴

[10] The above parts of the appeals have been assigned to Topic 5.1: Linear infrastructure (energy and transport), and the consent order resolves KiwiRail’s interest in this topic. The draft consent order also resolves NZTA and Hampton Downs’ appeals entirely.

[11] The following parties have given notice of an intention to become a party to the NZTA, KiwiRail and/or Hampton Downs’ appeal:

NZTA	KiwiRail	Hampton Downs
<ul style="list-style-type: none"> • Kāinga Ora Homes and Communities 	<ul style="list-style-type: none"> • Kāinga Ora Homes and Communities 	<ul style="list-style-type: none"> • NZTA

⁴ Rule 26.3.5 in the notified version of the PDP.

<ul style="list-style-type: none"> • Brenda & Gavin Butcher • KiwiRail • Murray Fullerton • Steven & Teresa Hopkins • Tony & Cindy Young • Top End Properties Ltd • Federated Farmers • Perry Group Ltd 	<ul style="list-style-type: none"> • NZTA • Lakeside Developments Ltd • Meridian Energy Ltd • Ports of Auckland Ltd 	
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[12] It is noted that the section 274 notice filed by NZTA limited their interest in the Hampton Downs' appeal to specific points of relief which have been settled by way of consent order.⁵ There are no section 274 parties to the Hampton Downs' appeal in relation to MSRZ-S18.

Agreement reached

[13] Following the filing of the appeals, NZTA, KiwiRail and Hampton Downs have entered into direct discussions with Council (Council, NZTA and KiwiRail have also had direct discussions with Kāinga Ora Homes and Communities) regarding the matters raised in their respective appeals and have now agreed on various proposals which will resolve their interests in Topic 5.1: Linear infrastructure (energy and transport).

[14] The amendments to the various chapters of the PDP decisions version as a result of the agreement reached are set out in **Appendix 1** to this order (additions marked as underlined and deletions as ~~strikethrough~~).

[15] The changes made to the planning maps are shown in **Appendix 2** and detailed below:

⁵ *HD Land Limited & Hampton Downs (NZ) Limited v Waikato District Council* [2023] NZEnvC 101.

- (a) Insert two noise control boundary overlays titled:
 - (i) “State Highway Noise Control Boundary” showing the areas of land modelled as being subject to elevated levels of noise (ranging from between 20m and 100m from the formed carriageway of the state highway); and
 - (ii) “Rail Corridor Noise Control Boundary” showing all land within 100m of the Northern and Eastern Main Trunk Lines.
- (b) Show the 100m Rail Corridor Noise Area along the Hautapu and Rotowaro branch lines and 60m Rail Vibration Alert Area from the designation boundary of the rail corridor within the district, as ‘information layers’.

Section 32AA evaluation

[16] Section 32AA of the Act requires a further evaluation of any changes to a proposed plan change since the initial section 32 evaluation report and the IHP’s decision.

[17] Council has prepared a separate section 32AA assessment, which is contained in **Appendix 3** to this order. In preparing the s32AA, Council has considered a range of information provided by the appellants and Kāinga Ora and has considered their different positions on the issues being negotiated. The analysis contained within the s32AA is not reflective of the position of any individual party, rather it is Council’s assessment of the agreed provisions against the requirements of s32AA.

[18] To briefly summarise, the section 32AA assessment concludes that:

Management of noise and vibration related effects

- (a) The agreed amendments to AINF-P27 are effective and efficient because they clarify that the intention of the policy is to minimise effects on indoor amenity and health and reverse sensitivity effects, and that the mechanism to achieve this policy includes mapping and design controls;

There is no additional cost associated with this amendment as it merely provides policy level support for the new NOISE provisions;

- (b) Inclusion of the new acoustic provisions (NOISE-R44 and NOISE-R45, supported by new technical standards in APP1 and the noise control boundary mapping) will support an efficient outcome as the provisions address health and amenity effects and minimise reverse sensitivity effects which, if not addressed, could lead to the inefficient operation of nationally significant infrastructure (in NZTA and KiwiRail's view). This in turn gives effect to Objective AINF-O2 of the PDP, which requires that infrastructure is protected from reverse sensitivity effects, and its construction, operation, maintenance, repair, replacement and upgrading is not compromised;
- (c) Acoustic provisions with multiple permitted activity pathways, as proposed, are more efficient and effective than more limited pathways (the more restrictive alternative) or leaving the effects entirely unmanaged in the PDP (the more permissive alternative);
- (d) The inclusion of the new acoustic provisions (NOISE-R44 and NOISE-R45, supported by new technical standards in APP1 and the noise control boundary mapping) will require additional assessments for some buildings and activities in some locations, with associated costs. Construction costs associated with the new provisions potentially involve installing upgraded glazing, mechanical ventilation, and other mitigation features. It is noted however that the proposed performance standards are not set at idealistic stringent levels which would prevent *all* adverse noise effects. Instead, they are set at pragmatic reasonable levels designed to avoid the worst noise effects which could have the biggest impact on human health and amenity. The acoustic provisions have been developed with input from acoustic and ventilation experts engaged by Council, NZTA, KiwiRail and Kāinga Ora Homes and Communities;

Rail Corridor setback for buildings and structures

- (e) The benefits of the insertion of the rail corridor setback standards into the PDP include providing a safer and more efficient rail network and reducing the potential costs incurred by railway operations regarding obstructions within the railway corridor. The proposed setback standards will also enable greater certainty around the provision of a safe environment for owners and occupiers to undertake maintenance activities on their properties;
- (f) While the setback standards may limit buildings and structures in some locations (with associated costs), this will depend on a range of considerations such as the topography of the site, design of the building/structure, amenity and geotechnical constraints etc. The cost of the proposed setback provisions are not considered in the Council's s32AA to be unreasonable nor disproportionate as landowners can develop their land within the setback through the resource consent process;
- (g) The proposed setback standards give effect to objective AINF-O2 of the PDP, which requires that the construction, operation, maintenance, repair, replacement and upgrading of infrastructure not be compromised. They also give effect to Waikato Regional Policy Statement (**WRPS**)⁶ objective UFD-O1 which requires that development and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes;

Rail Corridor Noise Alert Area and Rail Corridor Vibration Alert Area

- (h) Using alert area layers to manage potential adverse effects generated by the rail corridor will be efficient and effective at balancing the

⁶ It is noted that Change 1 to the WRPS was publicly notified 15 November 2023 and the parties have reviewed the associated changes to the WRPS in light of the proposed amendments.

infrastructure and health and amenity considerations resulting from development. Alert area layers are an efficient and effective mechanism to provide valuable information to current and prospective owners to allow them to elect to manage the effects they will experience themselves. There are no rules or other PDP provisions associated with the alert layers and therefore no costs arising from their inclusion in the PDP; and

- (i) Using an alert area layer places existing and prospective property owners on notice about the potential presence of effects and allows them to make informed decisions about the construction or alteration of buildings containing sensitive land uses. This is considered more appropriate than the alternative option of imposing consenting obligations on landowners to demonstrate compliance with technical standards.

Consideration

[19] In making this order the Court has read and considered the notices of appeal dated 1 March 2022 and the Joint Memorandum of the parties dated 22 December 2023.

[20] The Court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits. The Court understands for present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order except Tony and Cindy Young and Brenda and Gavin Butcher who withdrew their section 274 notices on 22 December 2023; and
- (b) All remaining parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

Order

[21] The Court orders, by consent, that:

- (a) The various chapters of the Proposed Waikato District Plan be amended in accordance with **Appendix 1** to this order (additions marked as underlined and deletions as ~~striketrough~~);
- (b) The planning maps are amended in accordance with **Appendix 2** to this order;
- (c) The appeals in their entirety are otherwise dismissed; and
- (d) There is no order as to costs.



L J Newhook
Alternate Environment Judge



Appendix 1: Tracked change version of the agreed amendments to the relevant PDP chapters

1. Interpretation chapter

(a) Edit the definition of 'additions' as follows:

Term	Definitions
Additions	Means an extension to a structure or building which increases its size, height and <u>or</u> volume, including the construction of new floors, walls, ceilings and roofs.

2. AINF – All infrastructure chapter

(a) Amend policy AINF-P27 as follows:

AINF-P27 Land transport network.

- (1) Avoid, remedy or mitigate effects of subdivision, use and development that would compromise:
- (a) The road function, as specified in the road hierarchy;
 - (b) The access by emergency services and their vehicles; ~~and~~ or
 - (c) The safety and efficiency, including the maintenance, upgrading, development and operation of the land transport network.
- (2) Minimise reverse sensitivity effects on the land transport network and effects on indoor amenity and health for sensitive land uses through setbacks for noise sensitive activities established in proximity to existing transport corridors by mapping potentially affected areas and introducing design controls.

3. NOISE– Noise chapter

(a) Insert the following text before the Rules table as explanatory text for the Rail Corridor Noise Alert Area and the Rail Corridor Vibration Alert Area:

Rules

Note that the Rail Corridor Noise Alert Area identifies the noise-sensitive area within 100metres each side of the Rotowaro and Hautapu branch line rail corridors. Properties within this area may experience rail noise. The Rail Corridor Vibration Alert Area identifies the vibration-sensitive area within 60metres each side of the rail corridor. Properties within this area may experience rail vibration. These Alert Areas are for information purposes only and no specific district plan rules or notification requirements apply as a result of the Rail Corridor Noise Alert Area or the Rail Corridor Vibration Alert Area.

NOISE-RI	Noise – general	
<ul style="list-style-type: none"> • LLRZ – Large lot residential zone; • GRZ – General residential zone; • RLZ – Rural lifestyle zone (including the Tamahere Commercial Areas A and B); • SETZ – Settlement zone; and • RPZ – Rangitahi Peninsula zone. 	(1) Activity status: PER Where: (a) Farming noise, and noise generated by emergency generators and emergency sirens.	(2) Activity status where compliance not achieved: n/a

(b) Insert the following two new rules (NOISE-R44 and NOISE-R45) into the NOISE chapter:

NOISE-R44	<u>Construction of a new building containing a sensitive land use within a State Highway or Rail Corridor Noise Control Boundary</u>	
(1) Activity status: PER Activity-specific standards: (a) <u>New buildings are designed, constructed and maintained to ensure that any part of the building located within the State Highway or Rail Corridor Noise Control Boundary and containing an activity listed in Table 28 APP1:</u> (i) <u>complies with the maximum future indoor design noise levels in Table 28 in APP1 and meets the ventilation requirements in Section 8.1(4) of APP1; or</u> (ii) <u>is located so the nearest exterior façade of that part of the building is at least 50m from the formed carriageway of the state highway and 50m from the formed railway track and there is a solid building, fence, wall or landform that blocks the line of sight from all parts of all windows and doors to that activity to:</u> (1) <u>All parts of the formed carriageway of the state highway.</u> (2) <u>All points 3.8m directly above the formed railway track; or</u> (iii) <u>is located so it can be demonstrated by way of prediction or measurement by a suitably qualified and experienced acoustic consultant that noise at all exterior façades of that part of the building will be no more than 15 dB</u>	(2) Activity status where compliance not achieved: RDIS <u>Council's discretion is restricted to the following matters:</u> (a) <u>Adverse effects on health and amenity of people indoors within the Noise Control Boundary overlays</u> (b) <u>Alternative options for building design or location that would achieve compliance with the standards in APP1</u> (c) <u>Adverse effects on the continuing operation of the state highway network, or railway corridor as a result of non-compliance with the standards in APP1</u> (d) <u>Any natural or built features of the site or surrounding area that will mitigate noise effects</u> (e) <u>The outcome of any consultation undertaken with NZTA or KiwiRail.</u>	

<p>above the relevant maximum indoor design noise levels in Table 28 in APP1; or</p> <p>(iv) <u>accords with the construction schedule in Table 29 of APP1 and meets the ventilation requirements in Section 8.1(4) of APP1.</u></p>	
<p>NOISE-R45</p>	<p><u>Alterations, additions or change in use of an existing building to add or increase a sensitive land use within a State Highway or Rail Corridor Noise Control Boundary</u></p>
<p>Activity status: PER</p> <p>Activity-specific standards:</p> <p>(a) <u>The alteration, addition or change of use of an existing building does not increase the gross floor area of an activity listed within Table 28 APP1 within the State Highway or Rail Corridor Noise Control Boundary; or</u></p> <p>(b) <u>An internal alteration to an existing residential unit does not increase the total gross floor area of activities listed in Table 28 APP1 by more than 5m² within each 10 year period from [operative date]¹ within the State Highway Noise Effects Area or the Rail Noise Effects Area; or</u></p> <p>(c) <u>Other than internal alterations 5m² or less within each 10 year period from [operative date] provided for in (b) above, the alteration, addition or change of use of an existing building increases the gross floor area of an activity listed within Table 28 APP1 within the State Highway or Rail Corridor Noise Control Boundary, but the part of the building containing that activity:</u></p> <p>(i) <u>Is designed, constructed and maintained to comply with the indoor design noise levels specified in Section 8.1(1) and Table 28 in APP1 and meets the ventilation requirements in Section 8.1(4) of APP1; or</u></p> <p>(ii) <u>Is in a location where the nearest exterior façade of that part of the building is at least 50m from the formed carriageway of the state highway and 50m from the formed railway track and there is a solid building, fence, wall or landform that</u></p>	<p>Activity status where compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <p>(a) <u>Adverse effects on health and amenity indoors of people within the Noise Control Boundary overlays</u></p> <p>(b) <u>Alternative options for building design or location that would achieve compliance with the standards in APP1</u></p> <p>(c) <u>Adverse effects on the continuing operation of the state highway network, or railway corridor as a result of non-compliance with the standards in APP1</u></p> <p>(d) <u>Any natural or built features of the site or surrounding area that will mitigate noise effects</u></p> <p>(e) <u>The outcome of any consultation undertaken with NZTA or KiwiRail.</u></p>

¹ To be completed once the Waikato District Plan is made operative.

<p><u>blocks the line of sight from all parts of all windows and doors to that activity to:</u></p> <p>(1) <u>All parts of the formed carriageway of the state highway.</u></p> <p>(2) <u>All points 3.8m directly above the formed railway track; or</u></p> <p>(iii) <u>Is in a location where it can be demonstrated by way of prediction or measurement by a suitably qualified and experienced acoustic consultant that the noise at all exterior façades of that part of the building is no more than 15 dB above the relevant noise levels in Table 28 in APP1; or</u></p> <p>(iv) <u>Is designed, constructed and maintained in accordance with the construction schedule in Table 29 of APP1 and meets the ventilation requirements in Section 8.1(4) of APP1.</u></p>	
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4. Appendix 1 – Acoustic insulation (APP1)

- (a) Insert the following new section into APP1:

8. State Highway and Rail Corridor Noise Control Boundary

The State Highway and Rail Corridor Noise Control Boundary overlays shown on the planning maps identify areas that have the potential to experience high noise levels from road and rail traffic. New buildings and alterations to habitable rooms in buildings used for sensitive land uses are required to demonstrate that adverse noise effects have been appropriately managed by demonstrating compliance with the standards specified in section 8.1.

8.1 Standards for permitted activities within the State Highway and Rail Corridor Noise Control Boundary overlays

- (1) Prior to the construction or alteration of, or change of use within, any building to which this standard applies, a design report shall be submitted to the Council demonstrating compliance with the maximum indoor design noise levels specified in Table 28, applying the assumptions in sections 8.1(2) and 8.1(3) below. Alternatively, the design report may be substituted with confirmation that the construction or alteration of, or change of use within, the building will meet the construction schedule requirements in Table 29.

Table 28 – Maximum indoor design noise levels for state highway and rail corridor noise

Type of Noise Control Boundary	Activity	Rail Corridor maximum indoor design noise level	State Highway maximum indoor design noise level
State Highway and Rail Corridor	Bedrooms	35 dB $L_{Aeq}(1hour)$	40 dB $L_{Aeq}(24hour)$
	Lecture rooms / theatres, music studios, assembly halls	35 dB $L_{Aeq}(1hour)$	35 dB $L_{Aeq}(24hour)$
	Conference rooms, drama studios, libraries and designated sleeping rooms for children aged 6 years or younger in schools, early childhood centres or tertiary institutions	40 dB $L_{Aeq}(1hour)$	40 dB $L_{Aeq}(24hour)$
	Sensitive activities in hospitals including overnight medical care, wards, clinics, consulting rooms, theatres, nurses' stations	40 dB $L_{Aeq}(1hour)$	40 dB $L_{Aeq}(24hour)$
	Places of assembly including churches, places of worship and marae	35 dB $L_{Aeq}(1hour)$	35 dB $L_{Aeq}(24hour)$
	Other habitable rooms	40 dB $L_{Aeq}(1hour)$	40 dB $L_{Aeq}(24hour)$

- (2) For State Highways, the design road noise is to be based on measured or predicted external noise levels plus 3 dB*.
- (3) For the Rail Corridor:
- (a) The source level for railway noise is 70 $L_{Aeq}(1h)$ at a distance of 12 metres from the nearest track; and
 - (b) The attenuation over distance is:
 - (i) 3 dB per doubling of distance up to 40 metres and 6 dB per doubling of distance beyond 40 metres; or
 - (ii) As modelled by a Suitably Qualified and Experienced Acoustic Consultant using a recognised computer modelling method for freight trains with diesel locomotives.

having regard to factors such as barrier attenuation, the location of the dwelling relative to the orientation of the track, topographical features and any intervening structures.

Table 29 - Construction Schedule

Elements	Minimum construction schedule for controlling noise in State Highway and Railway Noise Effects Areas in addition to the requirements of the New Zealand Building Code	
Exterior walls	Wall cavity infill of fibrous insulation, batts or similar (minimum density of 9kg/m ³)	
	Cladding and internal wall lining complying with either Options A, B or C below:	
	Option A - Light cladding: timber weatherboard or sheet materials with surface mass between 8kg/m ² and 30 kg/m ² of wall cladding	Internal lining of minimum 17 kg/m ² plasterboard, such as two layers of 10 mm thick high-density plasterboard, on resilient/isolating mountings
	Option B - Medium cladding: surface mass between 30 kg/m ² and 80 kg/m ² of wall cladding	Internal lining of minimum 17 kg/m ² plasterboard, such as two layers of 10 mm thick high-density plasterboard
	Option C - Heavy cladding: surface mass between 80 kg/m ² and 220 kg/m ² of wall cladding	No requirements additional to New Zealand Building Code
Roof/ceiling	Ceiling cavity infill of fibrous insulation, batts or similar (minimum density of 7 kg/m ³)	
	Ceiling penetrations, such as for recessed lighting or ventilation, shall not allow additional noise break-in	
	Roof type and internal ceiling lining complying with either Options A, B or C below:	
	Option A - Skillion roof with light cladding: surface mass up to 20 kg/m ² of roof cladding	Internal lining of minimum 25 kg/m ² plasterboard, such as two layers of 13 mm thick high-density plasterboard
	Option B - Pitched roof with light cladding: surface mass up to 20 kg/m ² of roof cladding.	Internal lining of minimum 17 kg/m ² plasterboard, such as two layers of 10 mm thick high-density plasterboard
Option C - Roof with heavy cladding: surface mass between 20 kg/m ² and 60 kg/m ² of roof cladding	No requirements additional to New Zealand Building Code	
Glazed areas	Aluminium frames with full compression seals on opening panes	
	Glazed areas shall be less than 35% of each room's gross floor area	
	<p>Either:</p> <ul style="list-style-type: none"> • double-glazing with: <ul style="list-style-type: none"> ○ a laminated pane of glass at least 6 mm thick; ○ a cavity between the two panes of glass at least 12 mm deep; and ○ a second pane of glass at least 4 mm thick <p>Or</p> <ul style="list-style-type: none"> • any other glazing with a minimum performance of Rw 33 dB 	

<u>Exterior doors</u>	<u>Exterior door:</u> <ul style="list-style-type: none"> <u>within the state highway noise effects area with a line-of-sight to any part of the state highway road surface; or</u> <u>within the railway corridor noise effects area with a line-of-sight to any point 3.8m directly above the formed railway track.</u> 	<u>Solid core exterior door, minimum surface mass 24 kg/m², with edge and threshold compression seals; or other doorset with minimum performance of Rw 30 dB</u>
	<u>Exterior door outside of the state highway noise effects area and railway corridor noise effects area, or with no line-of-sight to any part of the state highway road surface or to any point 3.8m directly above the formed railway track</u>	<u>Exterior door with edge and threshold compression seals</u>

(4) If opening windows must be closed to achieve the design noise levels in Table 28 or if a building is constructed in accordance with the construction schedule in Table 29, the building must be designed, constructed and maintained with a mechanical ventilation system that:

(a) For habitable rooms located within the State Highway or Rail Corridor Noise effects area containing a residential activity, achieves the following requirements:

- (i) Provides mechanical ventilation that can operate continuously to satisfy clause G4 of the New Zealand Building Code and that provides at least 1 air change per hour, but no less than 7.5L/s per occupant;
- (ii) Provides cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C when assessed using a 2.5% design weather condition for the applicable location. An acceptable design weather set would include IRHACE Yearbook 2009 NIWA weather data; and
- (iii) A HVAC system installed in compliance with (4)(a)(i) and (ii) above, must not generate more than 35 dB L_{Aeq(30s)} when measured 1 metre away from any grille or diffuser. The noise level must be measured after the system has cooled the rooms to the temperatures in (4)(a)(ii), or after a period of 30 minutes from the commencement of cooling (whichever is the lesser).

(b) Alternatively, in lieu of section (4)(a) above, a design verified by a suitably qualified and experienced HVAC expert stating the design proposed will provide ventilation and internal space temperature controls to meet or exceed the outcomes described in parts (4)(a).

(5) A commissioning report must be submitted to the Council prior to occupation of the building demonstrating compliance with all of the mechanical ventilation system performance requirements in 8.1(4).

*The State Highway Noise Effects Area is based on national road-traffic noise modelling by AECOM. The inputs for key parameters are as follows:

- **Date of input datasets:** 2021 (generally reflecting 2020/21 conditions)
- **Traffic volumes (AADT):** CoreLogic National Road Centreline dataset; 24h traffic data entered in CRTN as 18h traffic
- **Heavy vehicles (%HV):** CoreLogic National Road Centreline dataset

- **Speed:** CoreLogic National Road Centreline dataset; Posted speed limit
- **Road surface:** Surface types as recorded in NZTA RAMM database; Surface corrections in accordance with NZTA Guide to state highway road surface noise, including a -2 dB correction from CRTN to a reference AC-10 surface.
- **Bridge locations:** CoreLogic National Road Centreline dataset; Height interpolated from start and end points
- **Terrain:** LIDAR where available; NZ School of Surveying 15 m nationwide DEM in other areas; Data combined in GIS to produce 1 m×1 m DEM for noise model
- **Building footprints:** LINZ NZ Building Outlines dataset
- **Building heights:** Where available, calculated from DSM median height minus DEM median height, otherwise: 6 m residential / 8 m commercial
- **Noise barriers:** None modelled

5. Residential zone chapters

- (a) Insert the following rail corridor setback standards into the LLRZ – Large lot residential zone, GRZ – General residential zone, MDZ – Medium density residential zone and HOPZ – Hopuhopu zone chapters:

LLRZ-S11	Building and structure setback – rail corridor
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 2.5m from the designated boundary of the railway corridor.</u></p> <p>(b) <u>Standard LLRZ-S11(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials.</u></p> <p>(c) <u>Standard LLRZ-S11(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u></p>	<p>(2) Activity status when compliance not achieved: RDIS</p> <p><u>Council's discretion is restricted to the following matters:</u></p> <p>(a) <u>The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u></p> <p><i>Notification: Any restricted discretionary activity under LLRZ-S11 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under</i></p>

	<u>section 95A(4) of the Resource Management Act 1991.</u>
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GRZ-S25	Building and structure setback – rail corridor
<p>(1) Activity status: PER</p> <p>Where:</p> <ul style="list-style-type: none"> (a) Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 2.5m from the designated boundary of the railway corridor. (b) Standard GRZ-S25(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials. (c) Standard GRZ-S25(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor. 	<p>(2) Activity status when compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (a) The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor. <p><i>Notification: Any restricted discretionary activity under GRZ-S25 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</i></p>

MRZ-S12	Building and structure setback – rail corridor
<p>(1) Activity status: PER</p> <p>Where:</p> <ul style="list-style-type: none"> (a) Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 2.5m from the designated boundary of the railway corridor. (b) Standard MRZ-S12(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials. (c) Standard MRZ-S12(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor. 	<p>(2) Activity status when compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (a) The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor. <p><i>Notification: Any restricted discretionary activity under MRZ-S12 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of</i></p>

	<u>the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</u>
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HOPZ-S10	Building and structure setback – rail corridor
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 2.5m from the designated boundary of the railway corridor.</u></p> <p>(b) <u>Standard HOPZ-S10(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials.</u></p> <p>(c) <u>Standard HOPZ-S10(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u></p>	<p>(2) Activity status when compliance not achieved: RDIS</p> <p>Council’s discretion is restricted to the following matters:</p> <p>(a) <u>The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u></p> <p><i>Notification: Any restricted discretionary activity under HOPZ-S10 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</i></p>

6. Non-residential zone chapters

- (a) Insert the following rail corridor setback standards into the GRUZ – General Rural Zone, RLZ – Rural Lifestyle Zone, SETZ – Settlement Zone, LCZ – Local Centre Zone, COMZ – Commercial Zone, TCZ – Town Centre Zone, FUZ – Future Urban Zone, GIZ – General Industrial Zone, HIZ – Heavy Industrial Zone and OSZ – Open Space Zone chapters:

GRUZ-S21	Building and structure setback – rail corridor
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 3m from the designated boundary of the railway corridor.</u></p>	<p>(2) Activity status when compliance not achieved: RDIS</p> <p>Council’s discretion is restricted to the following matters:</p> <p>(a) <u>The location, size and design of the building as it relates to the ability to safely</u></p>

<p>(b) <u>Standard GRUZ-S21(1)(a) does not apply to fences or structures less than 2m in height, poles or aerals.</u></p> <p>(c) <u>Standard GRUZ-S21(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u></p>	<p><u>use, access and maintain buildings without requiring access on, above or over the rail corridor.</u></p> <p><i>Notification: Any restricted discretionary activity under GRUZ-S21 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</i></p>
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RLZ-S18	Building and structure setback – rail corridor	
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 3m from the designated boundary of the railway corridor.</u></p> <p>(b) <u>Standard RLZ-S18(1)(a) does not apply to fences or structures less than 2m in height, poles or aerals.</u></p> <p>(c) <u>Standard RLZ-S18(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u></p>	<p>(2) Activity status when compliance not achieved: RDIS</p> <p><u>Council's discretion is restricted to the following matters:</u></p> <p>(a) <u>The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u></p> <p><i>Notification: Any restricted discretionary activity under RLZ-S18 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</i></p>	

SETZ-S12	Building and structure setback – rail corridor	
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 3m from the designated boundary of the railway corridor.</u></p>	<p>(2) Activity status when compliance not achieved: RDIS</p> <p><u>Council's discretion is restricted to the following matters:</u></p>	

<p>(b) <u>Standard SETZ-S12(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials.</u></p> <p>(c) <u>Standard SETZ-S12(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u></p>	<p>(a) <u>The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u></p> <p><i>Notification: Any restricted discretionary activity under SETZ-S12 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</i></p>
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LCZ-S11	Building and structure setback – rail corridor	
<p><u>(1) Activity status: PER</u></p> <p><u>Where:</u></p> <p>(a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 3m from the designated boundary of the railway corridor.</u></p> <p>(b) <u>Standard LCZ-S11(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials.</u></p> <p>(c) <u>Standard LCZ-S11(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u></p>	<p><u>(2) Activity status when compliance not achieved: RDIS</u></p> <p><u>Council's discretion is restricted to the following matters:</u></p> <p>(a) <u>The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u></p> <p><i>Notification: Any restricted discretionary activity under LCZ-S11 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</i></p>	

COMZ-S11	Building and structure setback – rail corridor
<p>(1) Activity status: PER</p> <p>Where:</p> <ul style="list-style-type: none"> (a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 3m from the designated boundary of the railway corridor.</u> (b) <u>Standard COMZ-S11(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials.</u> (c) <u>Standard COMZ-S11(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u> 	<p>(2) Activity status when compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (a) <u>The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u> <p><i>Notification: Any restricted discretionary activity under COMZ-S11 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</i></p>

TCZ-S12	Building and structure setback – rail corridor
<p>(1) Activity status: PER</p> <p>Where:</p> <ul style="list-style-type: none"> (a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 3m from the designated boundary of the railway corridor.</u> (b) <u>Standard TCZ-S12(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials.</u> (c) <u>Standard TCZ-S12(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u> 	<p>(2) Activity status when compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (a) <u>The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u> <p><i>Notification: Any restricted discretionary activity under TCZ-S12 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under</i></p>

	<u>section 95A(4) of the Resource Management Act 1991.</u>
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GIZ-S9	Building and structure setback – rail corridor
<p>(1) Activity status: PER</p> <p>Where:</p> <ul style="list-style-type: none"> (a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 3m from the designated boundary of the railway corridor.</u> (b) <u>Standard GIZ-S9(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials.</u> (c) <u>Standard GIZ-S9(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u> 	<p>(2) Activity status when compliance not achieved: RDIS</p> <p><u>Council’s discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none"> (a) <u>The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u> <p><i>Notification: Any restricted discretionary activity under GIZ-S9 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</i></p>

HIZ-S11	Building and structure setback – rail corridor
<p>(1) Activity status: PER</p> <p>Where:</p> <ul style="list-style-type: none"> (a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 3m from the designated boundary of the railway corridor.</u> (b) <u>Standard HIZ-S11(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials.</u> (c) <u>Standard HIZ-S11(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u> 	<p>(2) Activity status when compliance not achieved: RDIS</p> <p><u>Council’s discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none"> (a) <u>The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u> <p><i>Notification: Any restricted discretionary activity under HIZ-S11 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council</i></p>

	<u>decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</u>
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OSZ-S11	Building and structure setback – rail corridor
<p>(1) Activity status: PER</p> <p>Where:</p> <ul style="list-style-type: none"> (a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 3m from the designated boundary of the railway corridor.</u> (b) <u>Standard OSZ-S11(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials.</u> (c) <u>Standard OSZ-S11(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u> 	<p>(2) Activity status when compliance not achieved: RDIS</p> <p><u>Council's discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none"> (a) <u>The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u> <p><i>Notification: Any restricted discretionary activity under OSZ-S11 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.</i></p>

FUZ-S13	Building and structure setback – rail corridor
<p>(1) Activity status: PER</p> <p>Where:</p> <ul style="list-style-type: none"> (a) <u>Any new building or structure, or alteration to an existing building or structure, shall be setback a minimum of 3m from the designated boundary of the railway corridor.</u> (b) <u>Standard FUZ-S13(1)(a) does not apply to fences or structures less than 2m in height, poles or aerials.</u> (c) <u>Standard FUZ-S13(1)(a) does not apply to retaining walls, which must be set back a minimum of 1.5m from the designated boundary of the railway corridor.</u> 	<p>(2) Activity status when compliance not achieved: RDIS</p> <p><u>Council's discretion is restricted to the following matters:</u></p> <ul style="list-style-type: none"> (a) <u>The location, size and design of the building as it relates to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.</u> <p><i>Notification: Any restricted discretionary activity under FUZ-S13 shall not be notified or limited notified unless KiwiRail is determined to be an affected person in accordance with</i></p>

	section 98B of the Resource Management Act 1991 or Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.
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7. Existing setbacks – state highway and rail corridor

- (a) Delete the following setbacks for state highway and rail corridor in the GRUZ – General Rural Zone, RLZ – Rural Lifestyle Zone, SETZ – Settlement Zone, LLRZ – Large Lot Residential Zone, TKAZ – Te Kowhai Airpark Zone, MSRZ – Motorsport and Recreation Zone, CORZ – Corrections Zone and FUZ – Future Urban Zone chapters:

LLRZ-S9	Building setbacks – sensitive land use
<p>(1) Activity status: PER Where: (a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of: (i) 5m from the designated boundary of the railway corridor; (ii) 15m from the boundary of a national route or regional arterial; (iii) 25m from the designated boundary of the Waikato Expressway; (iv) (ii) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site; (v) (iii) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; and (vi) (iv) 300m from the boundary of another site containing an intensive farming activity. (b) LLRZ-S9(1)(a) does not apply to a structure which is not a building.</p>	<p>(2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters: (a) Road network safety and efficiency; (b) (a) On-site amenity values; (c) (b) Odour, dust and noise levels received at the notional boundary of the building; (d) (c) Mitigation measures; and (e) (d) Potential for reverse sensitivity effects.</p>

GRZ-S20	Building setback – sensitive land use
<p>(1) Activity status: PER Where: (a) Any new building or alteration to an existing building for a sensitive land use shall be set back a minimum of: (i) 5m from the designated boundary of the railway corridor; (ii) (i) 15m from the boundary of a national route or regional arterial;</p>	<p>(2) Activity status where compliance not achieved: RDIS Council's discretion is restricted to the following matters: (a) Road network safety and efficiency; (b) (a) On-site amenity values; (c) (b) Odour, dust and noise levels received at the notional boundary of the building; (d) (c) Mitigation measures; and (e) (d) Potential for reverse sensitivity effects.</p>

<p>(iii) 25m from the designated boundary of the Waikato Expressway;</p> <p>(iv) (ii) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site;</p> <p>(v) (iii) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; and</p> <p>(vi) (iv) 300m from the boundary of the Alstra Poultry intensive farming activities located on River Road and Great South Road, Ngaaruawaahia.</p>	
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GRUZ-S13	Building setbacks – sensitive land use	
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) Any building for a sensitive land use must be set back a minimum of:</p> <p>(i) 5m from the designated boundary of the railway corridor;</p> <p>(ii) (i) 15m from a national route or regional arterial road;</p> <p>(iii) 35m from the designated boundary of the Waikato Expressway;</p> <p>(iv) (ii) 200m from an Aggregate Extraction Area or Extractive Resource Area containing a sand resource;</p> <p>(v) (iii) 500m from an Aggregate Extraction Area or Extractive Resource Area containing a rock resource, or a Coal Mining Area;</p> <p>(vi) (iv) 100m from a site in the Tamahere Commercial Areas A and C;</p> <p>(vii) (v) 300m from the boundary of buildings or outdoor enclosures used for an intensive farming activity. This setback does not apply to sensitive activities located on the same site as the intensive farming activity;</p> <p>(viii) (vi) 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site;</p> <p>(ix) (vii) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed;</p> <p>(x) (viii) Not be located within the Te Uku wind farm setback shown on the planning maps; and</p>	<p>(2) Activity status where compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <p>(a) Road network safety and efficiency;</p> <p>(b) (a) On-site amenity values;</p> <p>(c) (b) Odour, dust and noise levels received at the notional boundary of the building;</p> <p>(d) (c) Mitigation measures; and</p> <p>(e) (d) Potential for reverse sensitivity effects; and</p> <p>(f) (e) The safe, effective, and efficient operation, maintenance and upgrade of the gas network.</p>	

(xi) (ix) 6m from the Gas network setback shown on the planning maps.	
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RLZ-S11	Building setback - sensitive land use
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of:</p> <p>(i) 15m from a national route or regional arterial boundary;</p> <p>(ii) 35m from the designated boundary of the Waikato Expressway;</p> <p>(iii) (ii) 200m from an Aggregate Extraction Area containing a sand resource;</p> <p>(iv) (iii) 500m from an Aggregate Extraction Area containing a rock resource;</p> <p>(v) (iv) 300m from the boundary of another site containing an intensive farming activity;</p> <p>(vi) (vii) 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site;</p> <p>(vii) (viii) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; and</p> <p>(viii) (vi) 6m from the Gas network setback shown on the planning maps.</p>	<p>(2) Activity status where compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <p>(a) Road network safety and efficiency;</p> <p>(b) (a) On-site amenity values;</p> <p>(c) (b) Odour, dust and noise levels received at the notional boundary of the building;</p> <p>(d) (c) Mitigation measures; and</p> <p>(e) (d) Potential for reverse sensitivity effects; and</p> <p>(f) (e) The safe, effective, and efficient operation, maintenance and upgrade of the gas network.</p>

RLZ-S12	Building setback—sensitive land use
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of 5m from the designated boundary of the railway corridor.</p>	<p>(2) Activity status where compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <p>(a) The size, nature and location of the buildings on the site;</p> <p>(b) The extent to which the safety and efficiency of rail and road operations will be adversely affected;</p> <p>(c) The outcome of any consultation with KiwiRail; and</p> <p>(d) Any characteristics of the proposed use that will make compliance unnecessary.</p>

SETZ-S10	Building setbacks – sensitive land use
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) Any new building or alteration to an existing building for a sensitive land use must be set back a minimum of:</p> <ul style="list-style-type: none"> (i) 5m from the designated boundary of the railway corridor; (ii) (i) 15m from the boundary of a national route or regional arterial; (iii) 25m from the designated boundary of the Waikato Expressway; (iv) (ii) 300m from the edge of oxidation ponds that are part of a municipal wastewater treatment facility on another site; (v) (iii) 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; and (vi) (iv) 300m from the boundary of another site containing an intensive farming activity. <p>(b) SETZ-S10(1)(a) does not apply to a structure which is not a building.</p>	<p>(2) Activity status where compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <ul style="list-style-type: none"> (a) Road network safety and efficiency; (b) (a) On-site amenity values; (c) (b) Odour, dust and noise levels received at the notional boundary of the building; (d) (c) Mitigation measures; and (e) (d) Potential for reverse sensitivity effects.

CORZ-S9	Building setbacks – sensitive land use
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) Any building for a sensitive land use must be set back a minimum of:</p> <ul style="list-style-type: none"> (i) 5m from the designated boundary of the railway corridor; (ii) (i) 15m from a national route or regional arterial road; (iii) 35m from the designated boundary of the Waikato Expressway; (iv) (ii) 200m from an Aggregate Extraction Area or Extractive Resource Area containing a sand resource; (v) (iii) 500m from an Aggregate Extraction Area or Extractive Resource Area containing a rock resource, or a Coal Mining Area; (vi) (iv) 100m from a site in the Tamahere Commercial Areas A and C; (vii) (v) 300m from the boundary of buildings or outdoor enclosures used for an intensive farming activity. This setback does not apply to sensitive activities located on the same site as the intensive farming activity; 	<p>(2) Activity status where compliance not achieved: DIS</p>

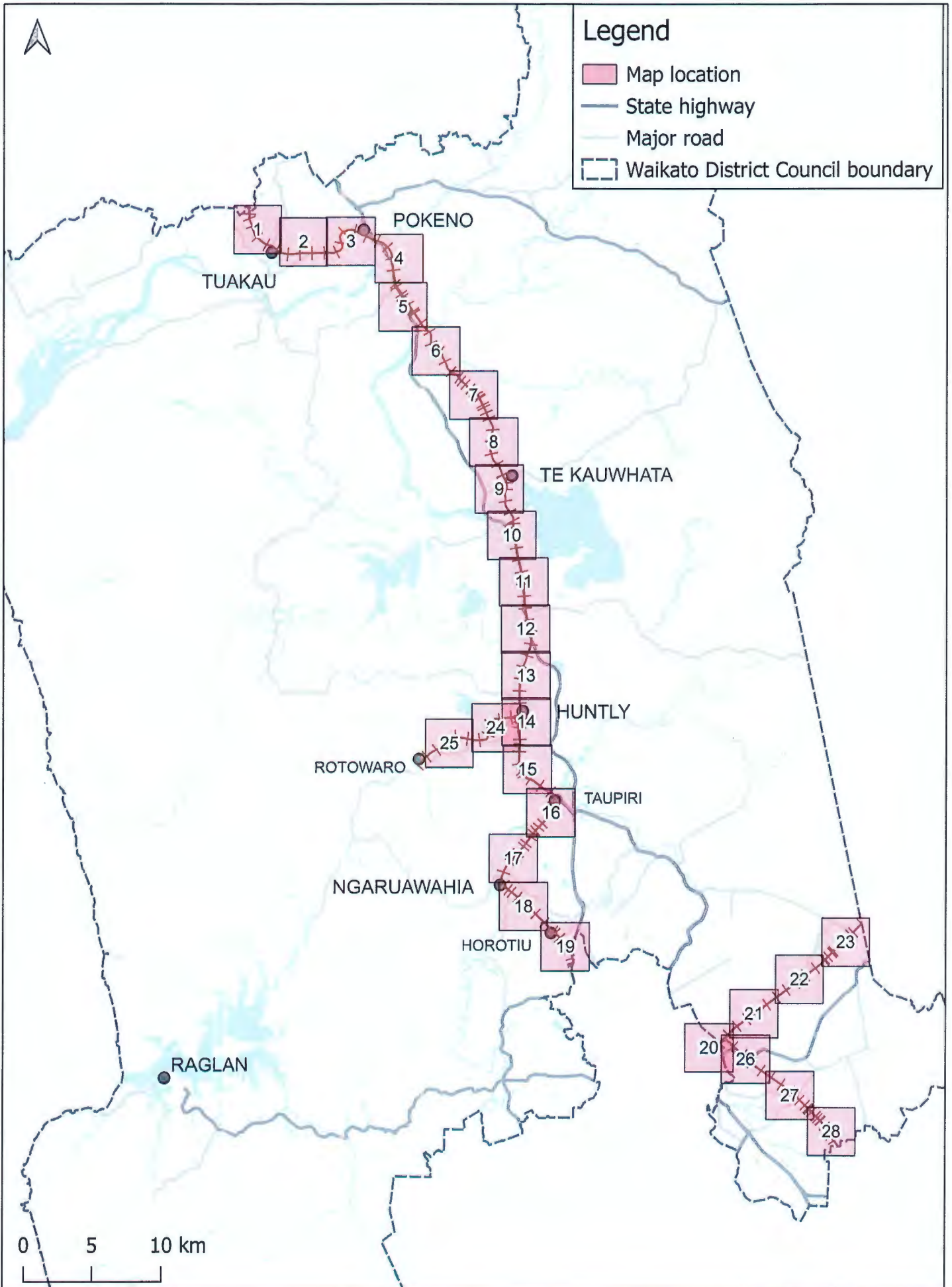
<p>(viii) <u>(vi)</u> 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site;</p> <p>(ix) <u>(vii)</u> 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; and</p> <p>(x) <u>(viii)</u> Not be located within the Te Uku wind farm setback shown on the planning maps.</p>	
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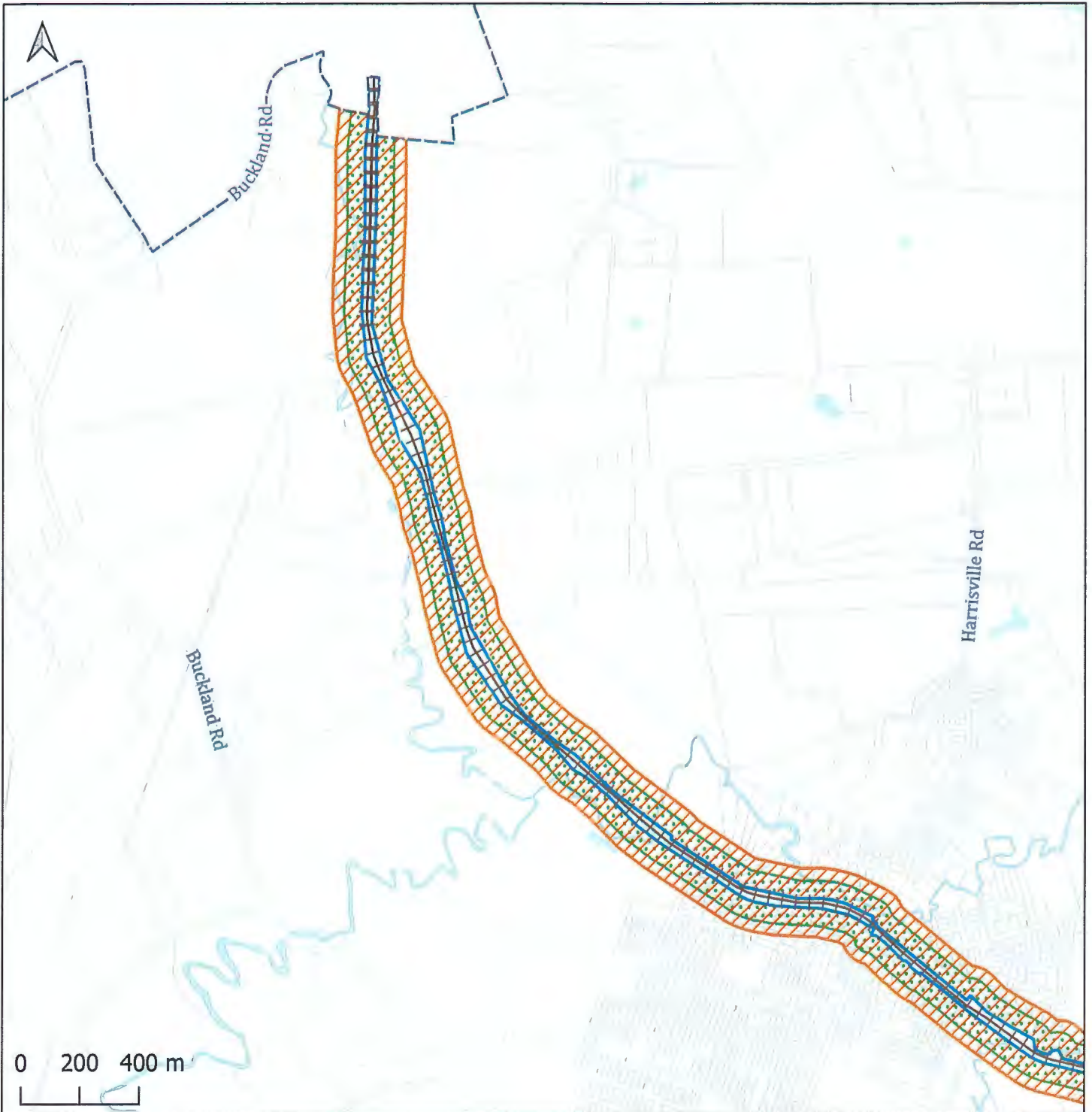
FUZ-S9	Building setbacks – sensitive land use	
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) Any building for a sensitive land use must be set back a minimum of:</p> <ul style="list-style-type: none"> (i) <u>(i)</u> 5m from the designated boundary of the railway corridor; (ii) <u>(i)</u> 15m from a national route or regional arterial road; (iii) <u>(ii)</u> 35m from the designated boundary of the Waikato Expressway; (iv) <u>(ii)</u> 200m from an Aggregate Extraction Area or Extractive Resource Area containing a sand resource; (v) <u>(iii)</u> 500m from an Aggregate Extraction Area or Extractive Resource Area containing a rock resource, or a Coal Mining Area; (vi) <u>(iv)</u> 100m from a site in the Tamahere Commercial Areas A and C; (vii) <u>(v)</u> 300m from the boundary of buildings or outdoor enclosures used for an intensive farming activity. This setback does not apply to sensitive activities located on the same site as the intensive farming activity; (viii) <u>(vi)</u> 300m from oxidation ponds that are part of a municipal wastewater treatment facility on another site; (ix) <u>(vii)</u> 30m from a municipal wastewater treatment facility where the treatment process is fully enclosed; and (x) <u>(viii)</u> Not be located within the Te Uku wind farm setback shown on the planning maps. 	<p>(2) Activity status where compliance not achieved: DIS</p>	

MSRZ-S18	Building setbacks – all precincts	
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) A building or structure in all precincts identified on the planning maps must be set back at least:</p> <p>(i) 7.5m from the boundary of Hampton Downs Road; and</p> <p>(ii) 25m from the boundary of the Waikato Expressway; and</p> <p>(iii) (ii) 25m from the boundary of another zone.</p>	<p>(2) Activity status where compliance not achieved: RDIS</p> <p>Council's discretion is restricted to the following matters:</p> <p>(a) Design and location of the building;</p> <p>(b) Admission of daylight and sunlight on any other sites;</p> <p>(c) Privacy on adjoining sites; and</p> <p>(d) Amenity values.</p>	

TKAZ-S17	Building setback from a State Highway	
<p>(1) Activity status: PER</p> <p>Where:</p> <p>(a) In all precincts, construction or alteration of a building must be set back at least 15m from a State Highway.</p>	<p>(2) Activity status where compliance not achieved: DIS</p>	

Appendix 2





Legend

- ⊕⊕ Rail centreline
- ▨ Rail corridor noise control boundary
- ▤ Rail corridor vibration alert area*
- ▭ KiwiRail Designation
- ▭ Property boundary
- ▭ River/lake
- ▭ Waikato District Council boundary

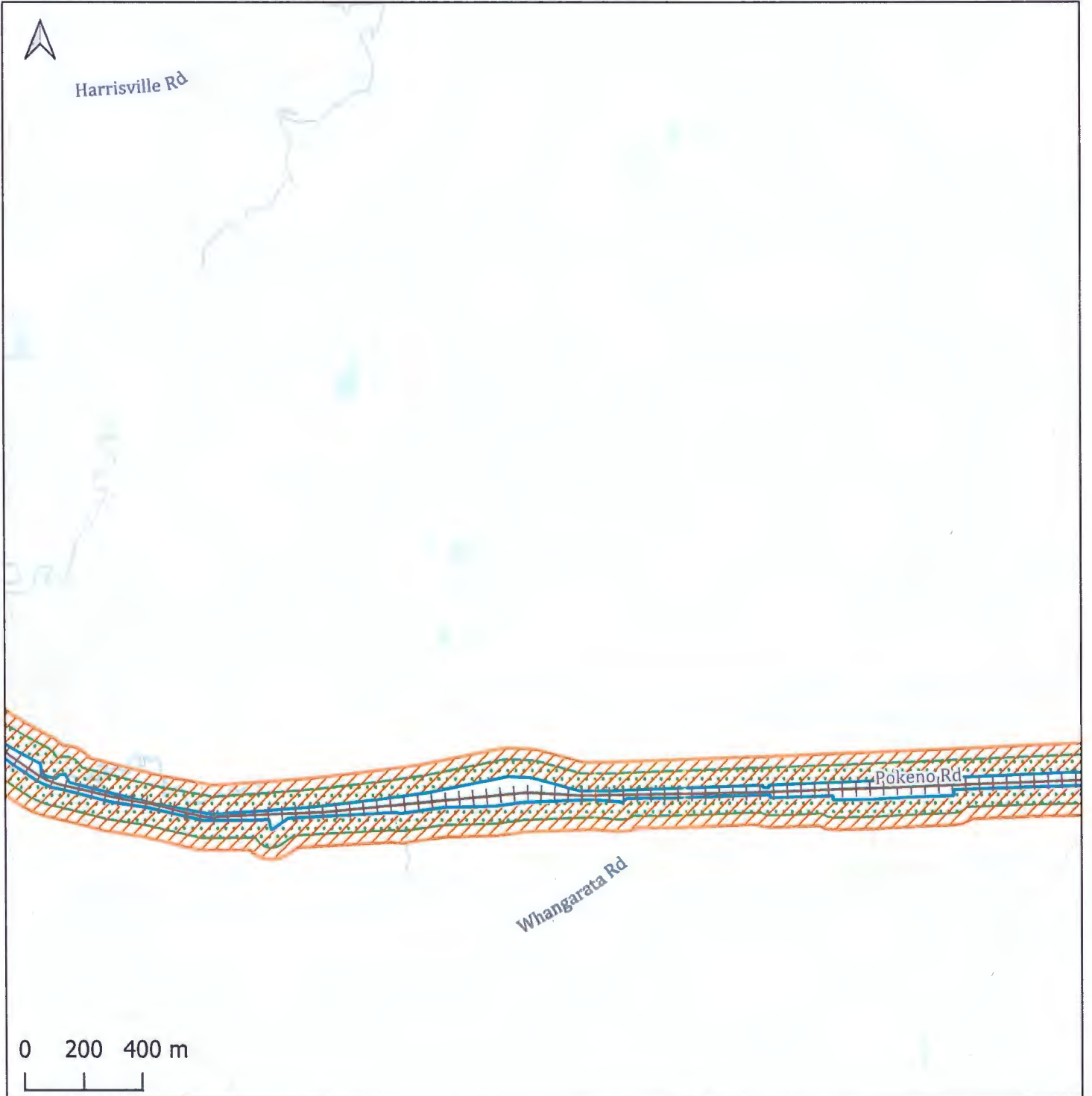


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Rail corridor noise control and alert areas

Waikato District Council
 Prepared 20 Oct 2023
 Cadastre Boundaries and addresses -
 Land Information New Zealand
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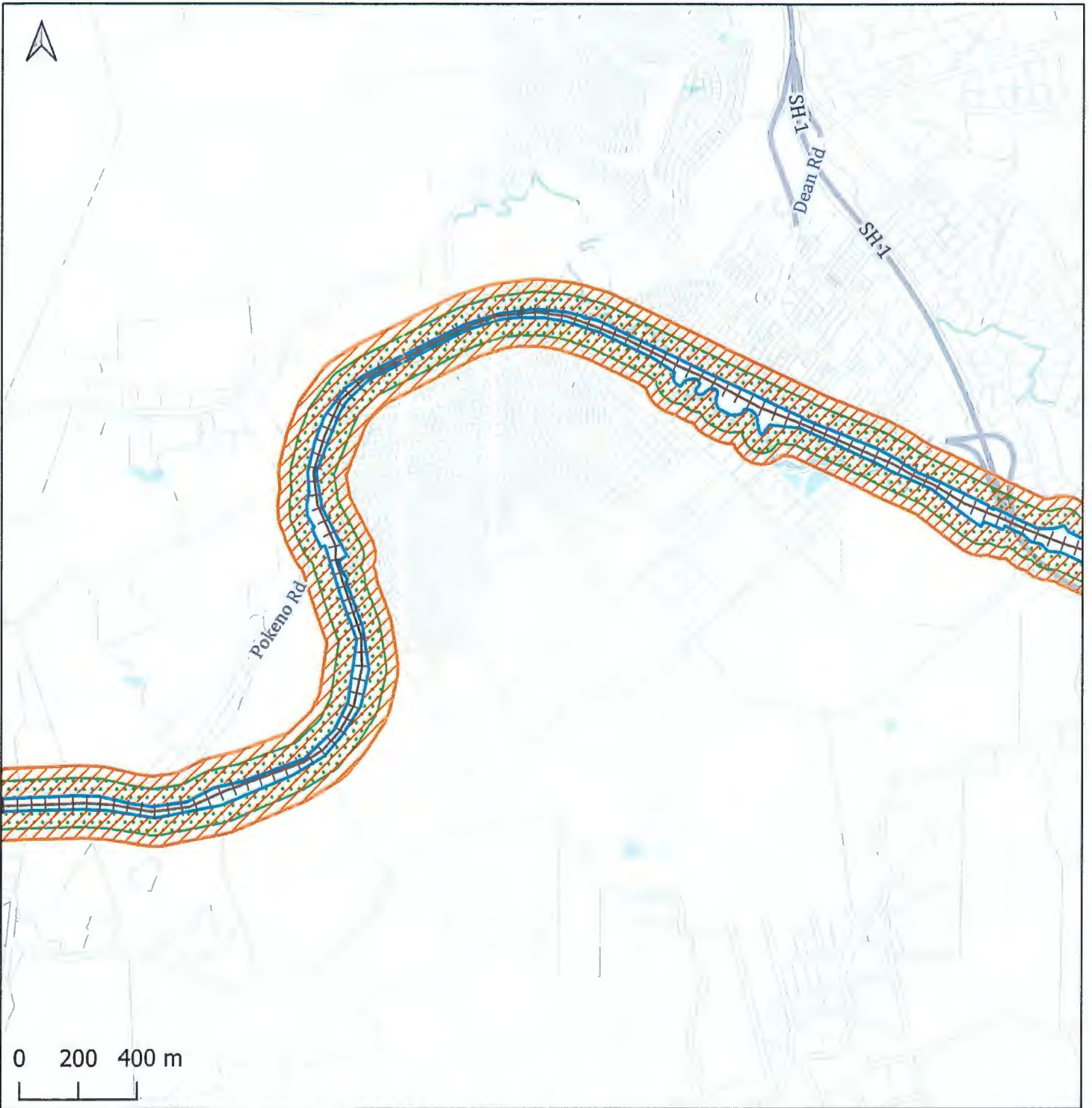


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Legend

	Rail centreline		Property boundary
	Rail corridor noise control boundary		River/lake
	Rail corridor vibration alert area*		Waikato District Council boundary
	KiwiRail Designation		

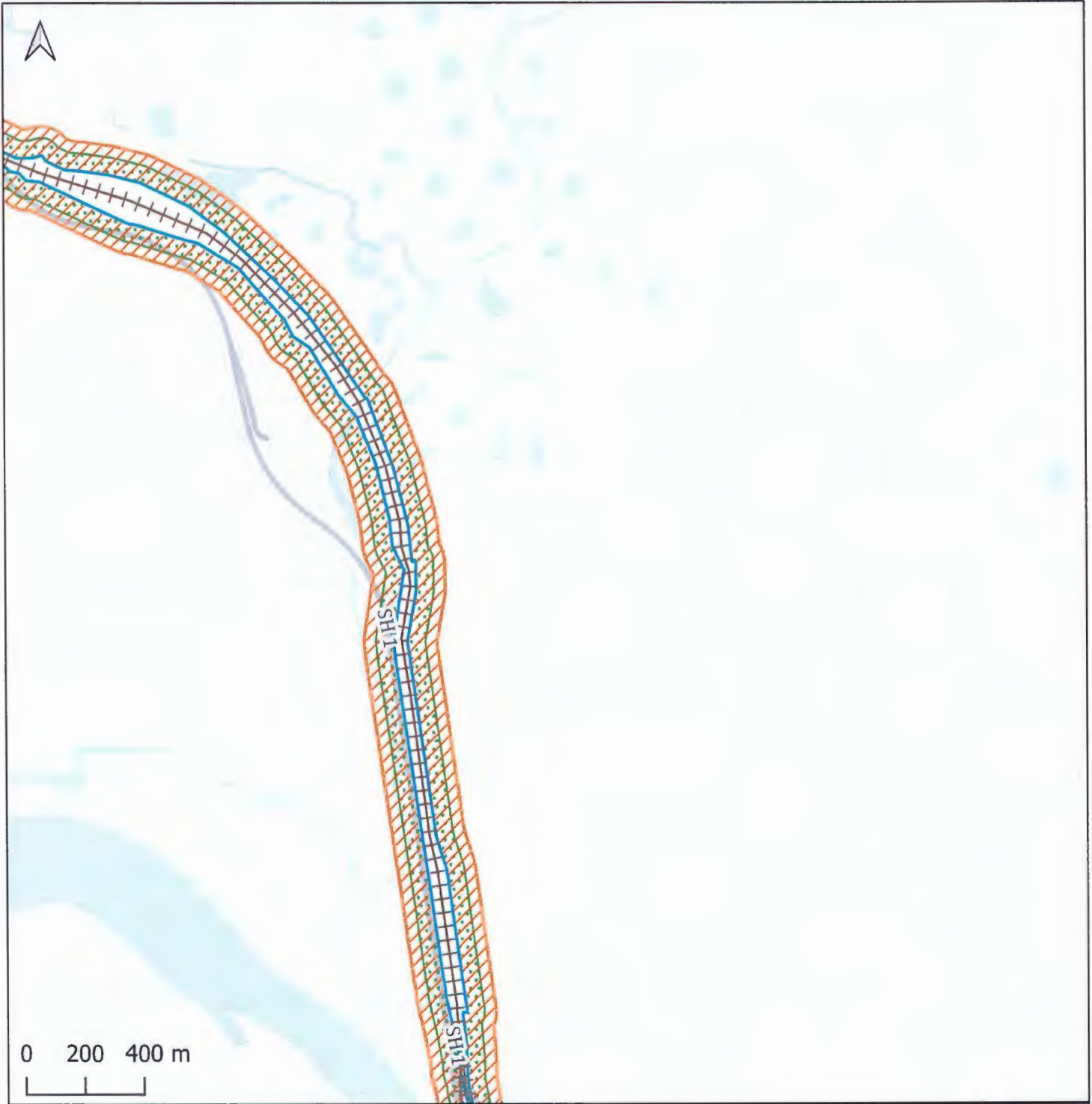


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Legend

	Rail centreline		Property boundary
	Rail corridor noise control boundary		River/lake
	Rail corridor vibration alert area*		Waikato District Council boundary
	KiwiRail Designation		

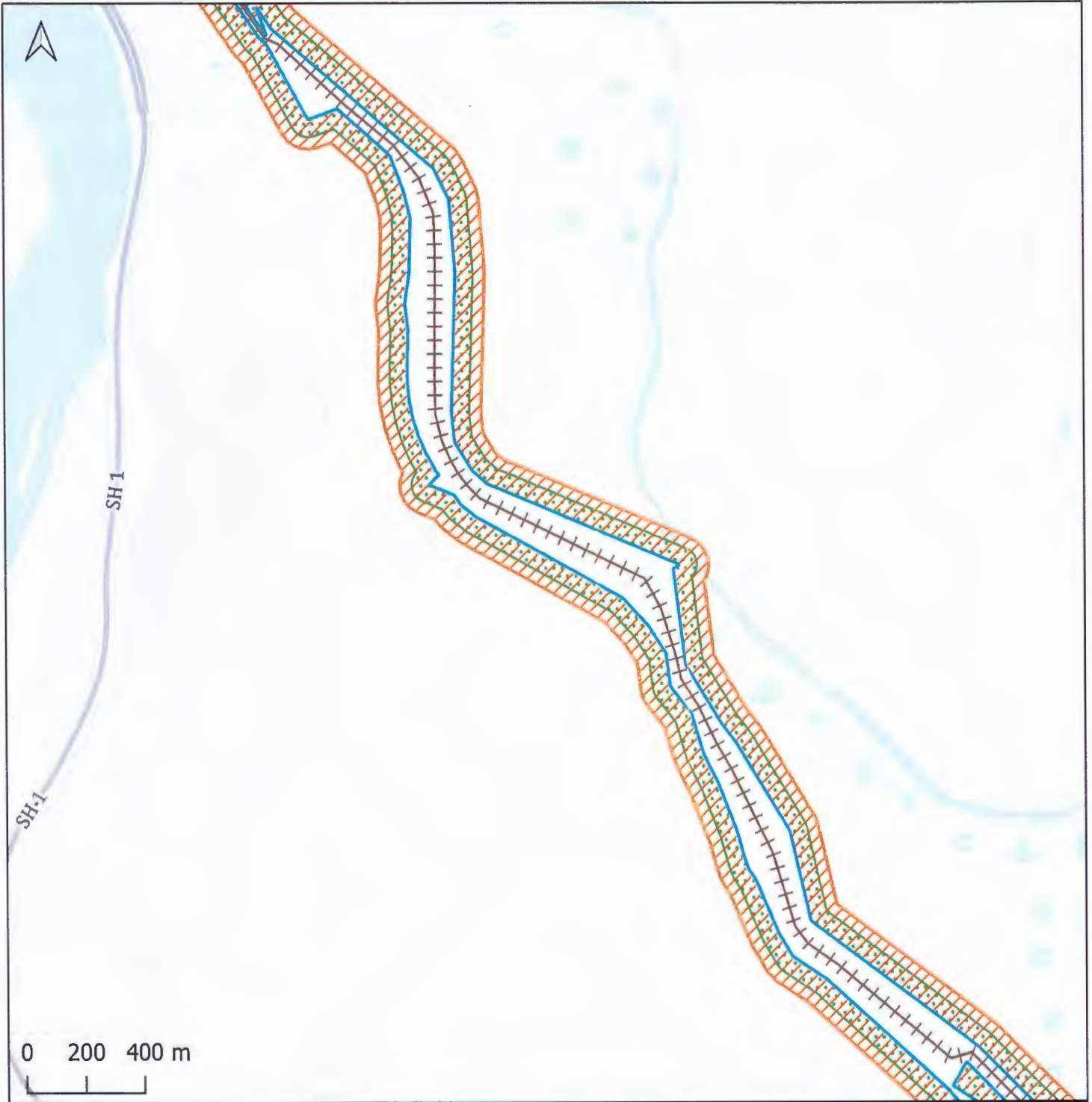


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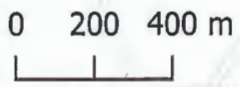
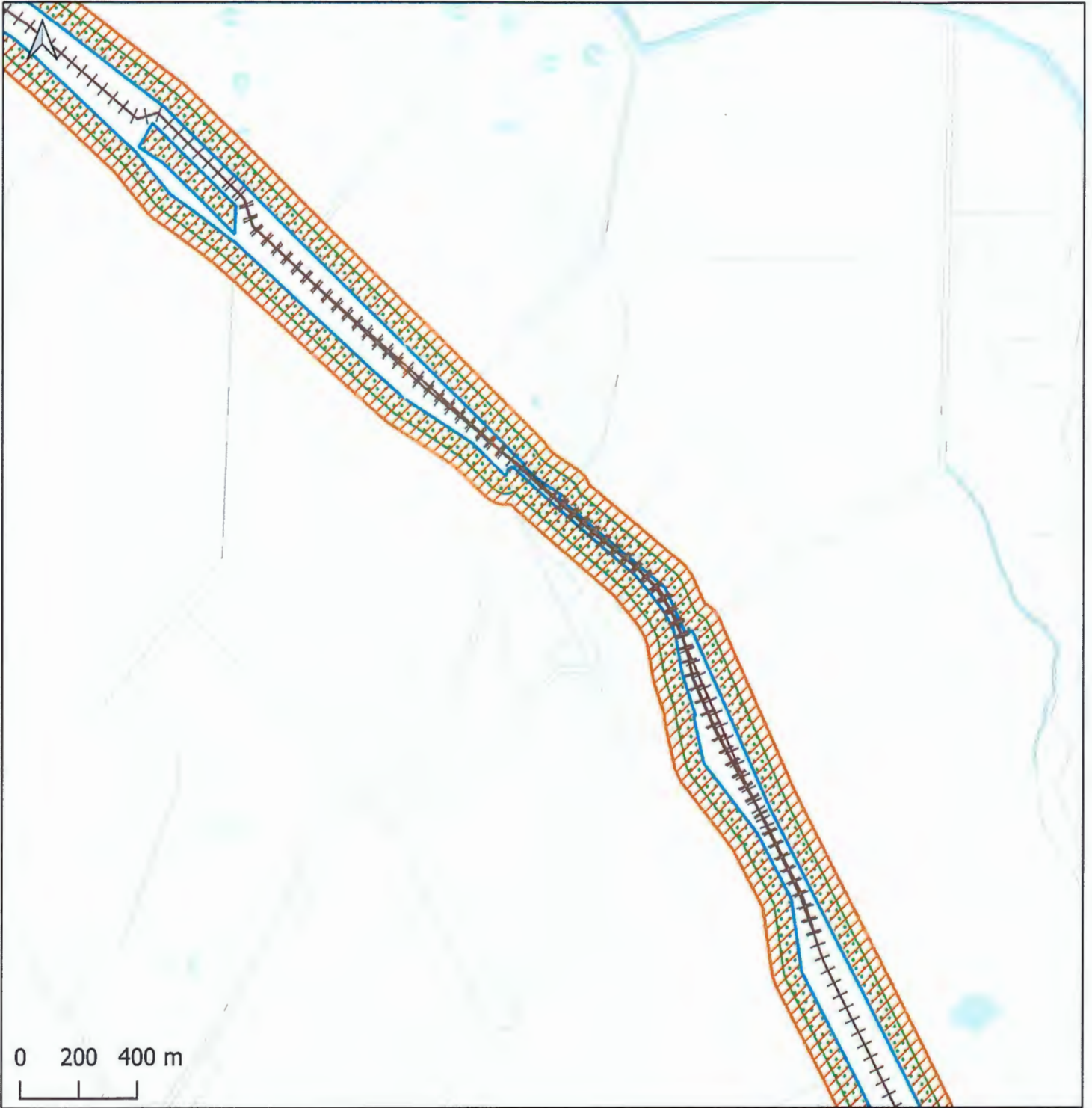


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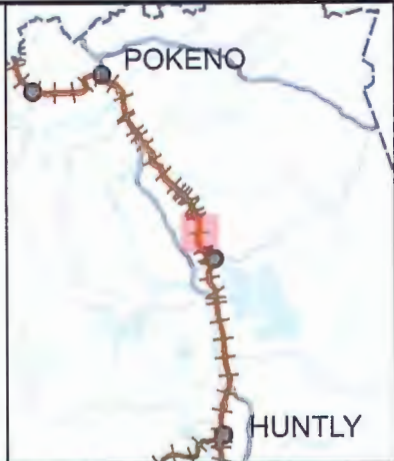
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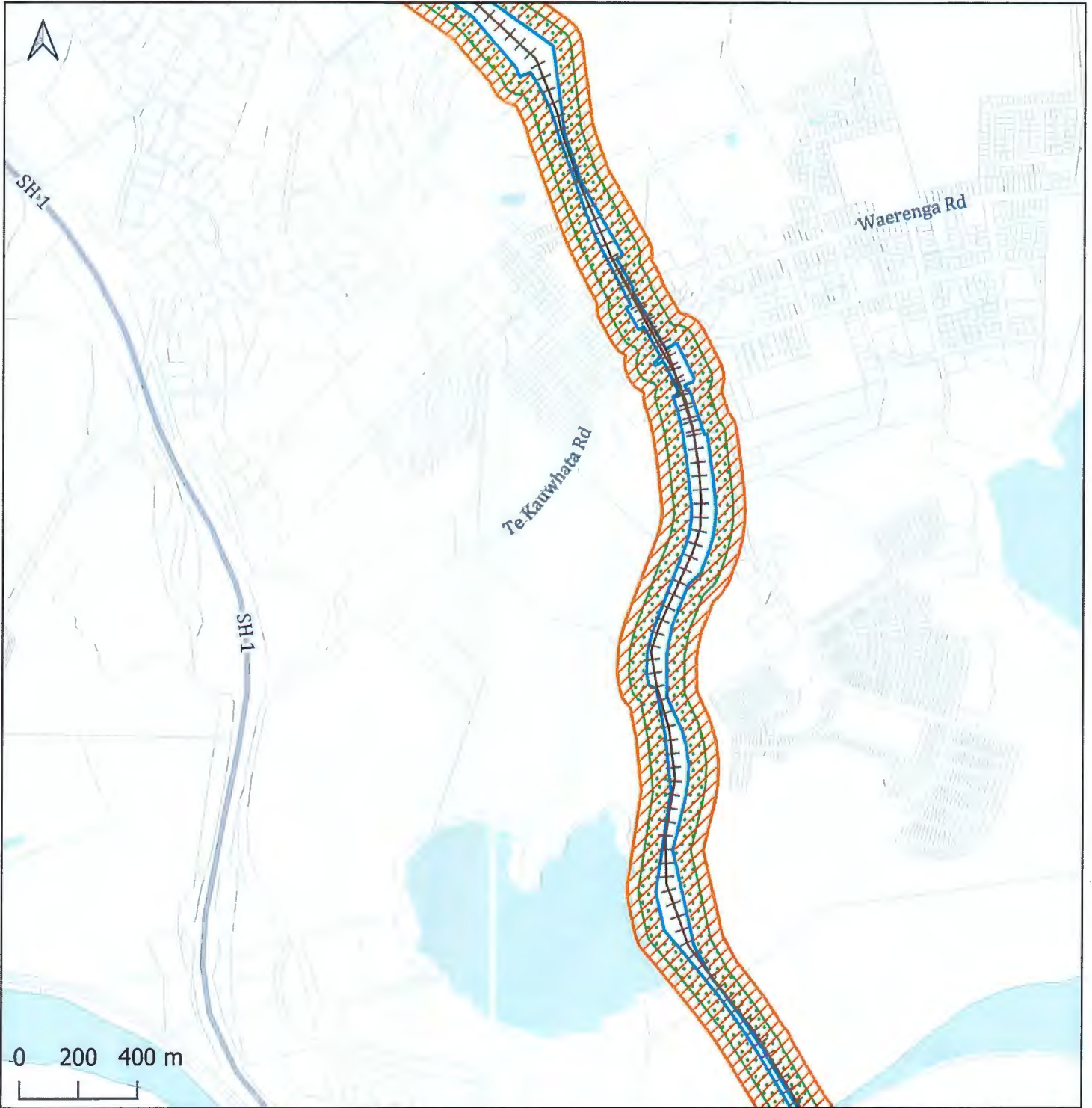


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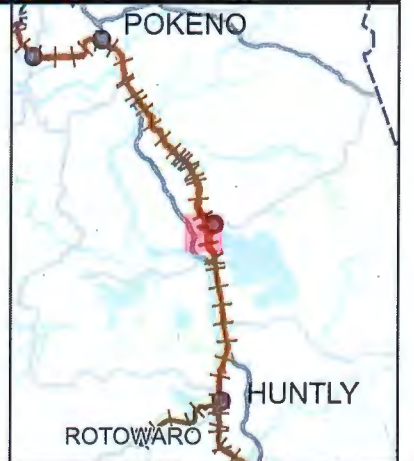
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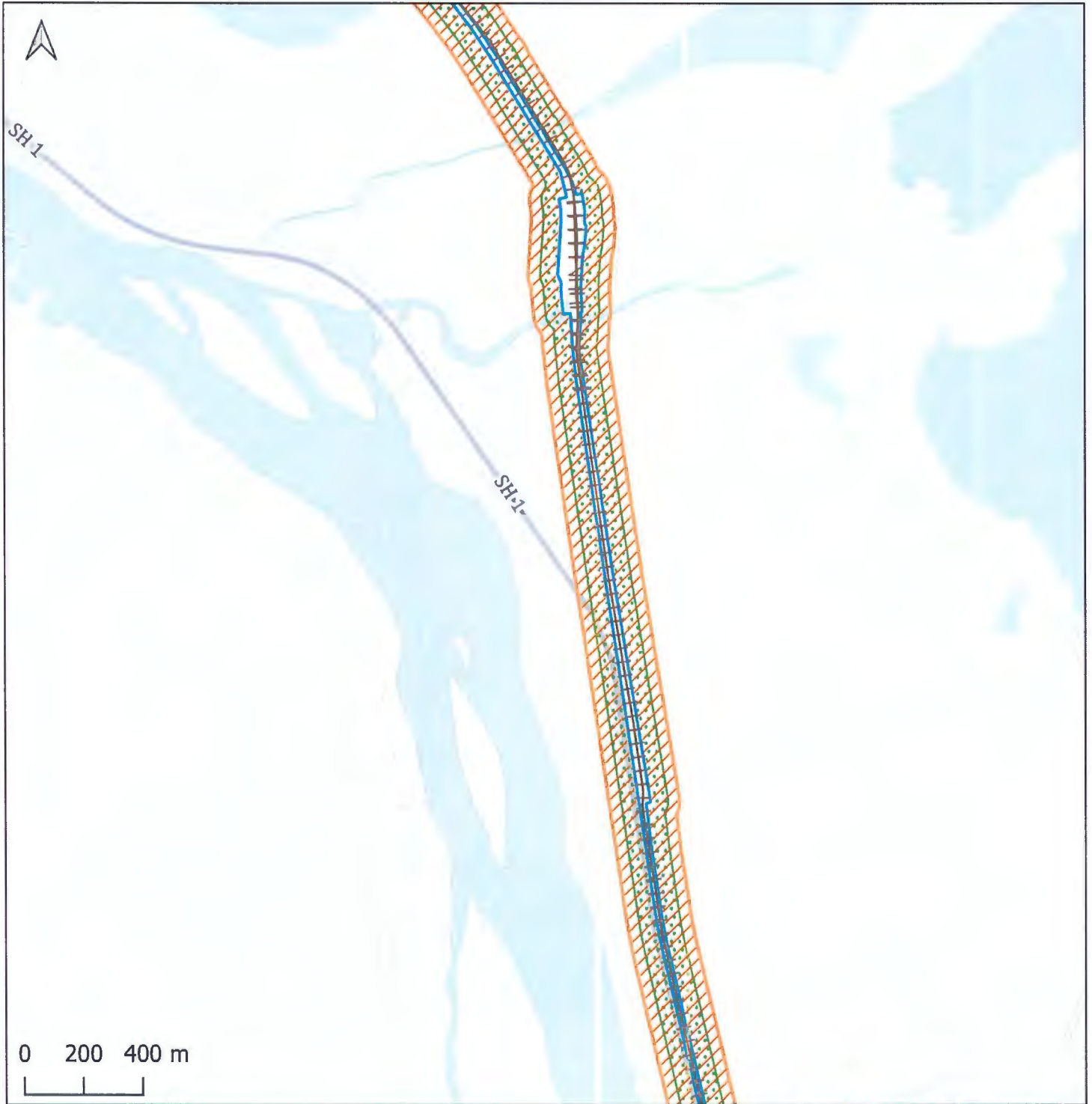


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




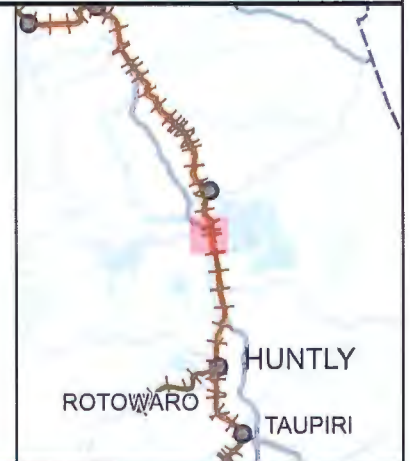
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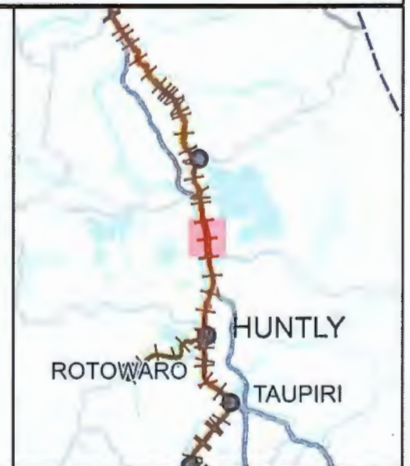
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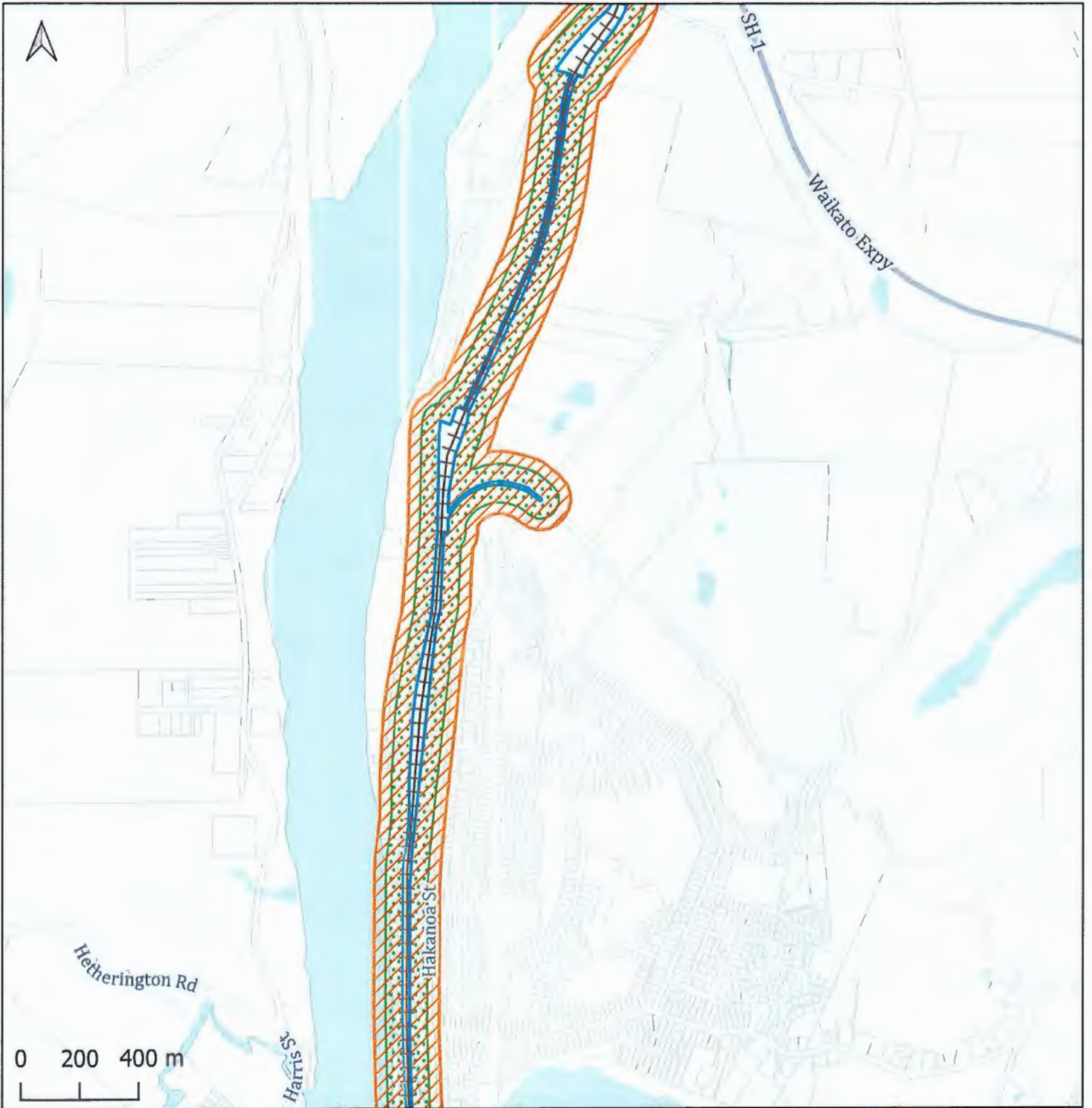


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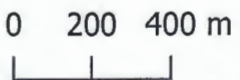
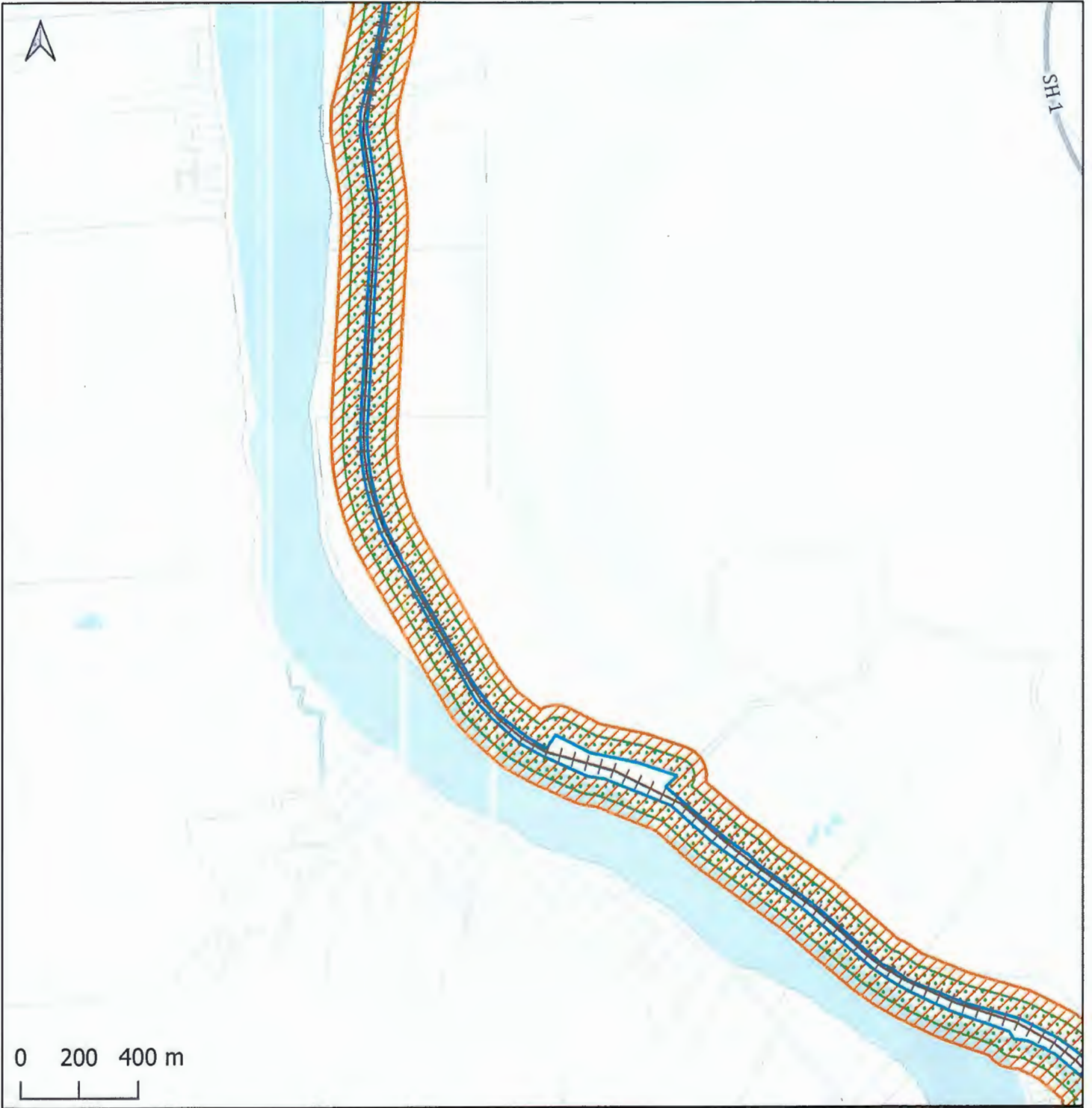


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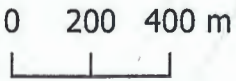
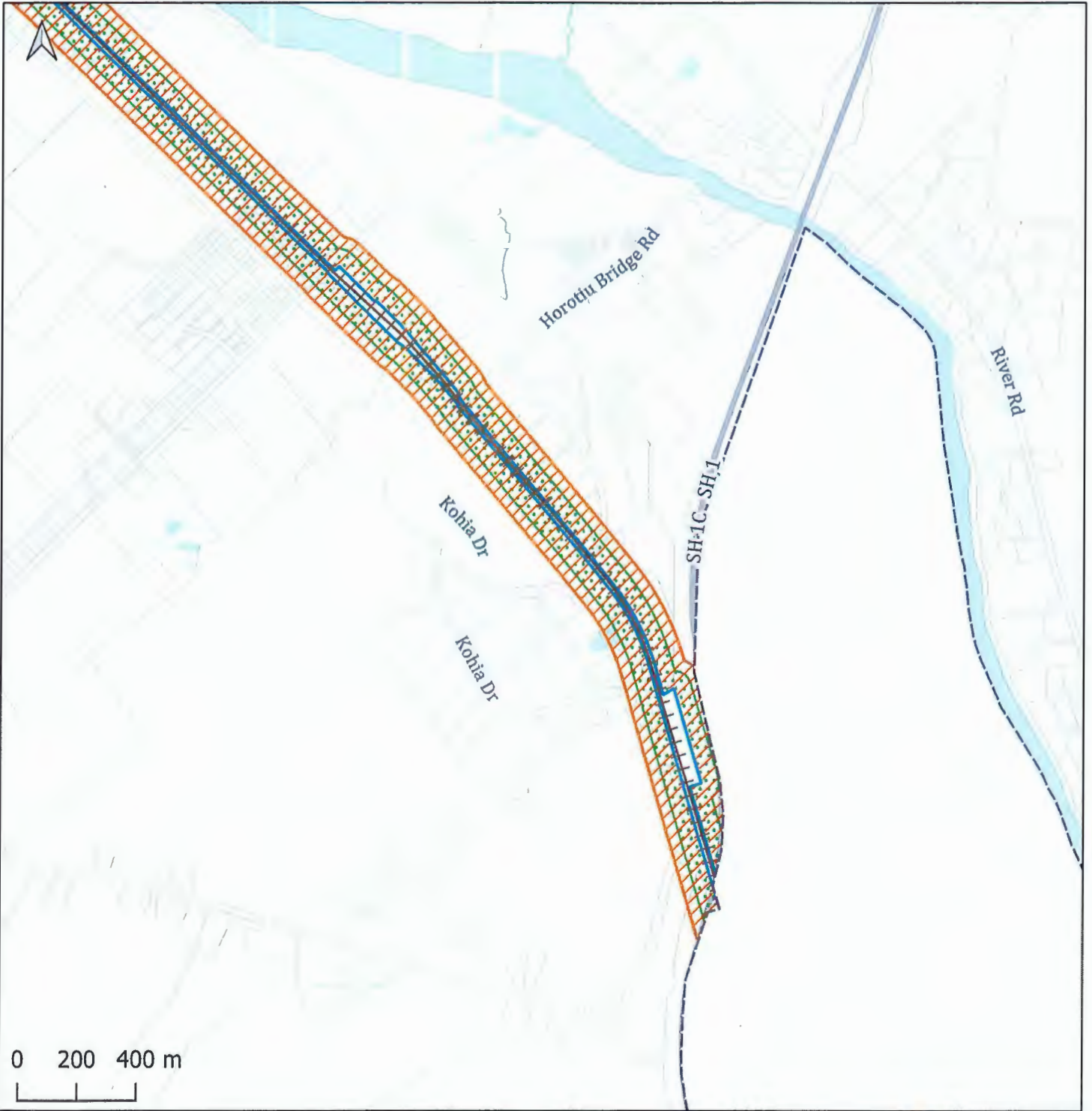


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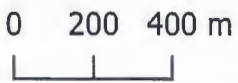
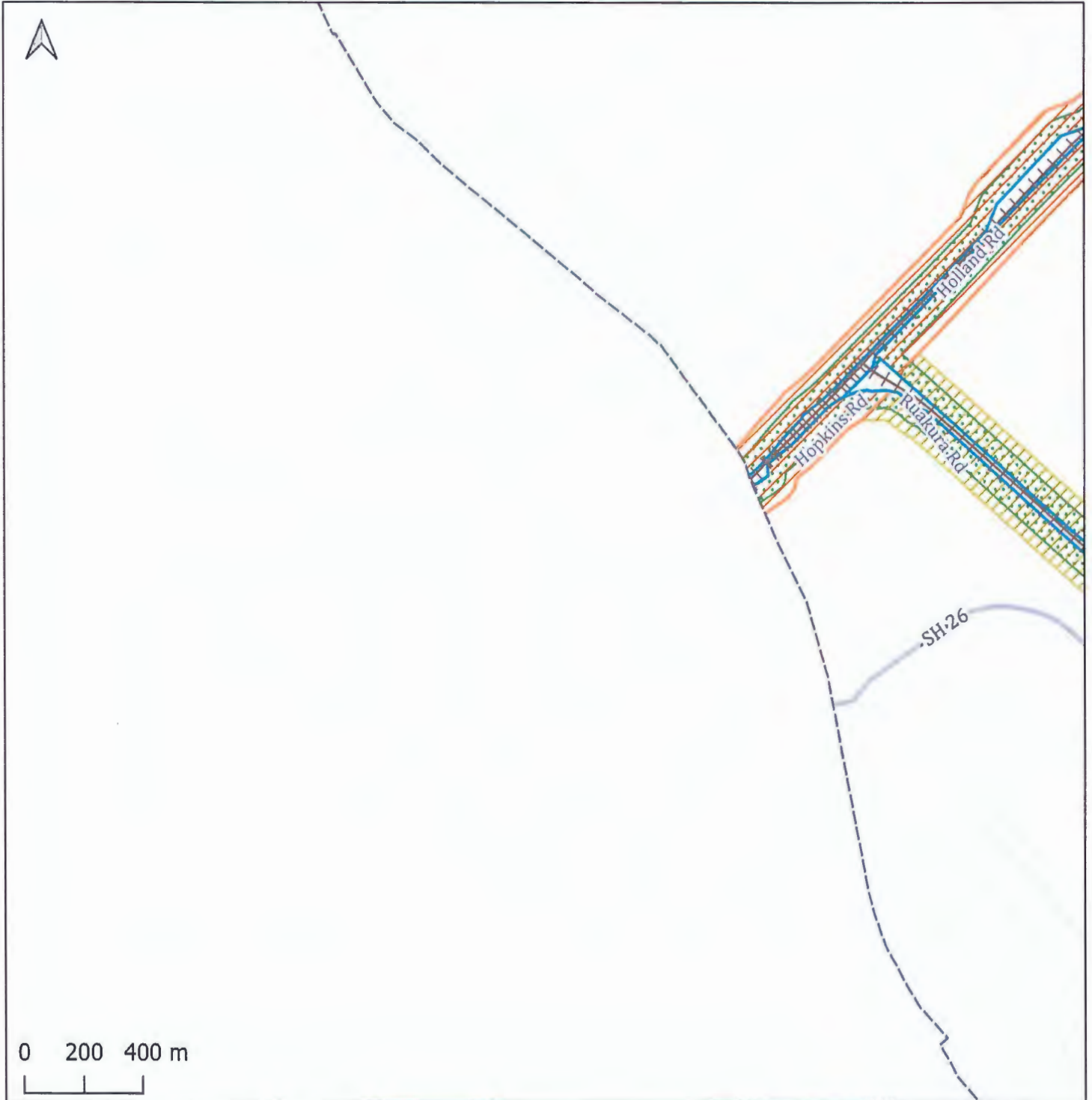


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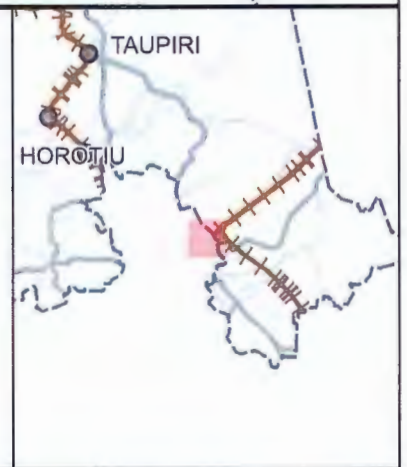
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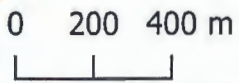
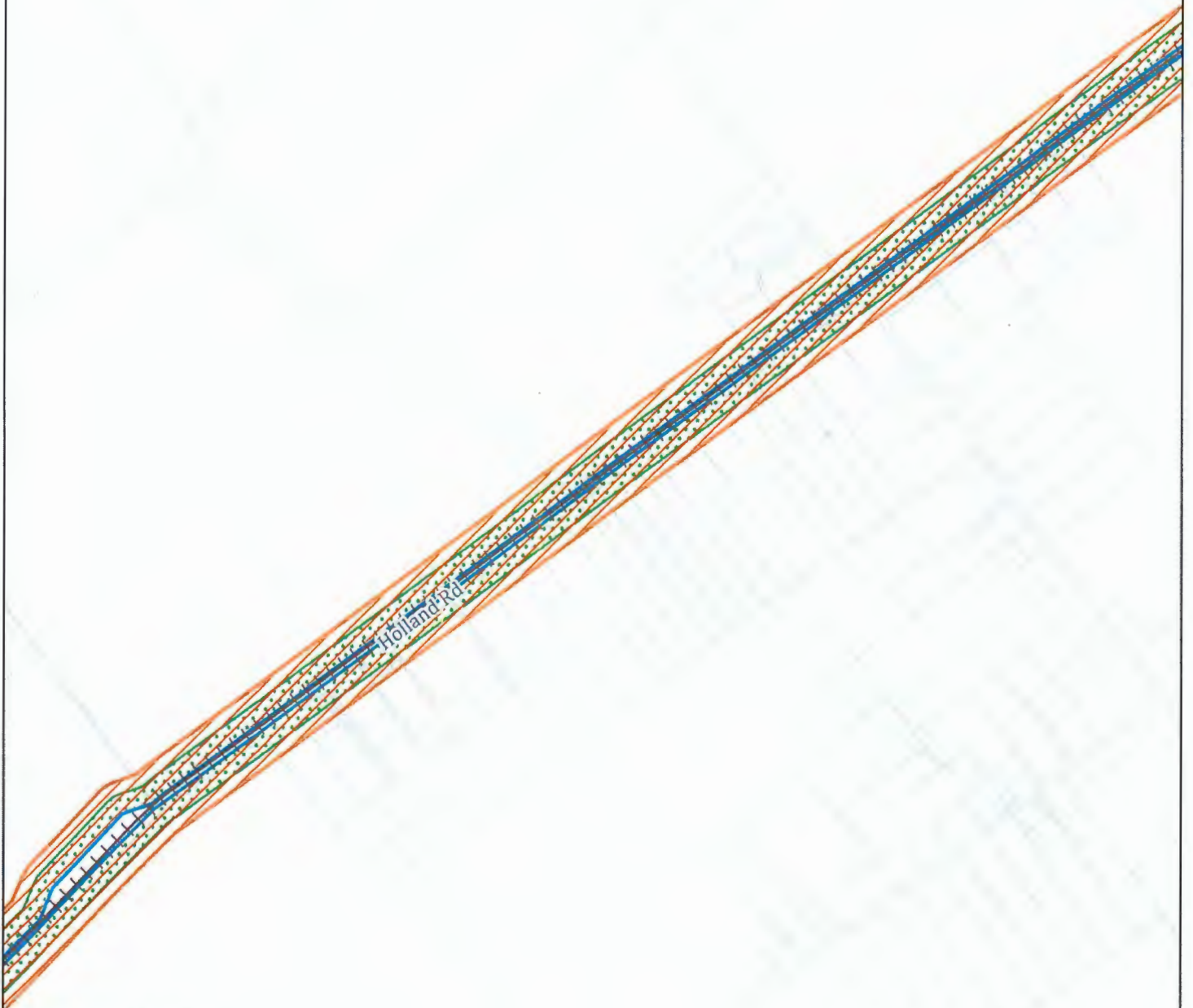


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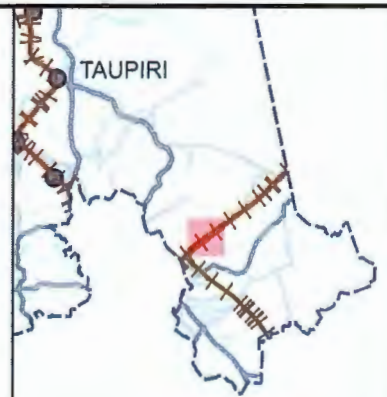
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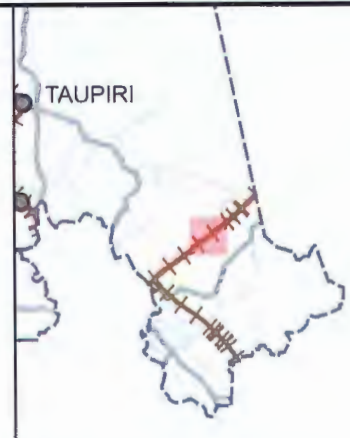
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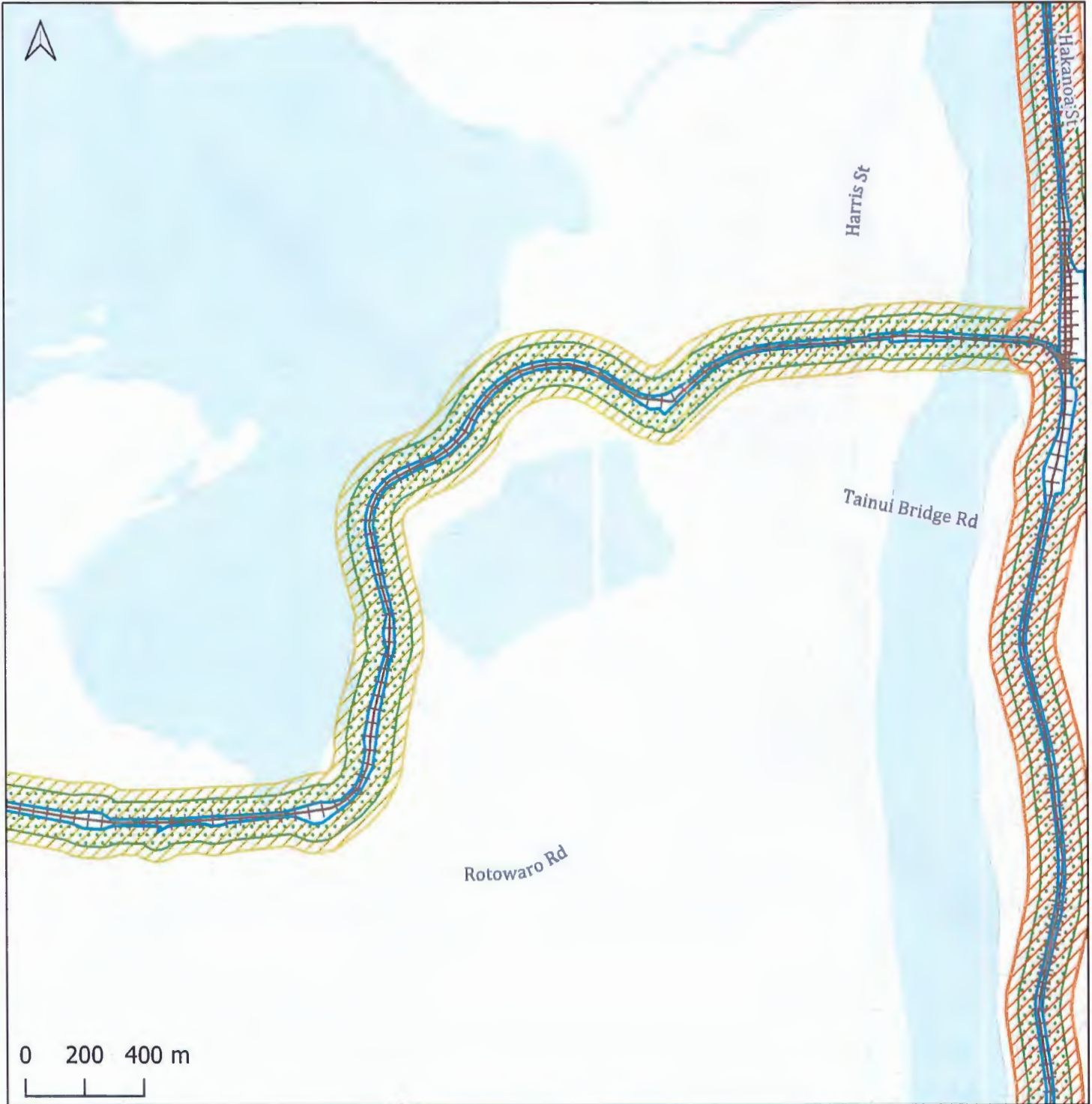


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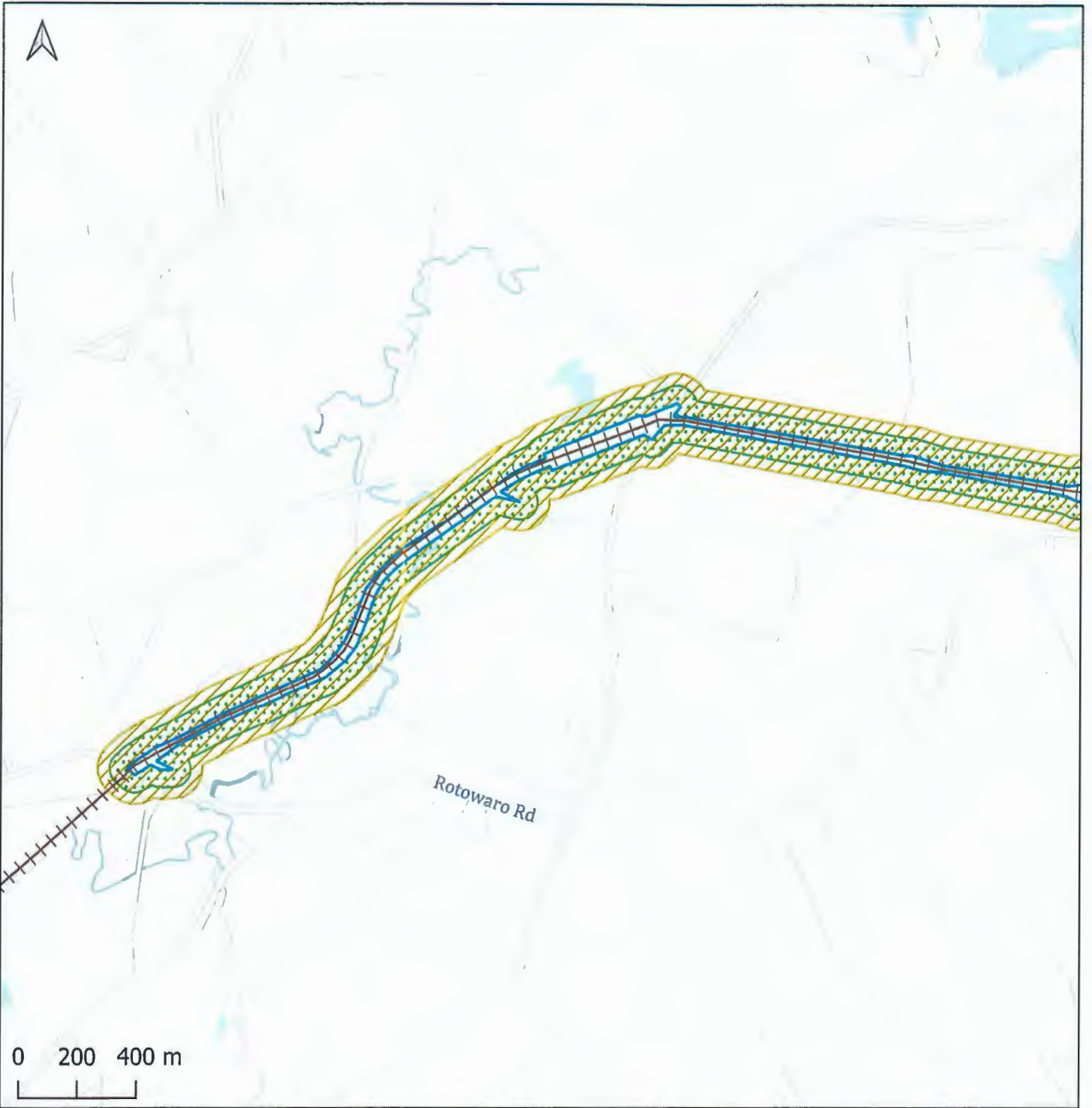


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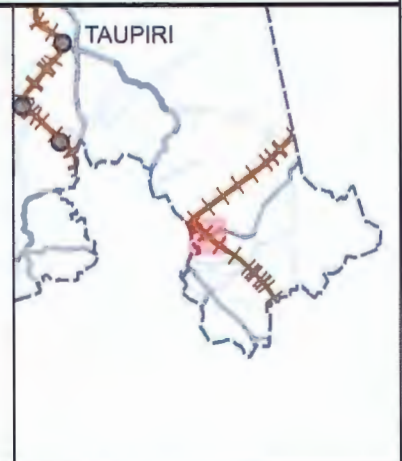
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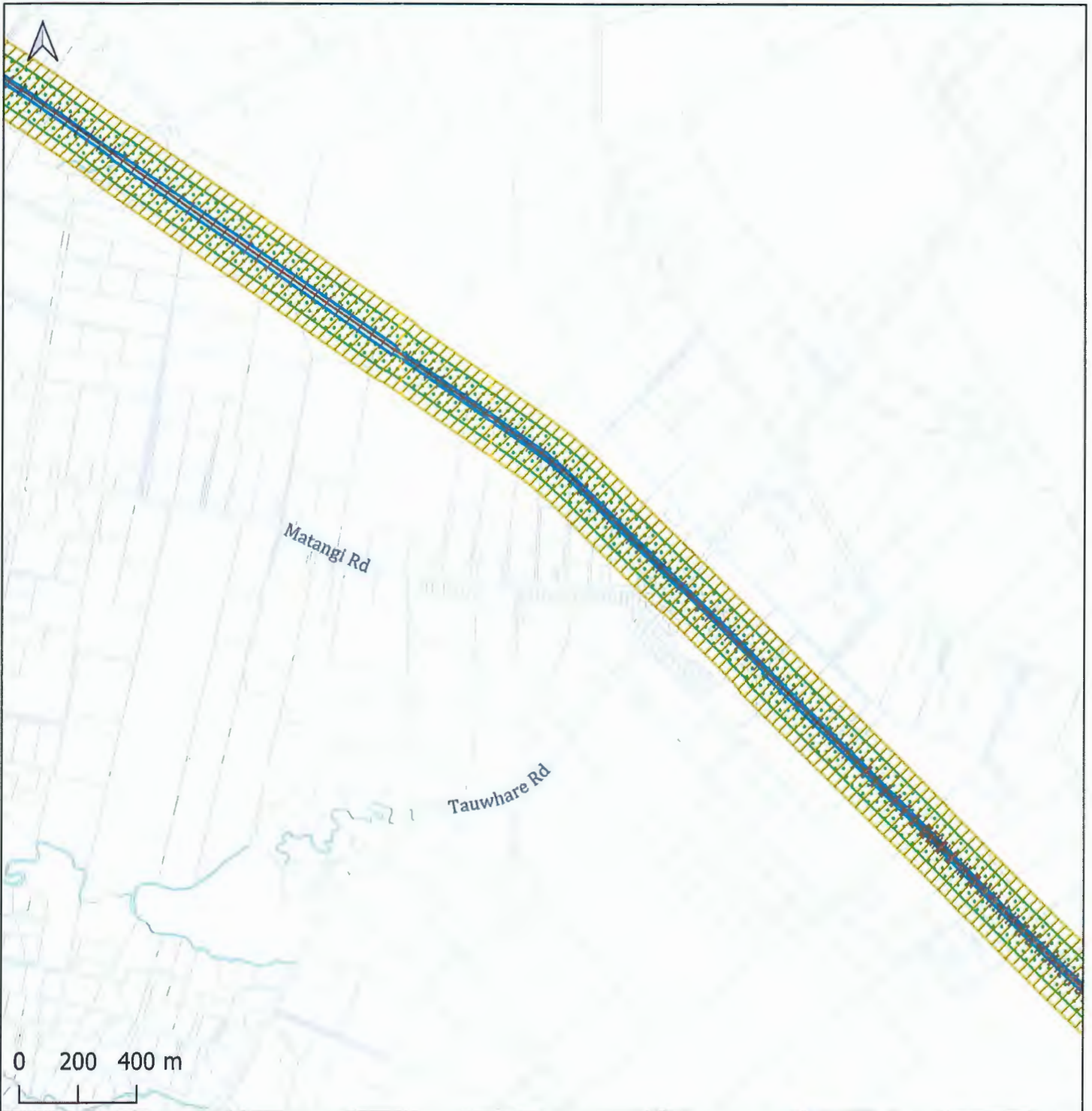


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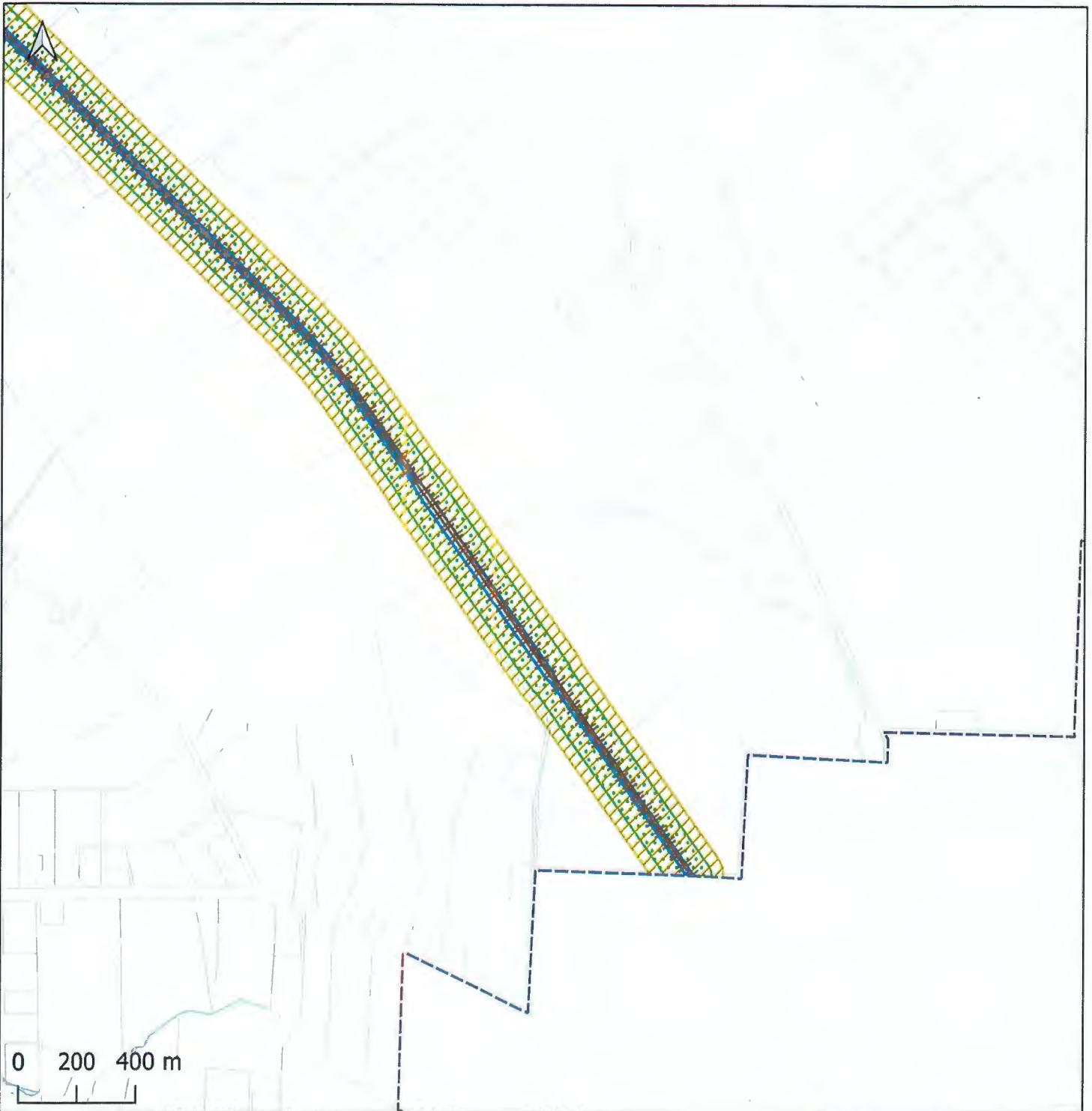


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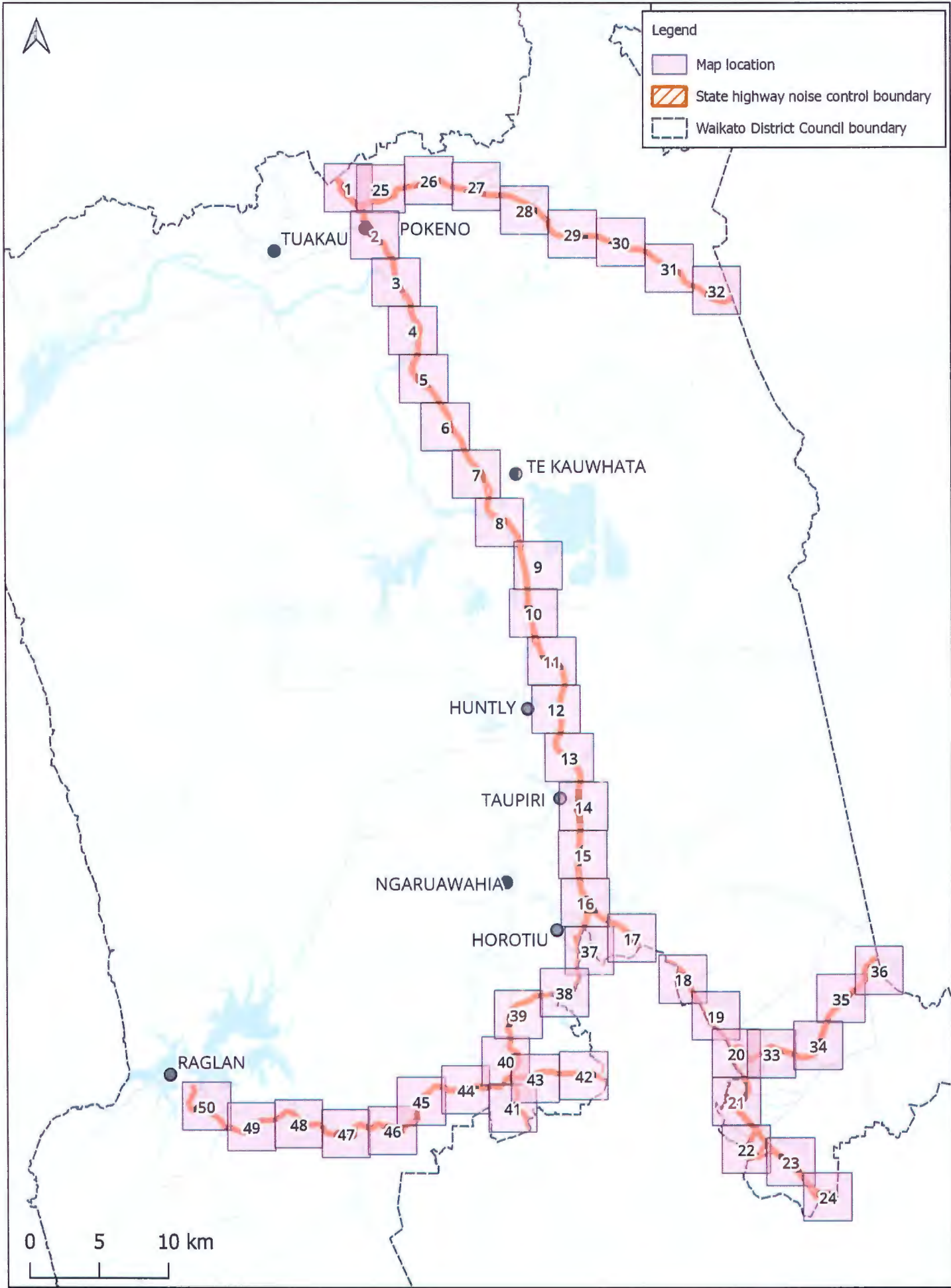


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Legend

- Map location
- State highway noise control boundary
- Waikato District Council boundary

0 5 10 km







Map reference sheet for
State highway noise control boundary

Waikato District Council
Prepared 19 Oct 2023
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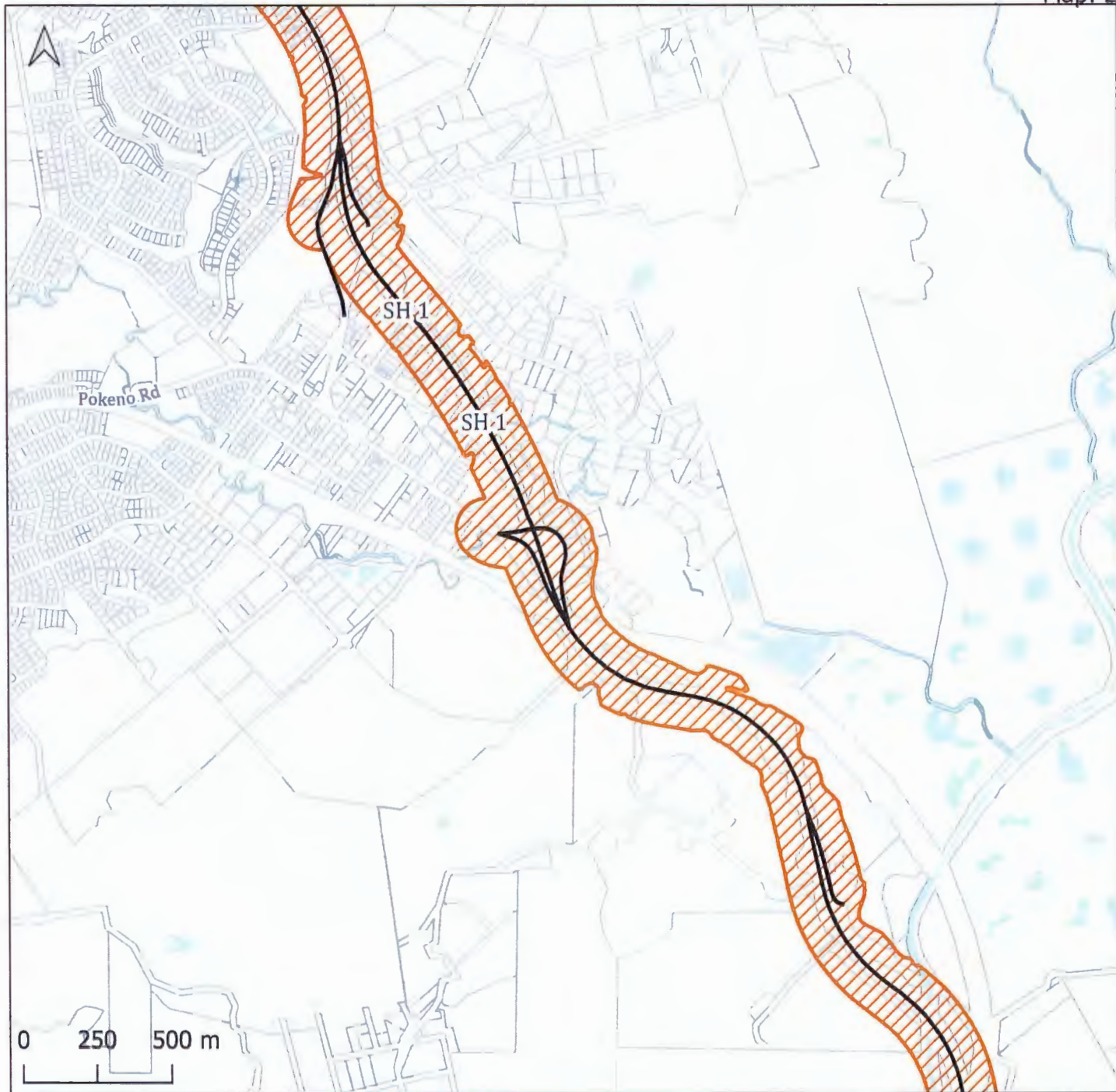
-  State highway noise control boundary *
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State highway noise control boundary

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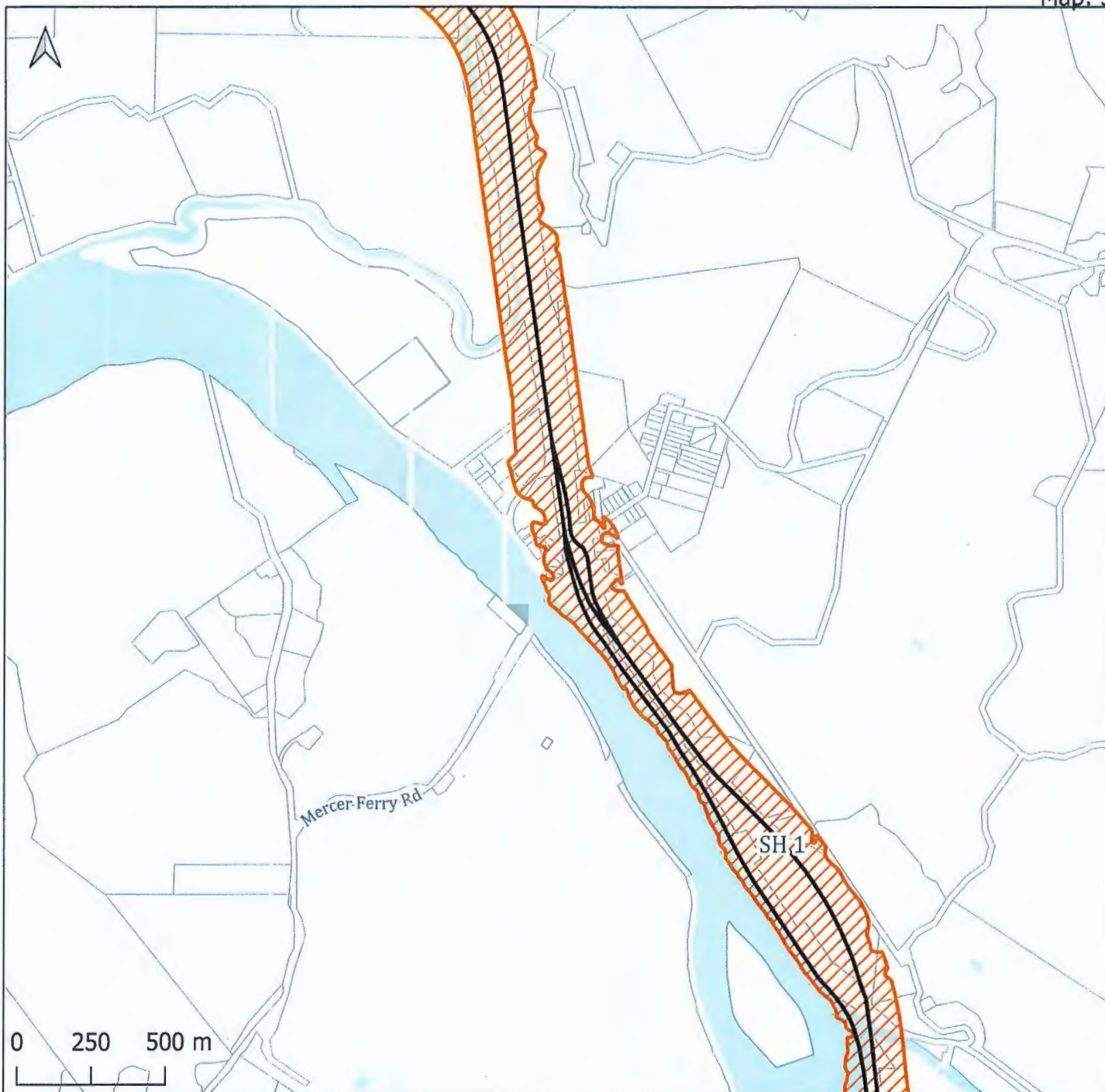


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


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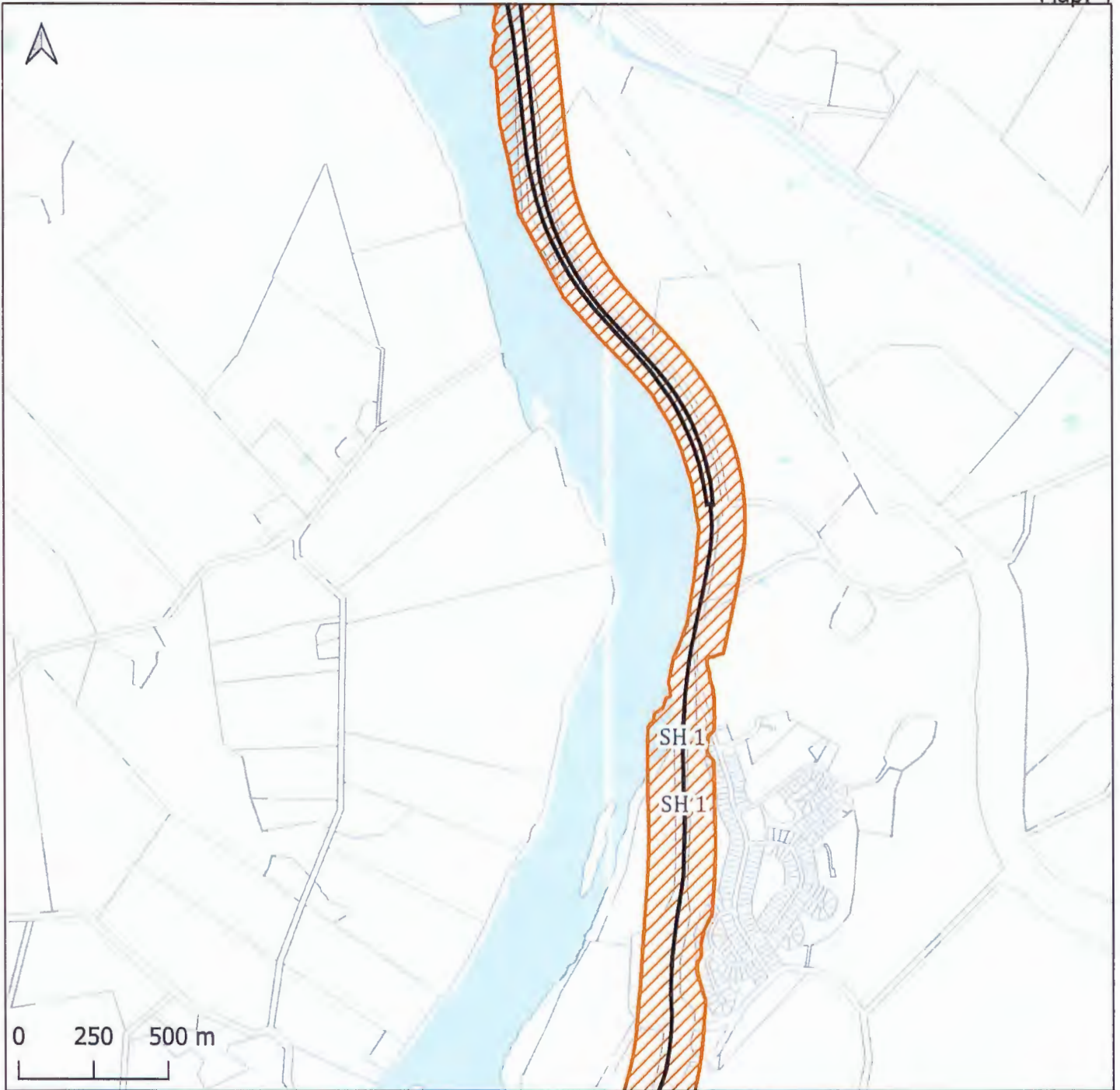
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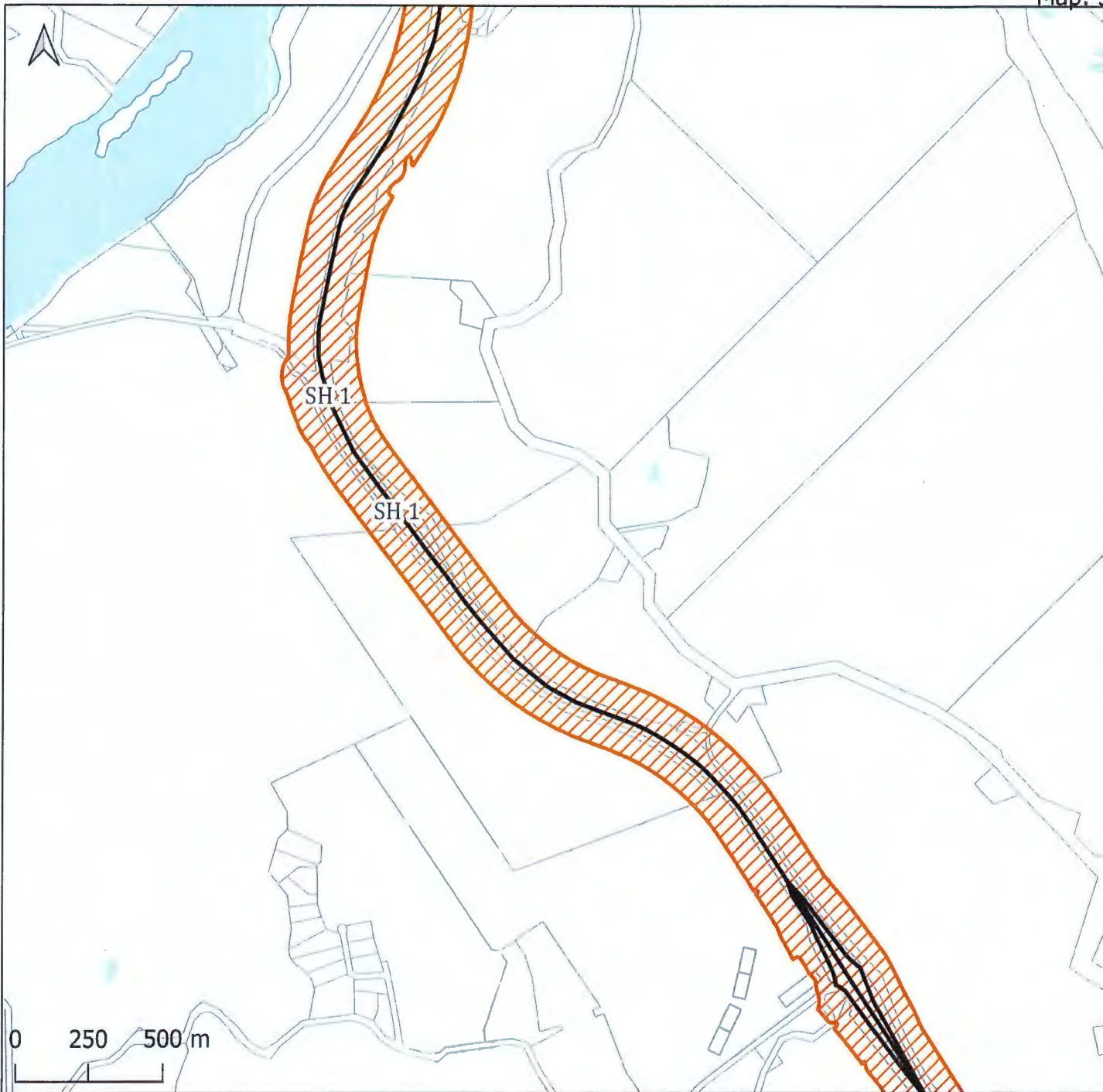


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-  Property boundary
-  River/lake
-  Waikato District Council boundary

* Note: symbology may be different on final District Plan maps







State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
 Ref: ME46460



Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  Waikato District Council boundary

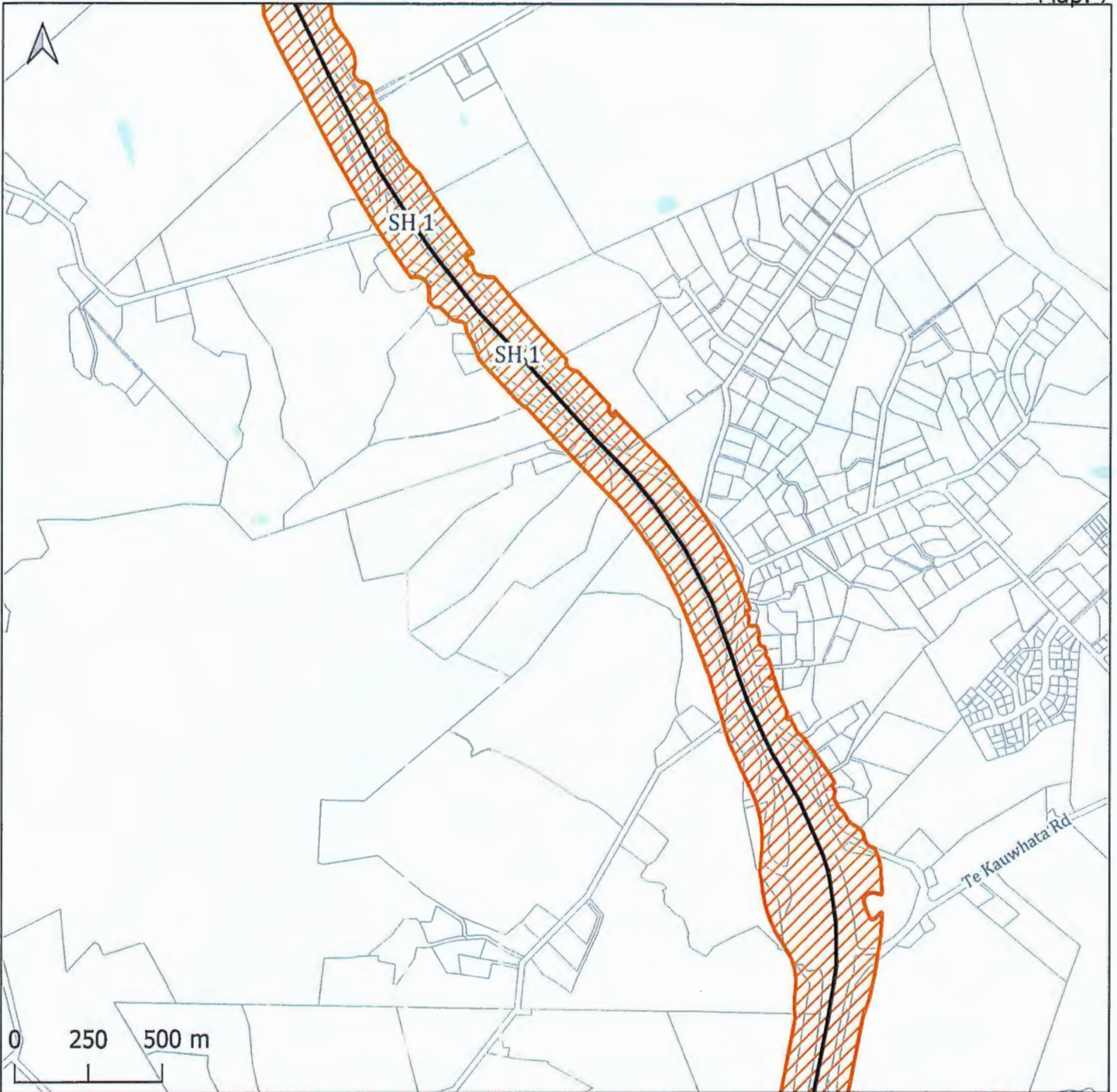


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  Waikato District Council boundary

** Note: symbology may be different on final District Plan maps*








State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
 Ref: ME46460



Legend

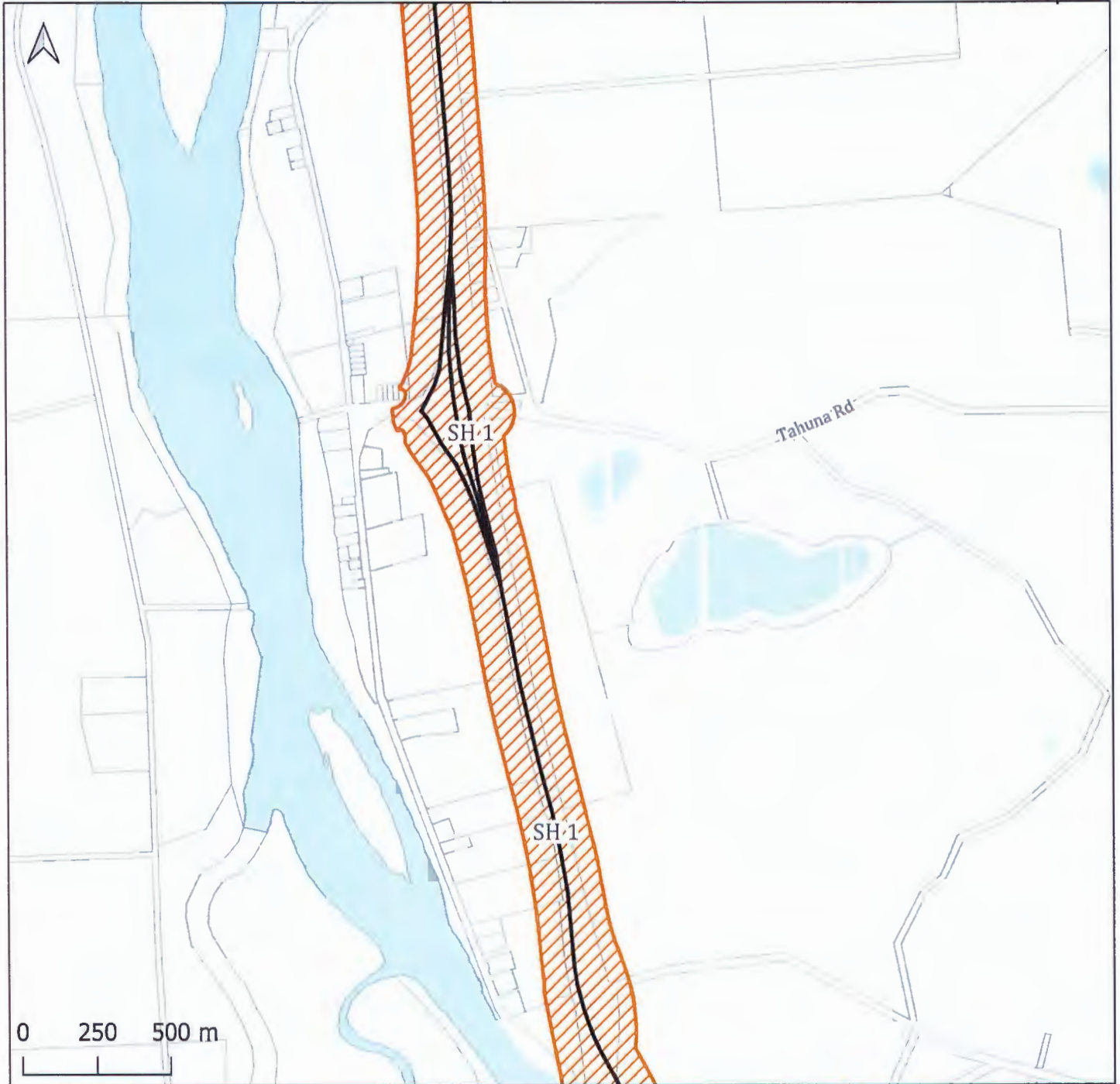
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-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

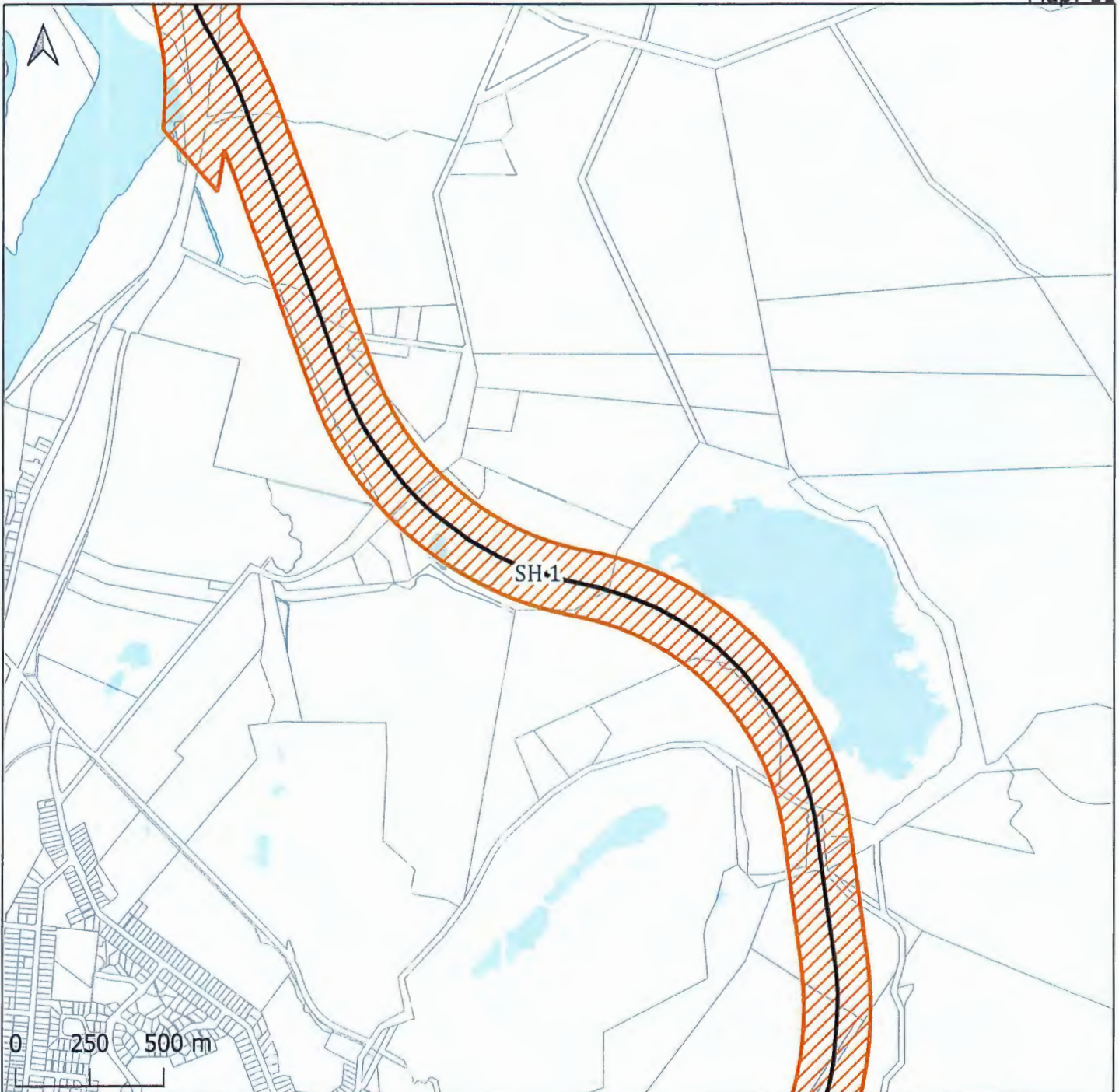


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
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Legend

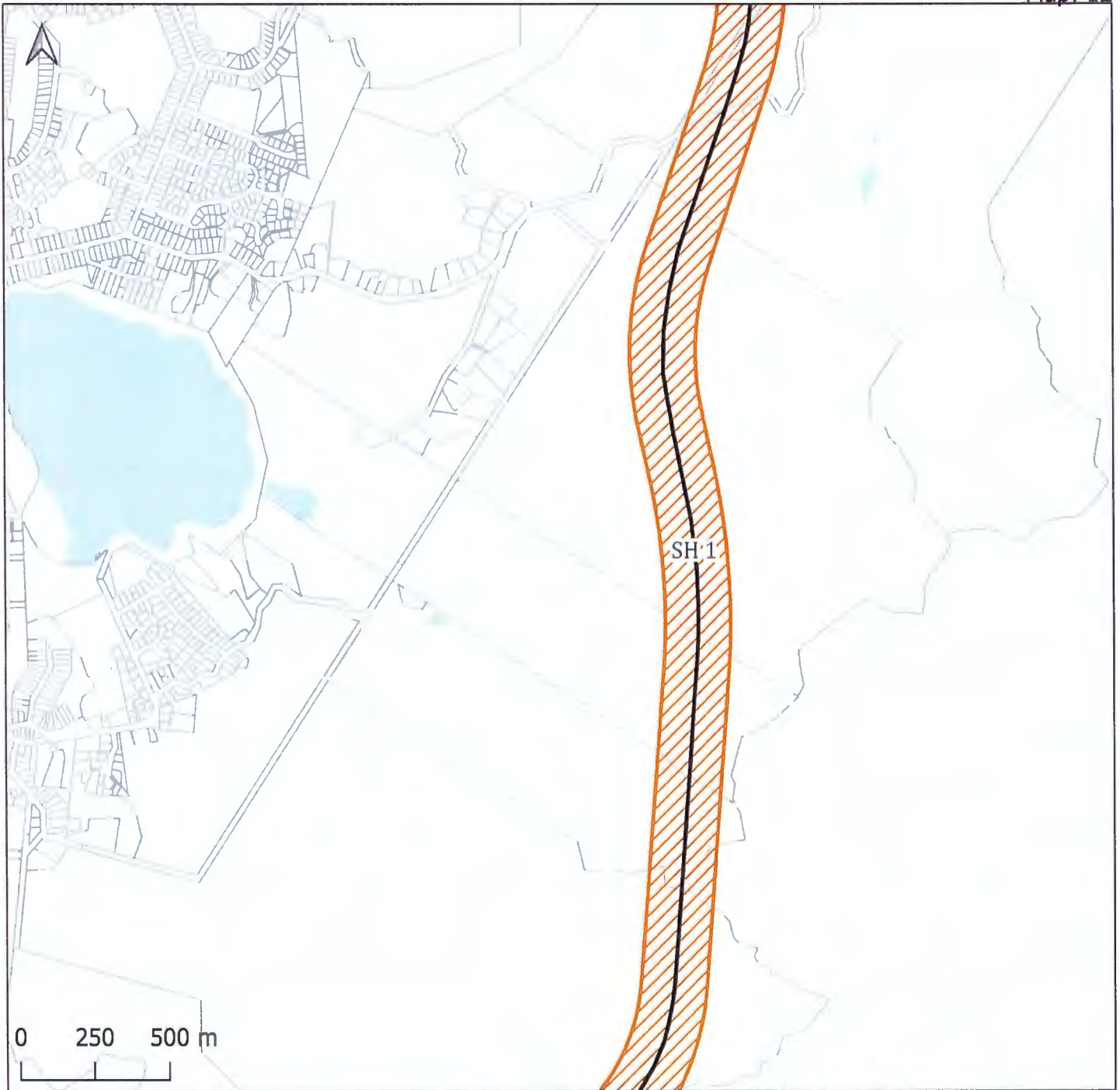
-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  Waikato District Council boundary

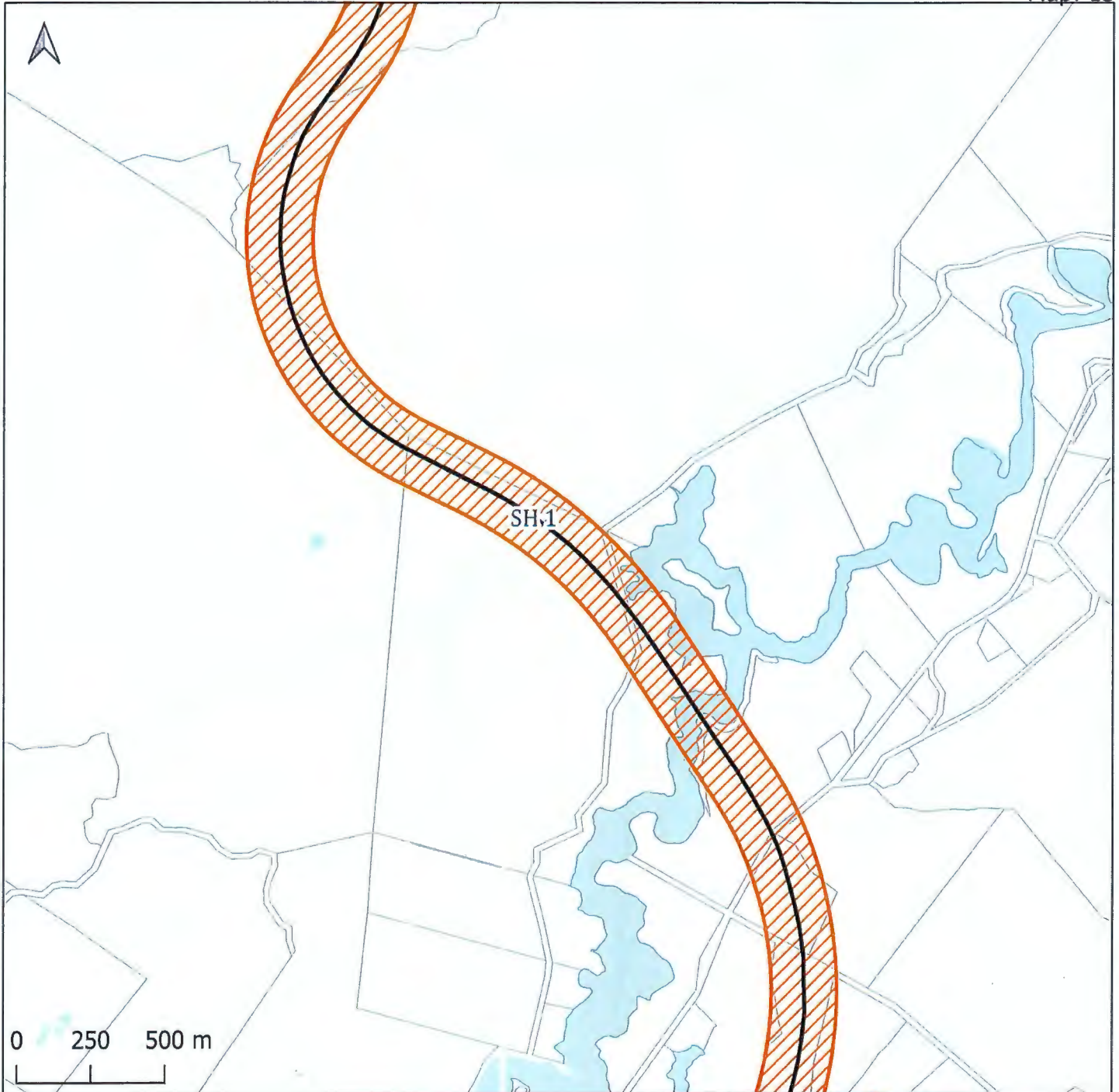


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State highway noise control boundary

Waikato District Council
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Legend

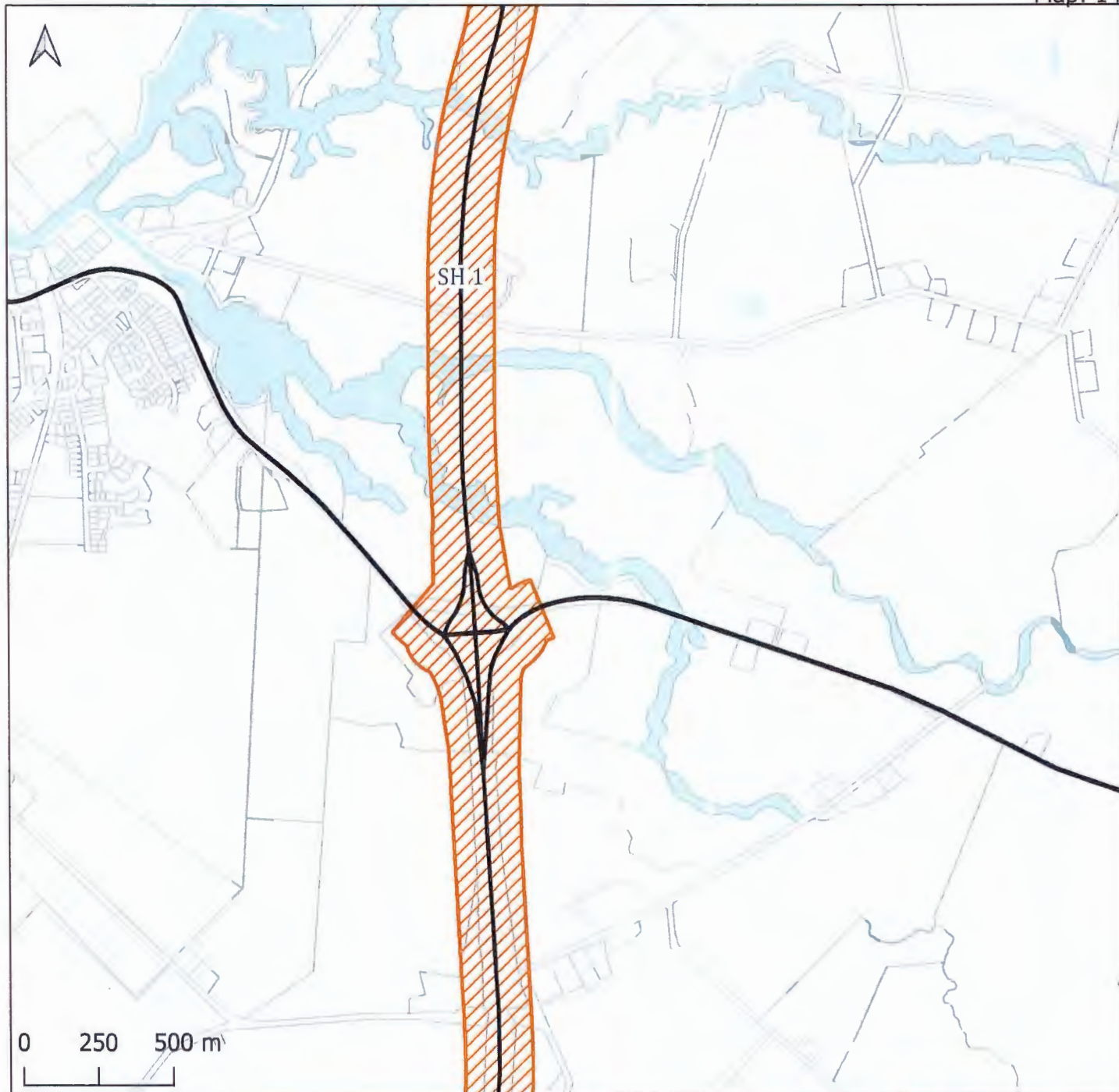
-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

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




State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
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State highway noise control boundary

Waikato District Council
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Legend

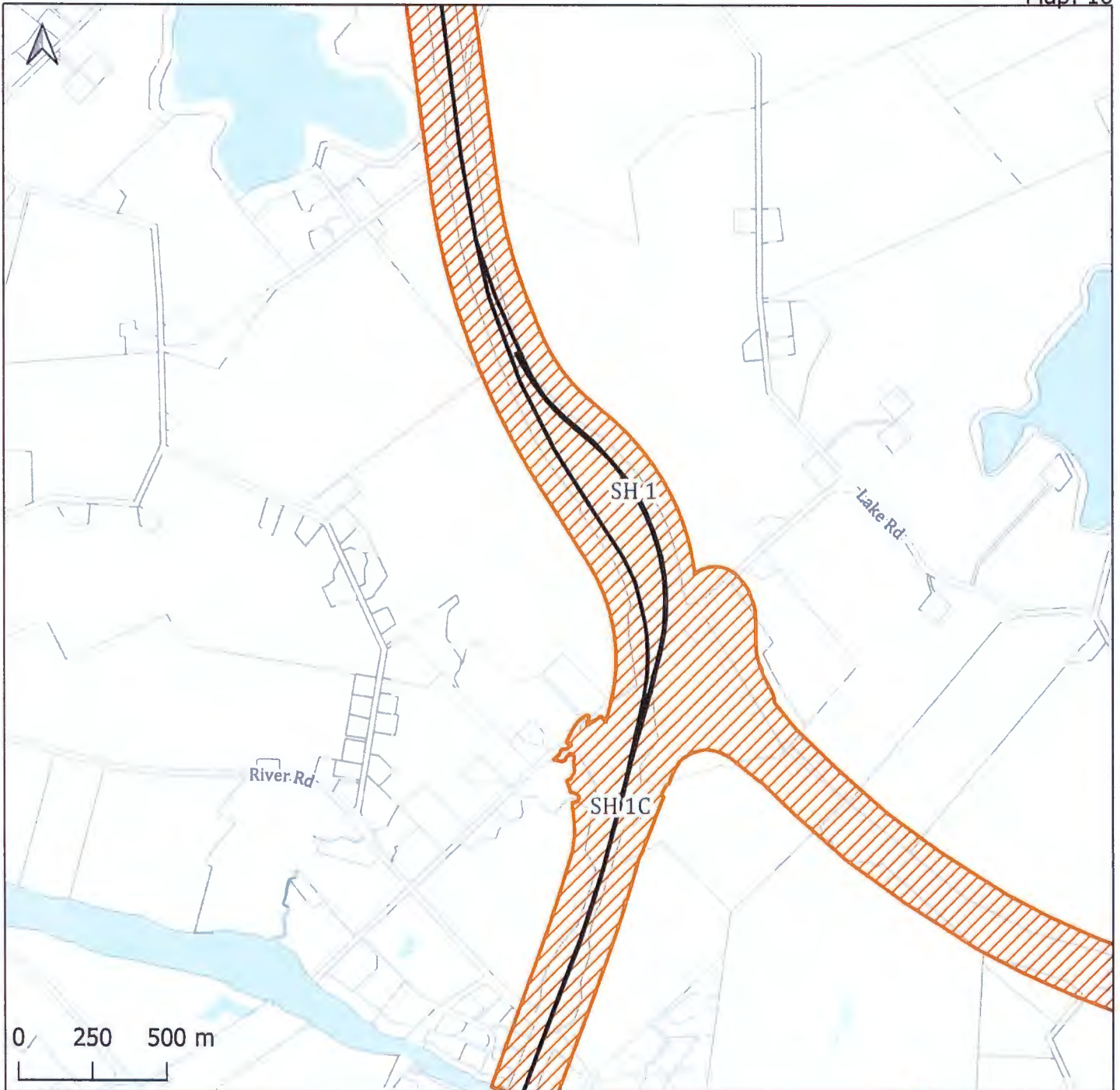
-  State highway noise control boundary *
-  State highway
-  Property boundary
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-  Waikato District Council boundary

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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
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Legend

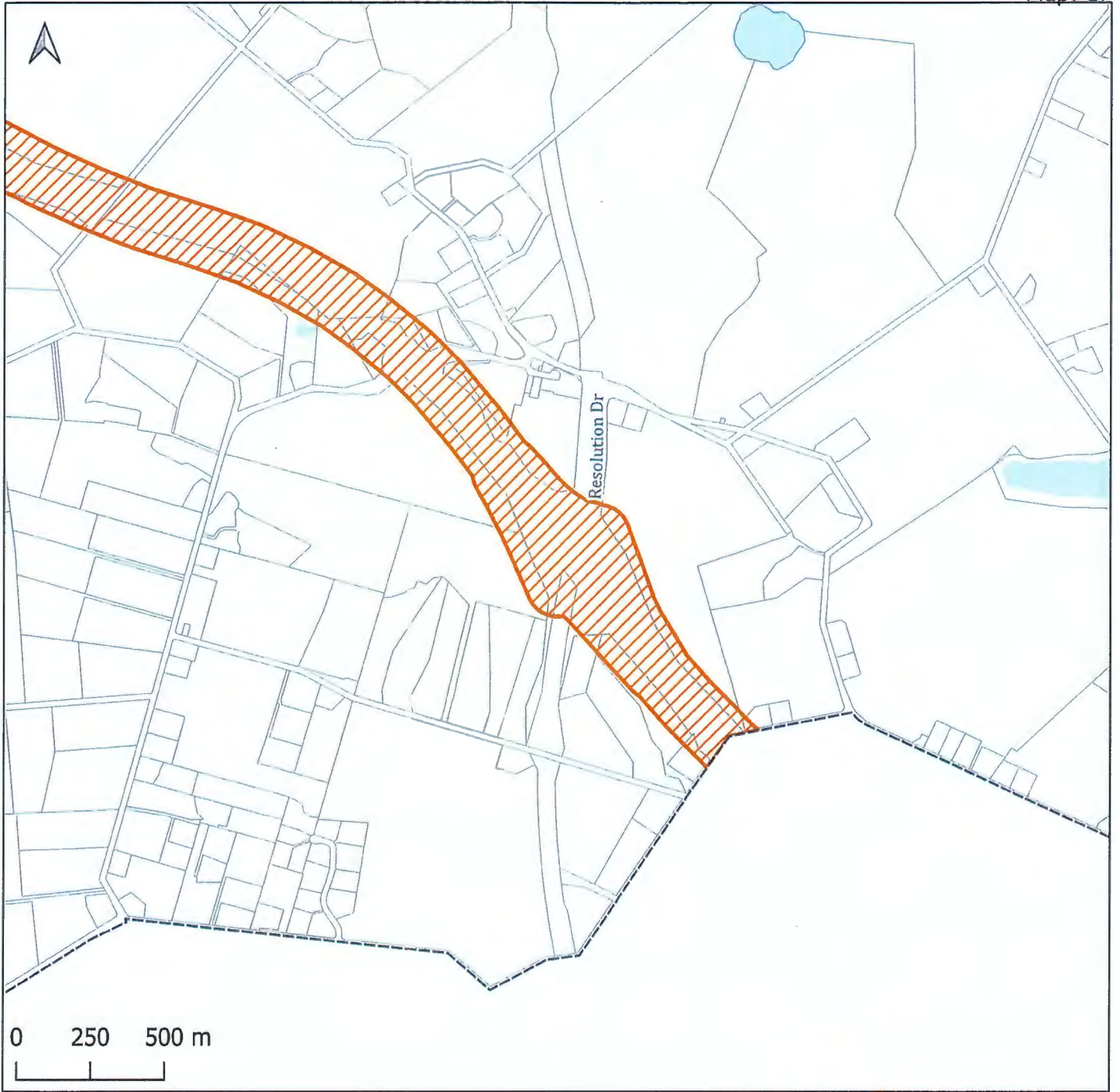
-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

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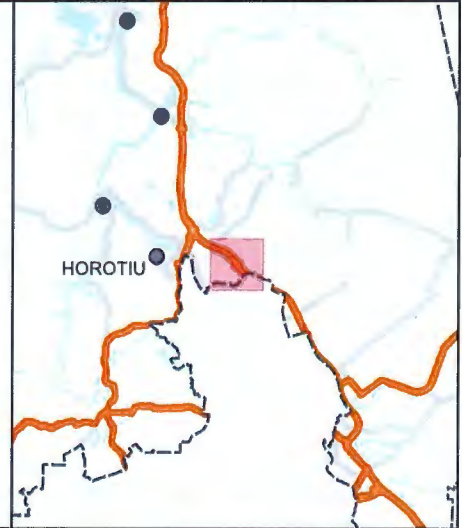
State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
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 Information New Zealand
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Legend

-  State highway noise control boundary *
-  Property boundary
-  River/lake
-  Waikato District Council boundary

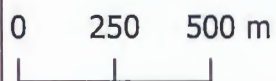


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
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Legend

-  State highway noise control boundary *
-  State highway
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State highway noise control boundary

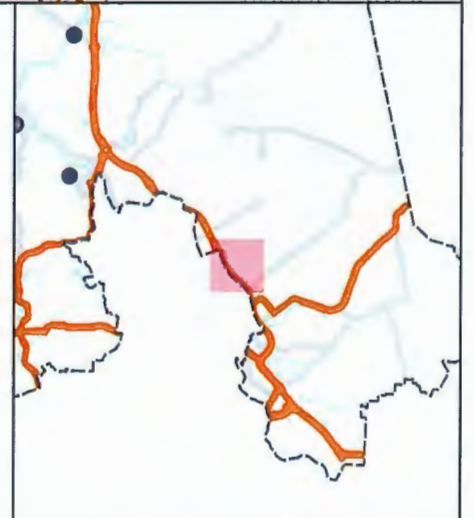
Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
 Ref: ME46460

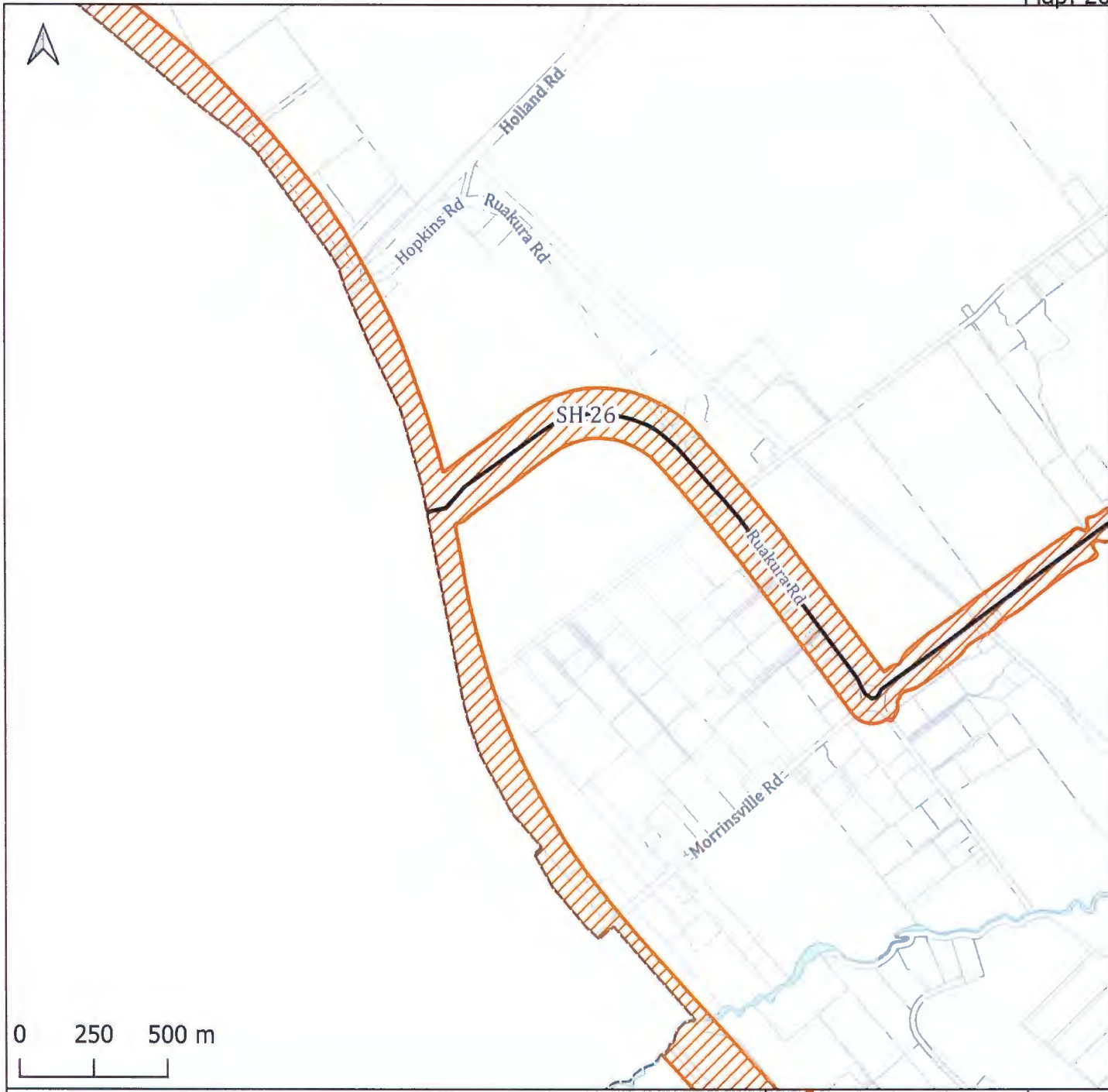


Legend






-  State highway noise control boundary *
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Legend

-  State highway noise control boundary *
-  State highway
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-  River/lake
-  Waikato District Council boundary

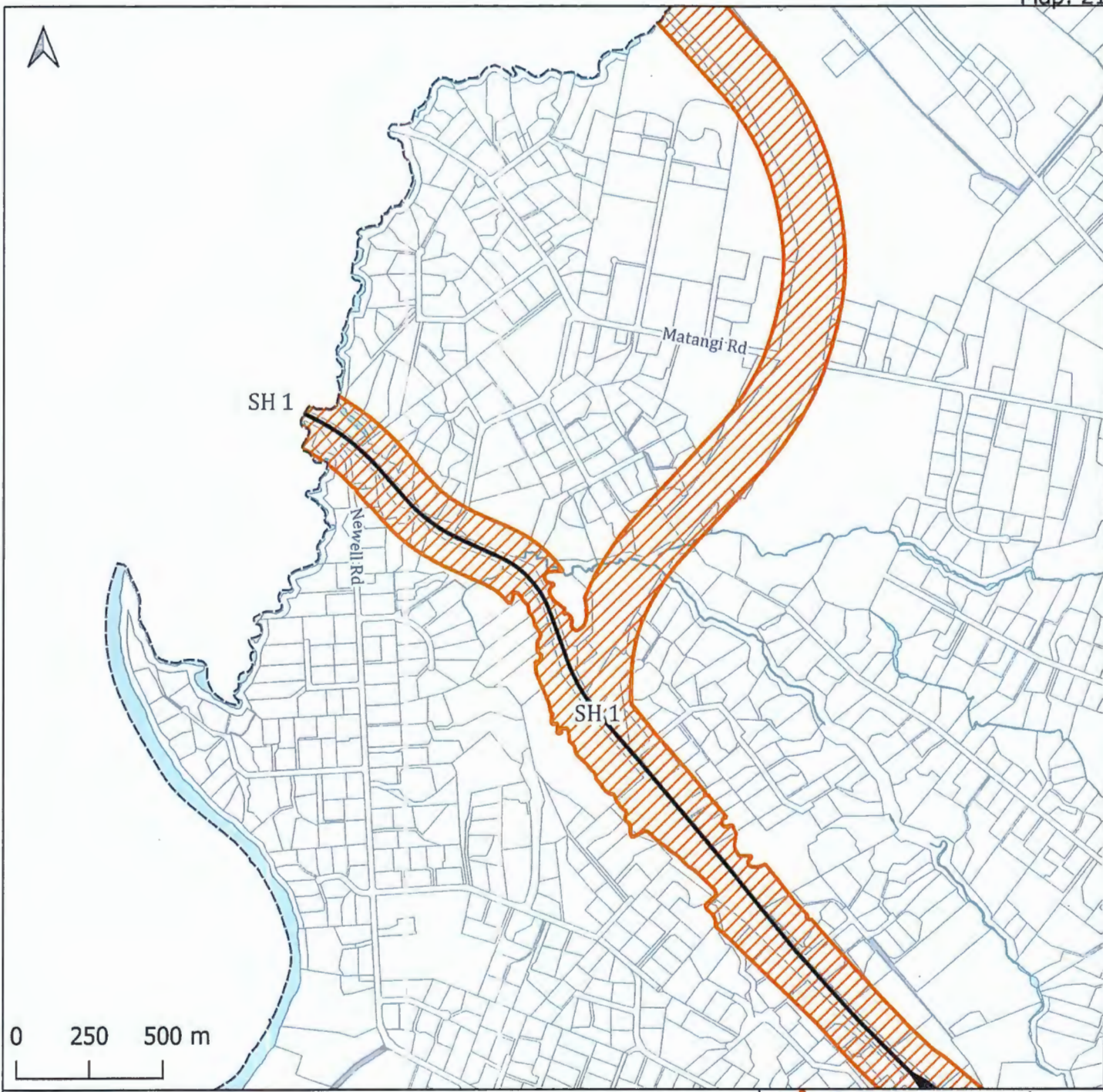


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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 Ref: ME46460



Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
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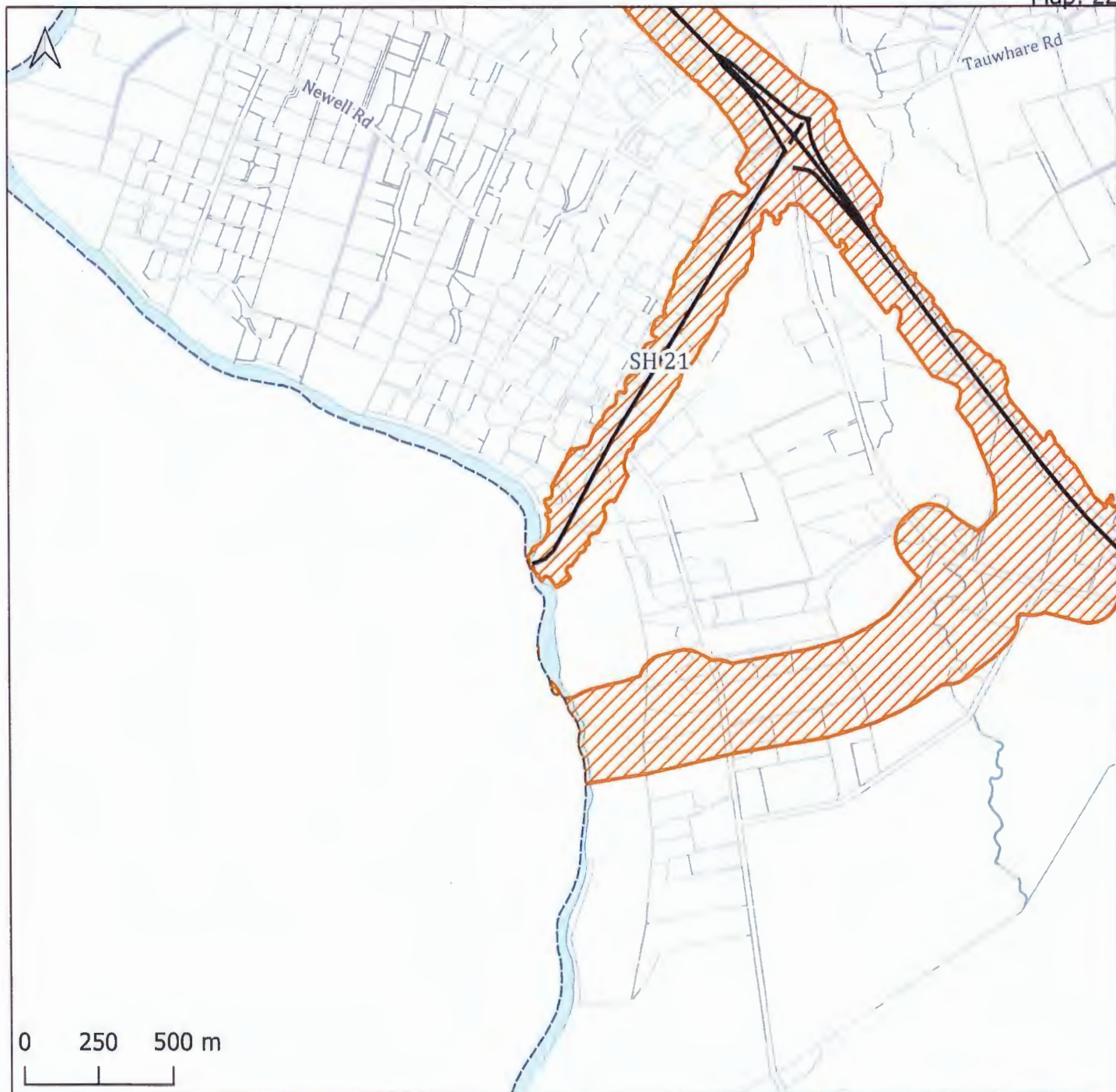


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
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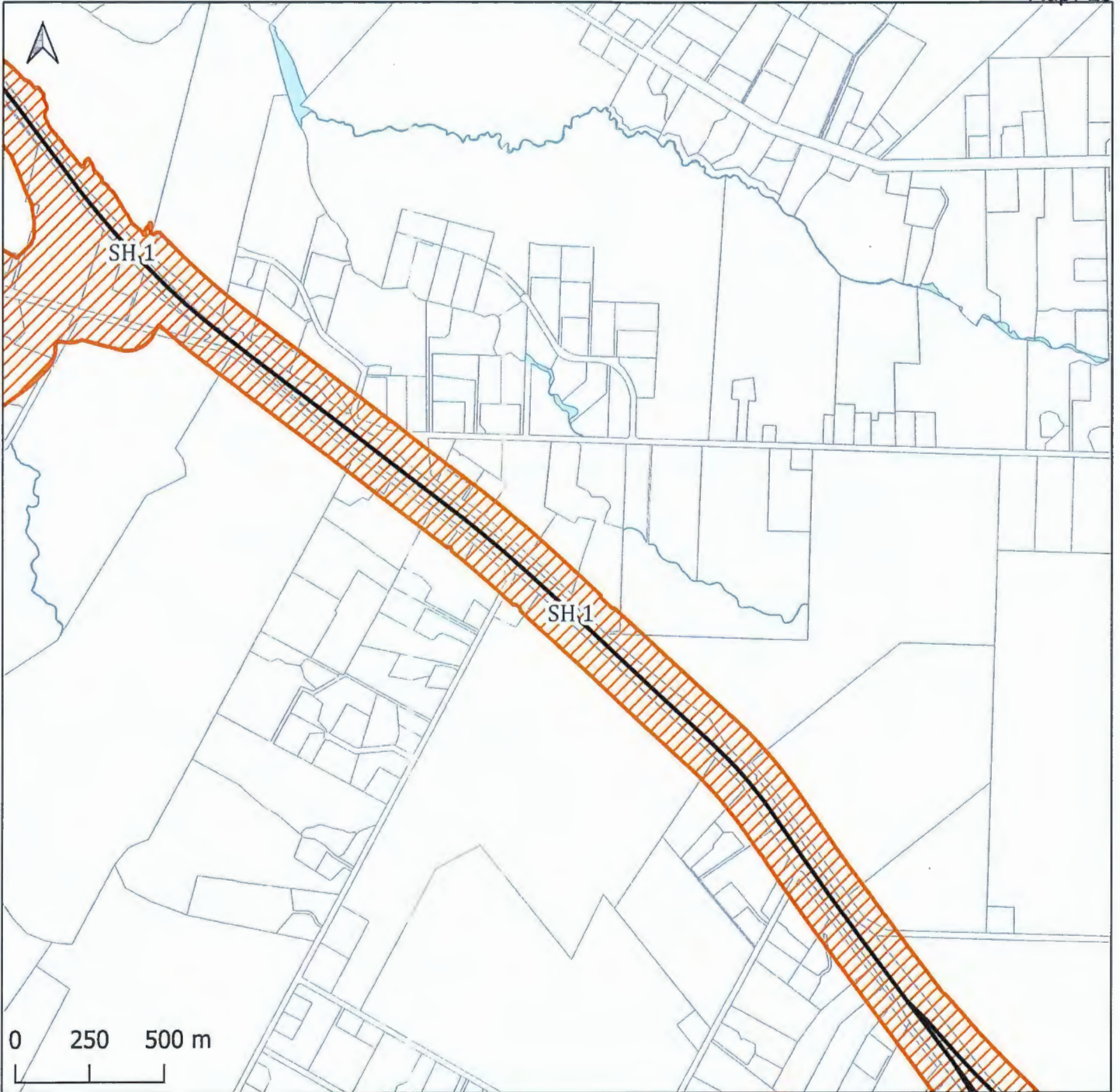


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State highway noise control boundary

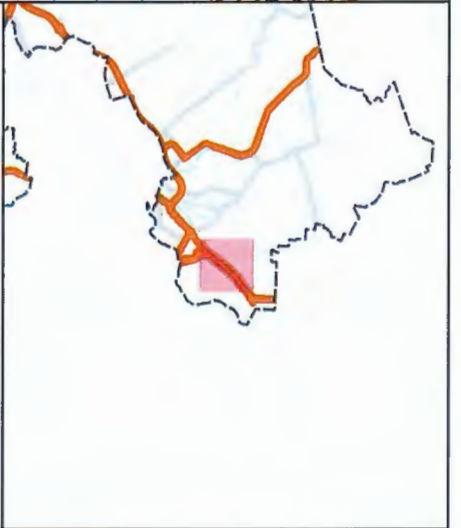
Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
 Ref: ME46460



Legend

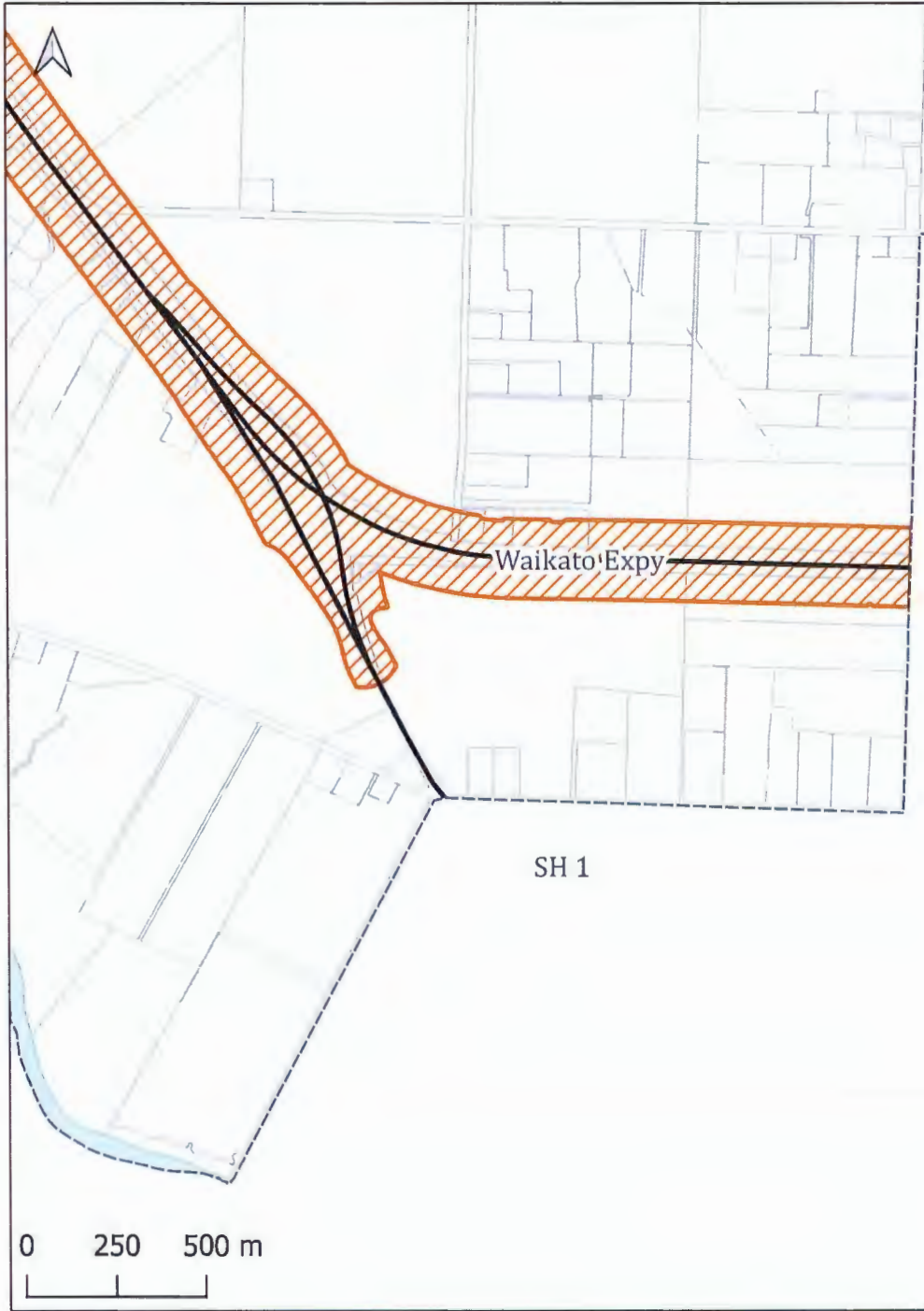
-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

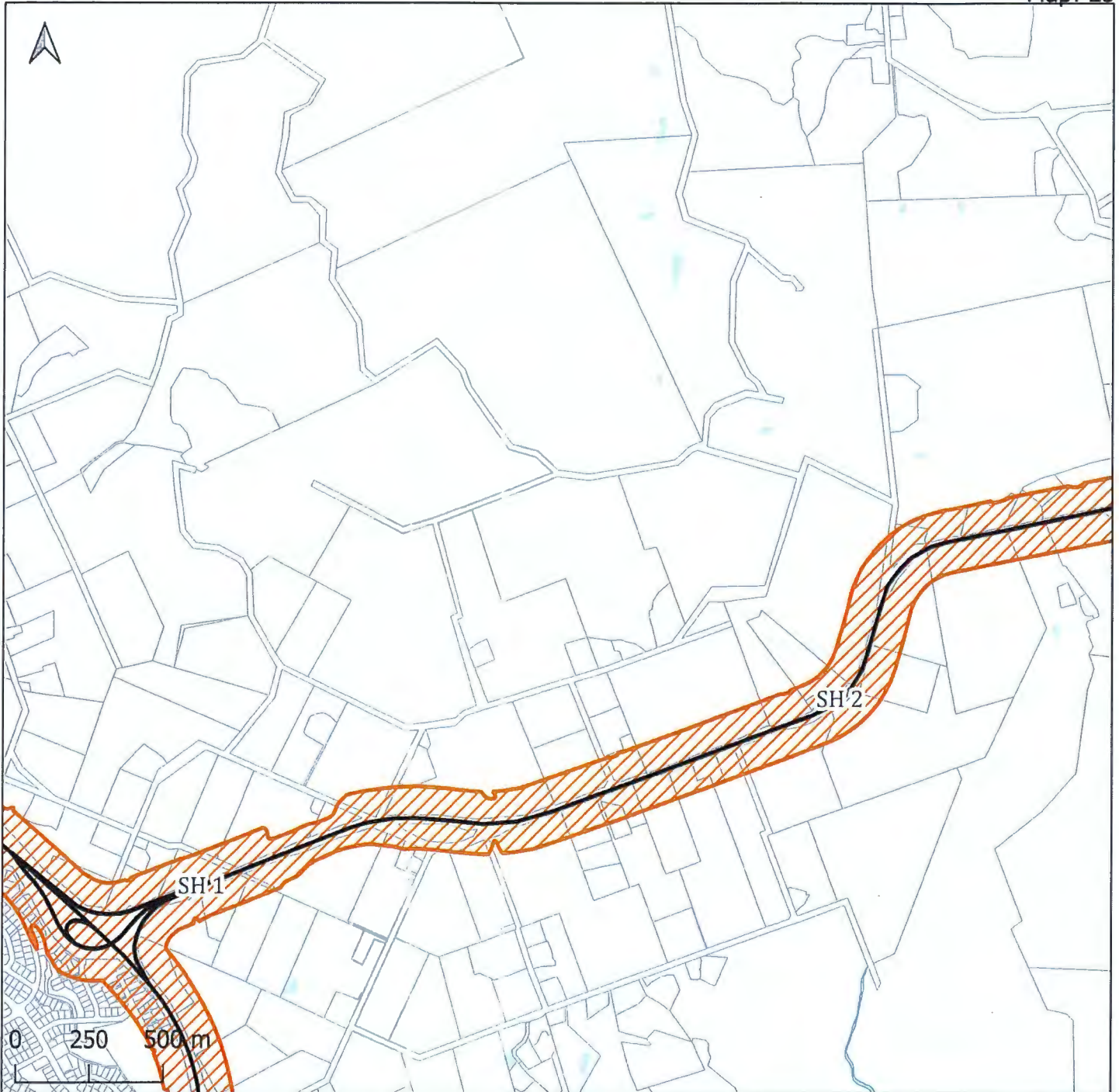


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

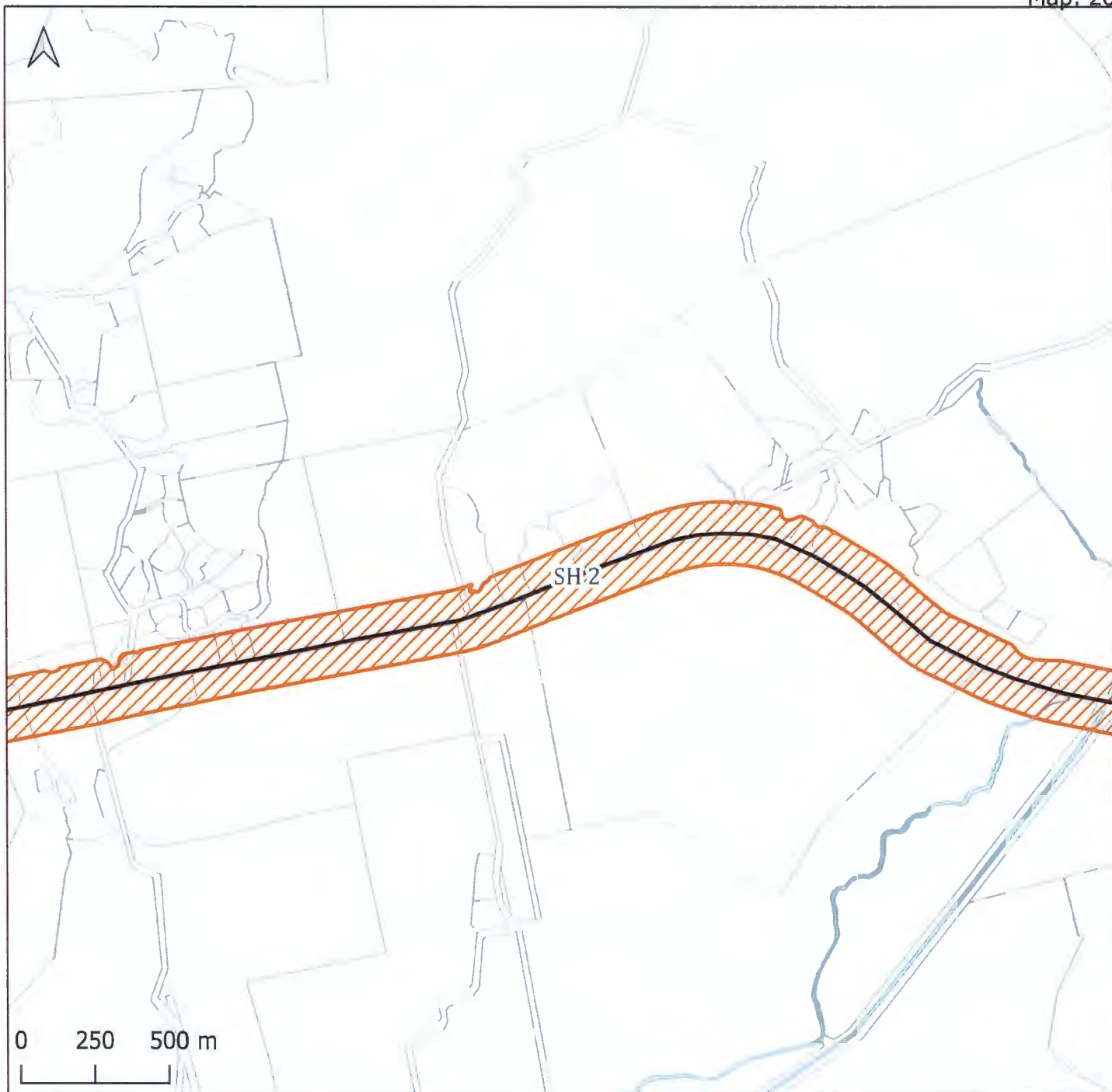


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

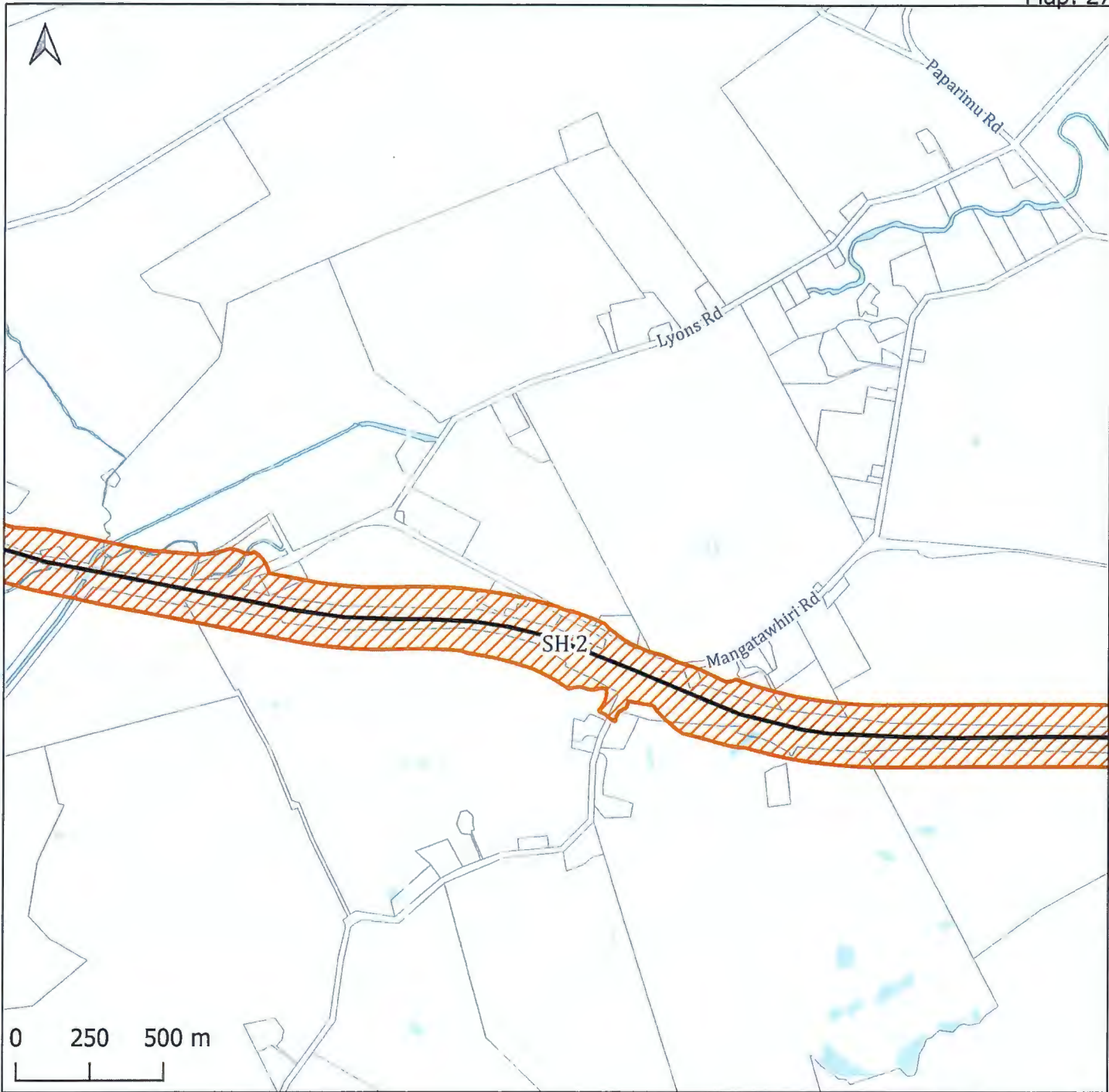


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

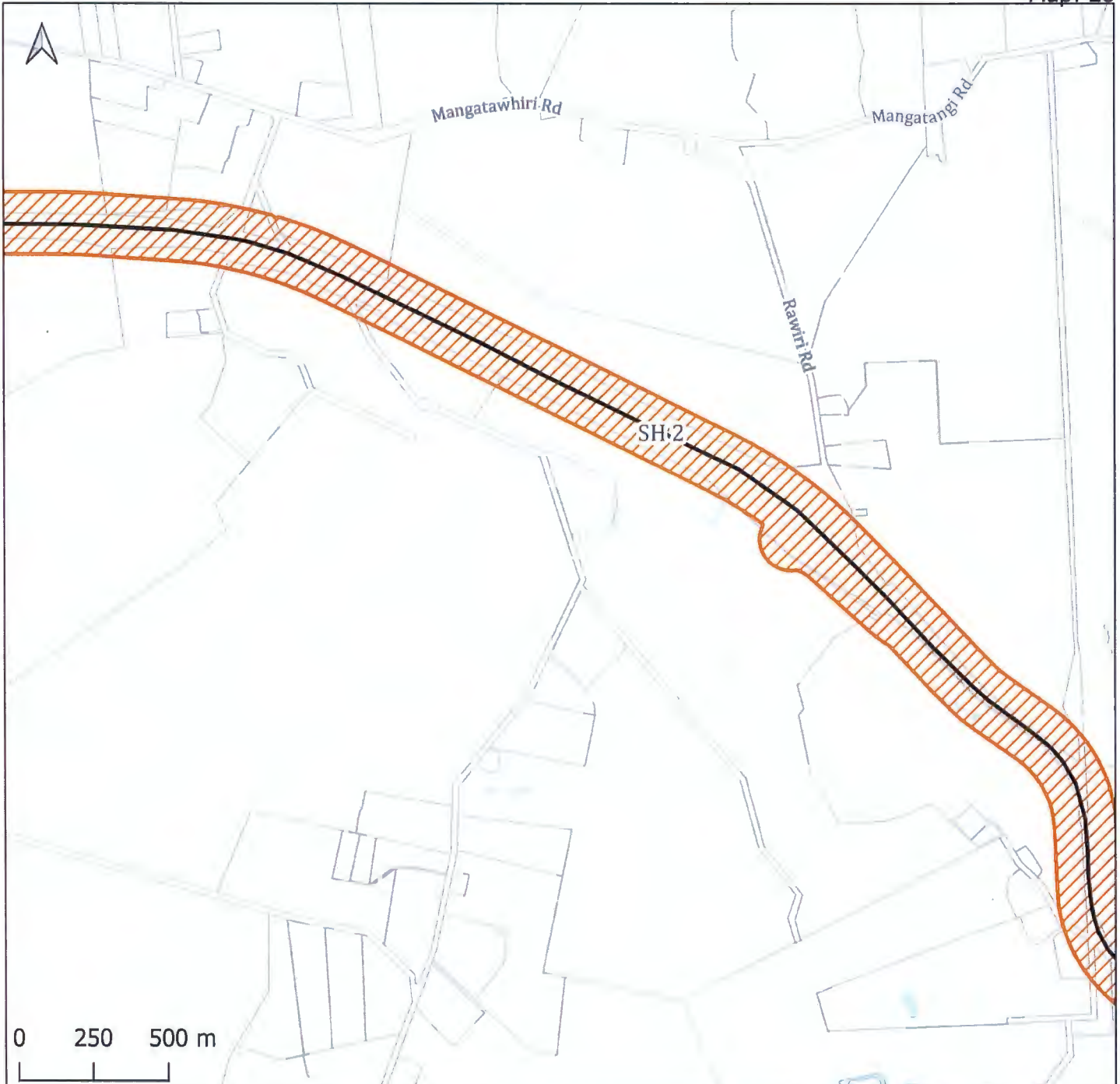


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State highway noise control boundary

Waikato District Council
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 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
 Ref: ME46460



Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  Waikato District Council boundary

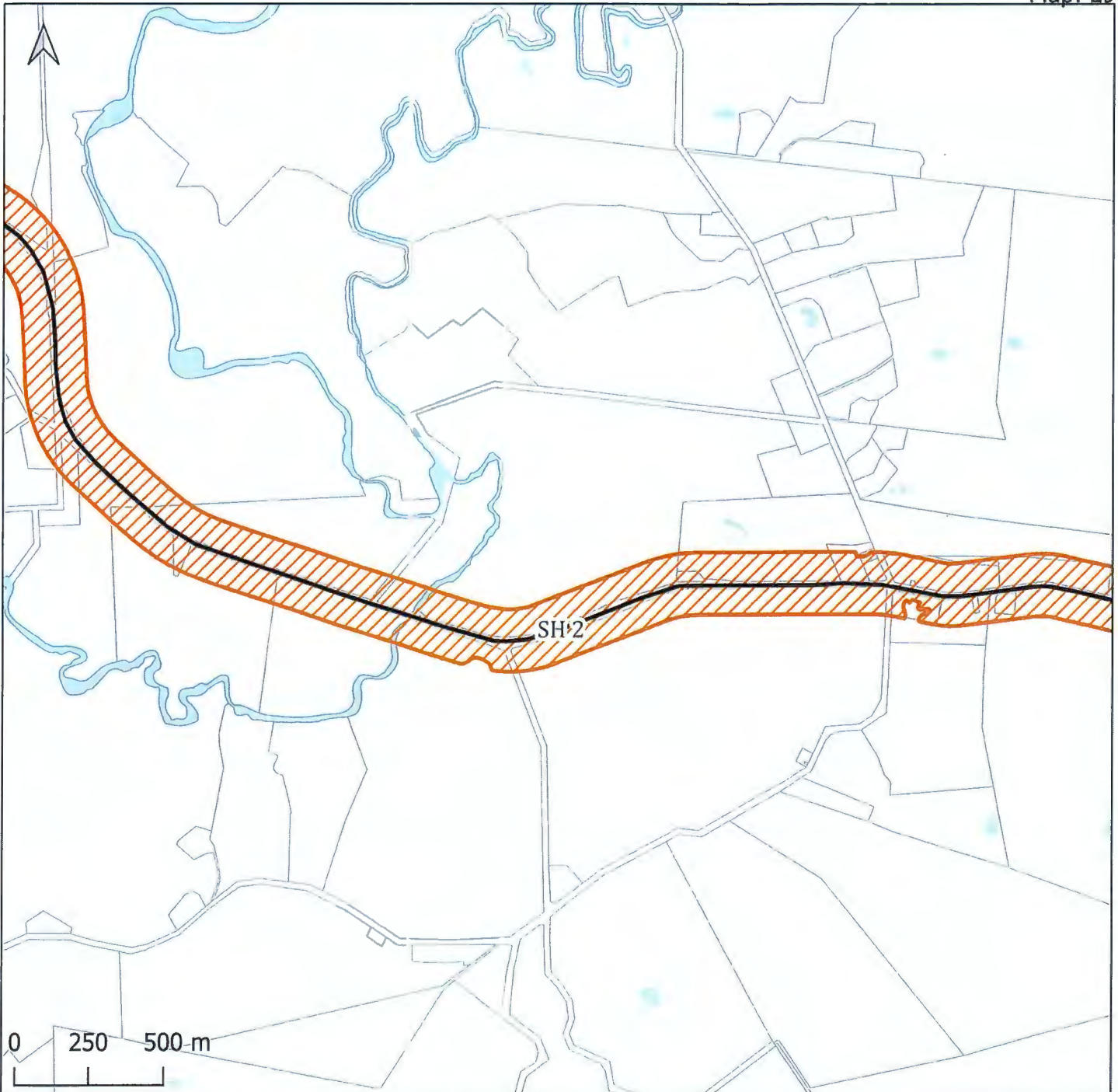


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
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 Ref: ME46460



Legend

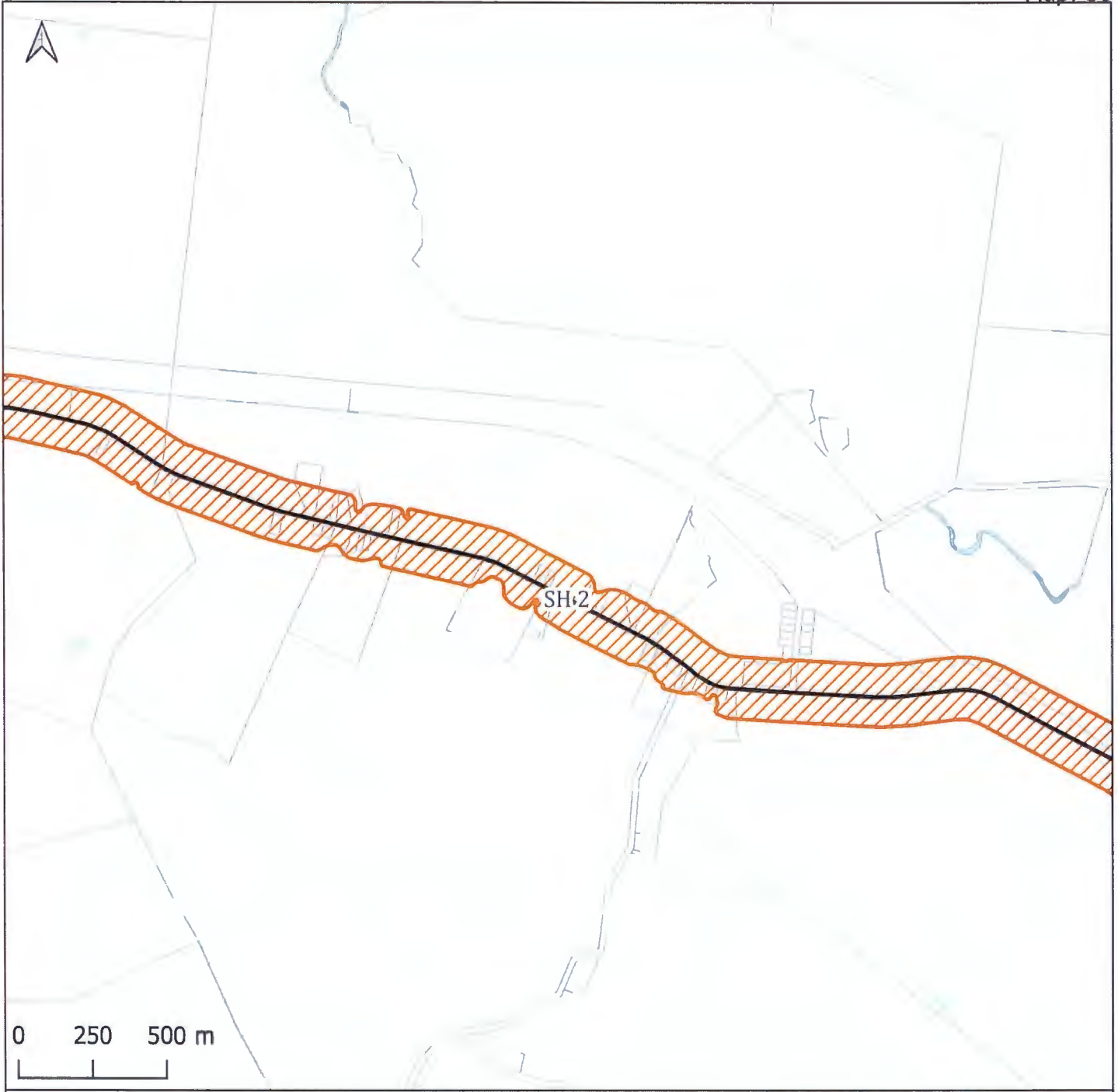
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-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

* Note: symbology may be different on final District Plan maps








State highway noise control boundary

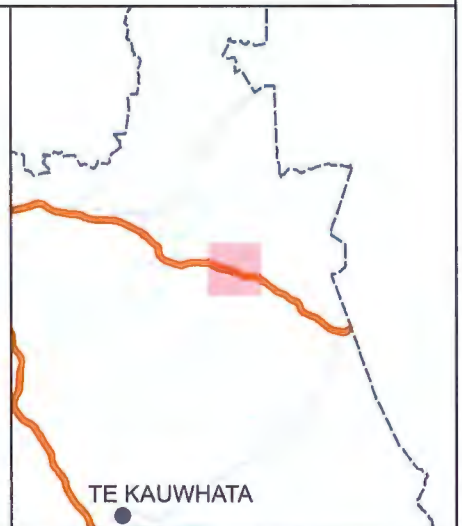
Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
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State highway noise control boundary






Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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SH2



Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary



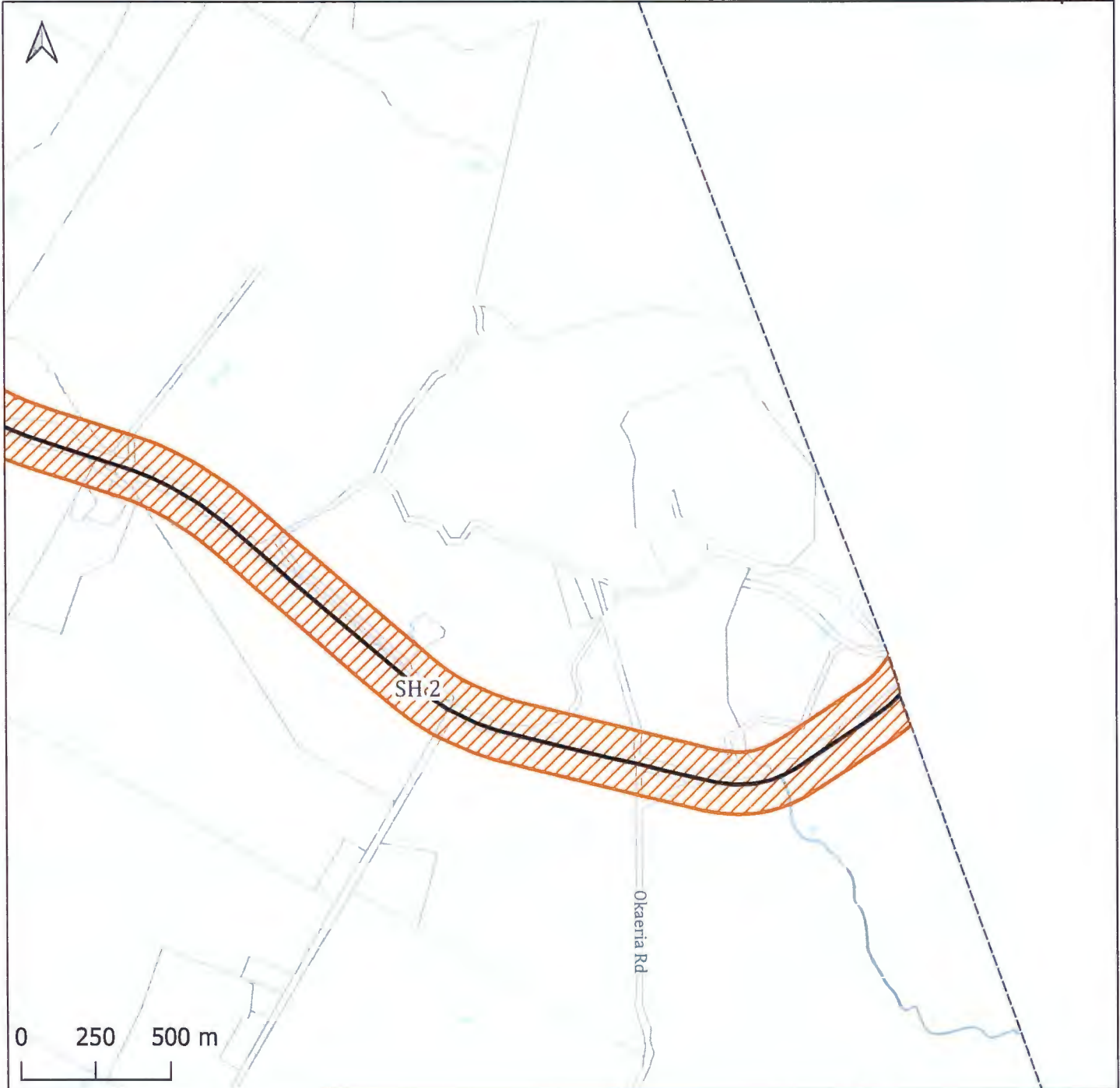
TE KAUWHATA

* Note: symbology may be different on final District Plan maps








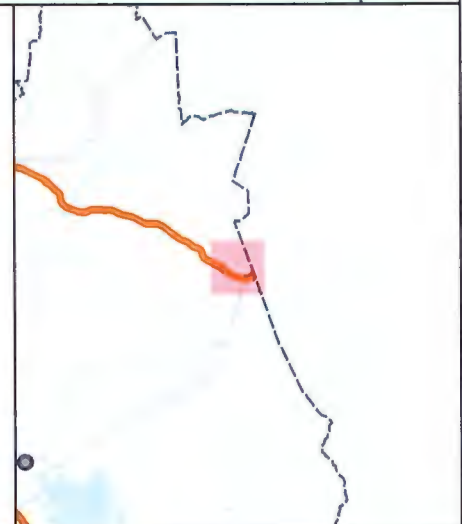
State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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 Ref: ME46460



Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

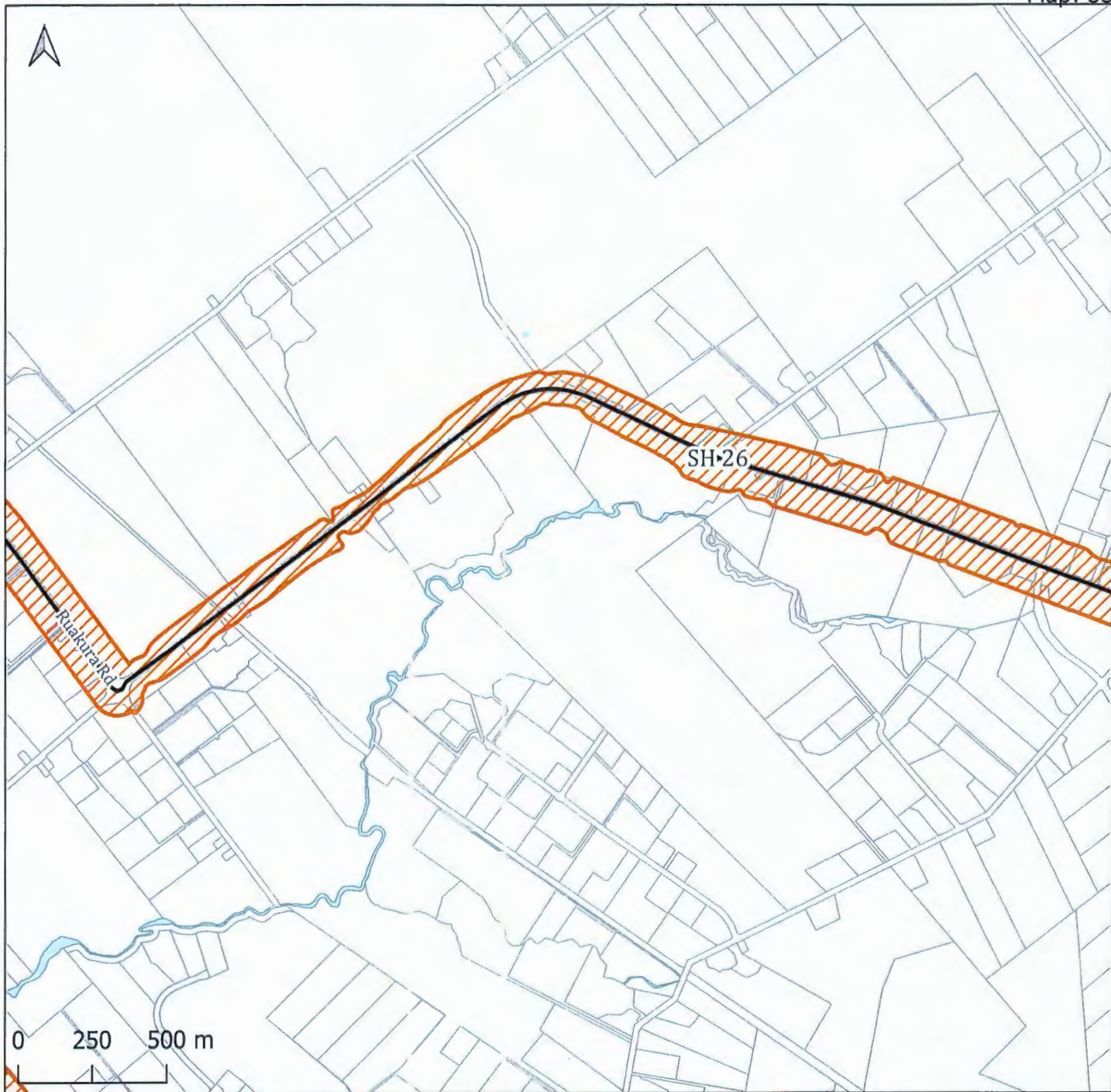


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
 Ref: ME46460

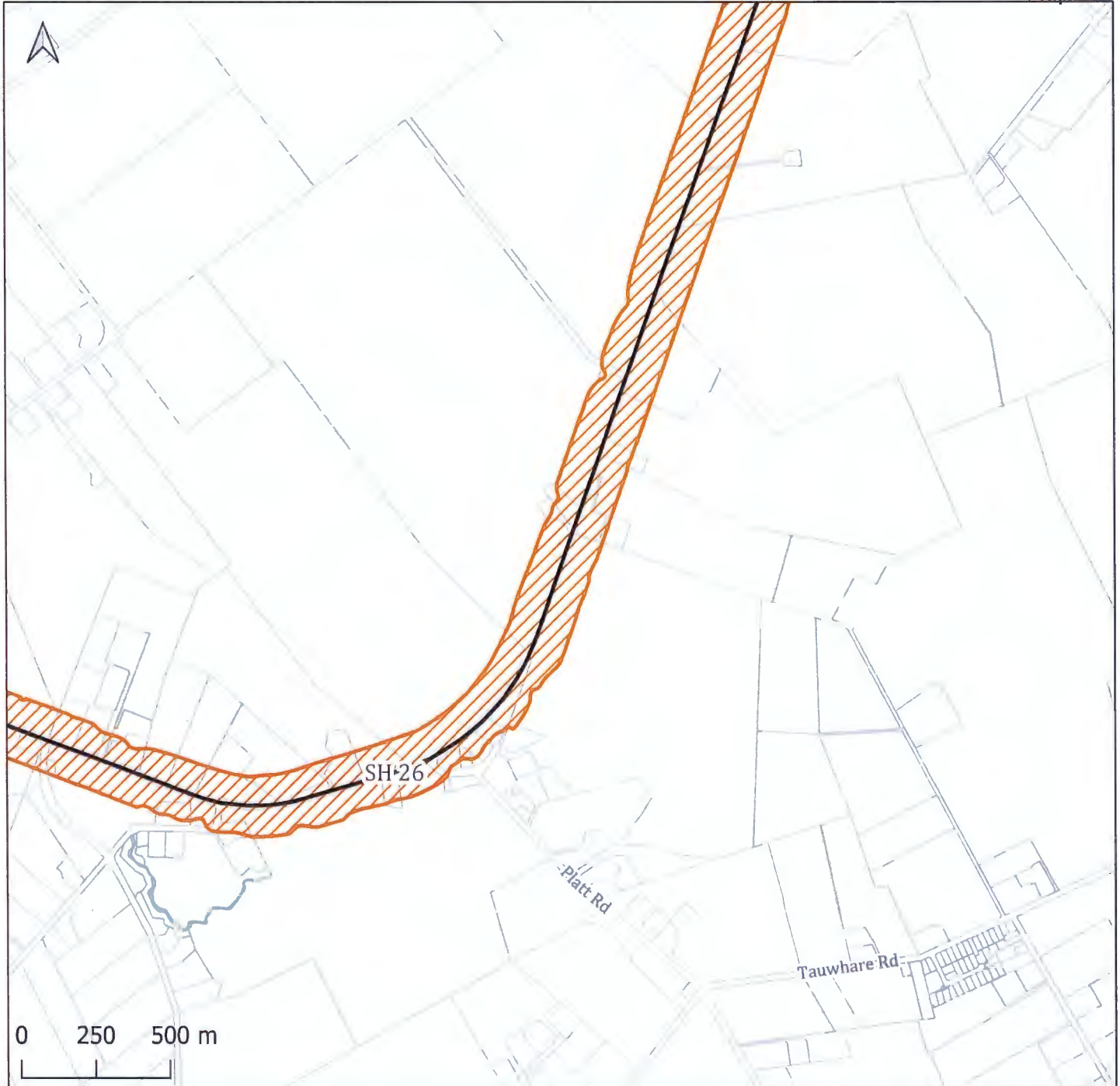


Legend






-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

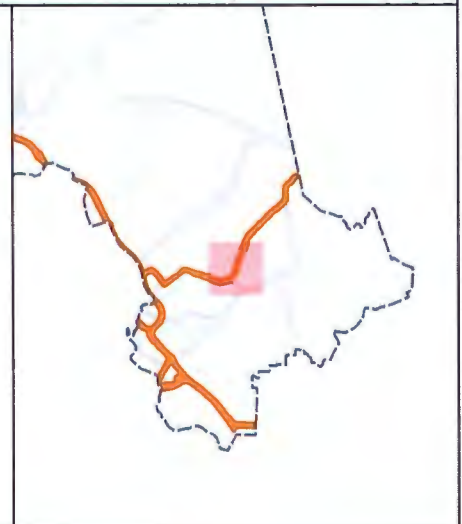


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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary



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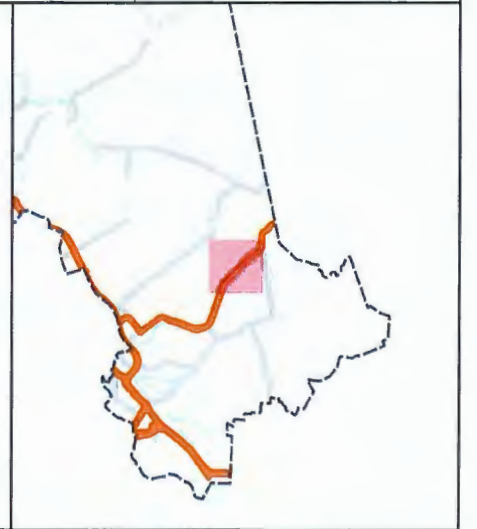
State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
 Ref: ME46460



Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  Waikato District Council boundary

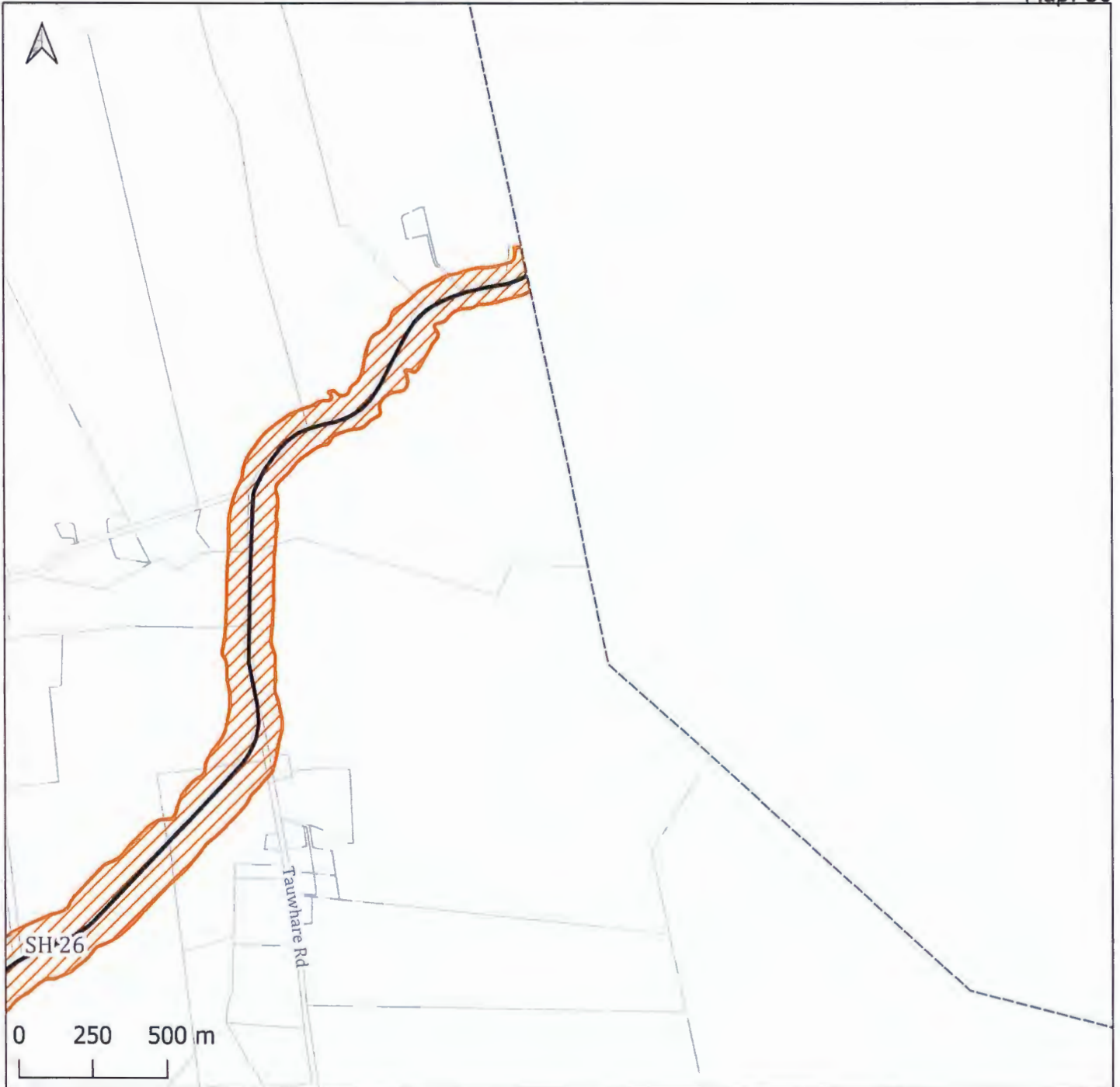


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
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Legend

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State highway noise control boundary

Waikato District Council
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 Cadastre Boundaries and addresses - Land
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Legend

-  State highway noise control boundary *
-  State highway
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-  River/lake
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




State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
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Legend

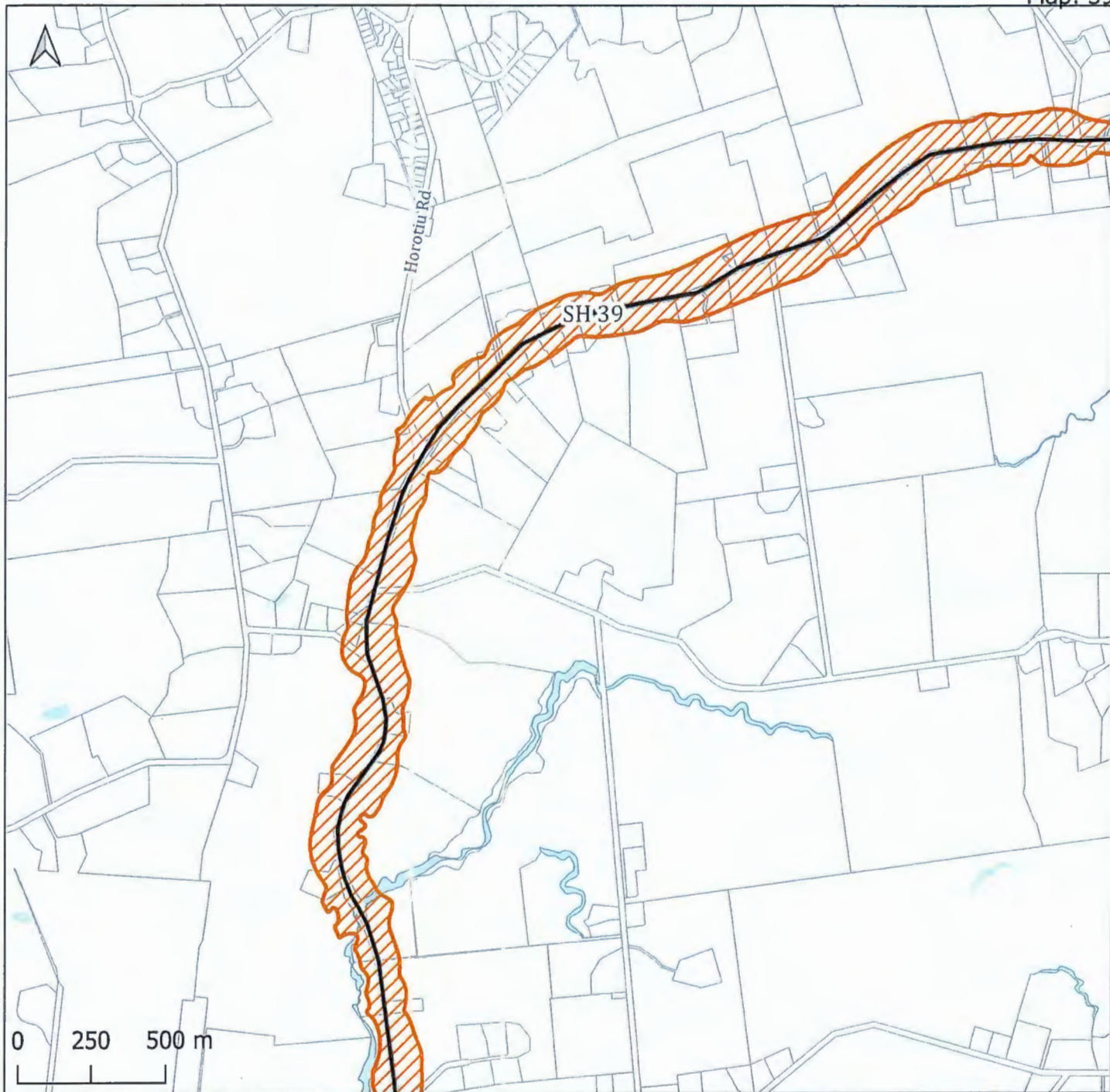
-  State highway noise control boundary *
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State highway noise control boundary

Waikato District Council
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 Cadastre Boundaries and addresses - Land
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 Projection: NZTM2000
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Legend

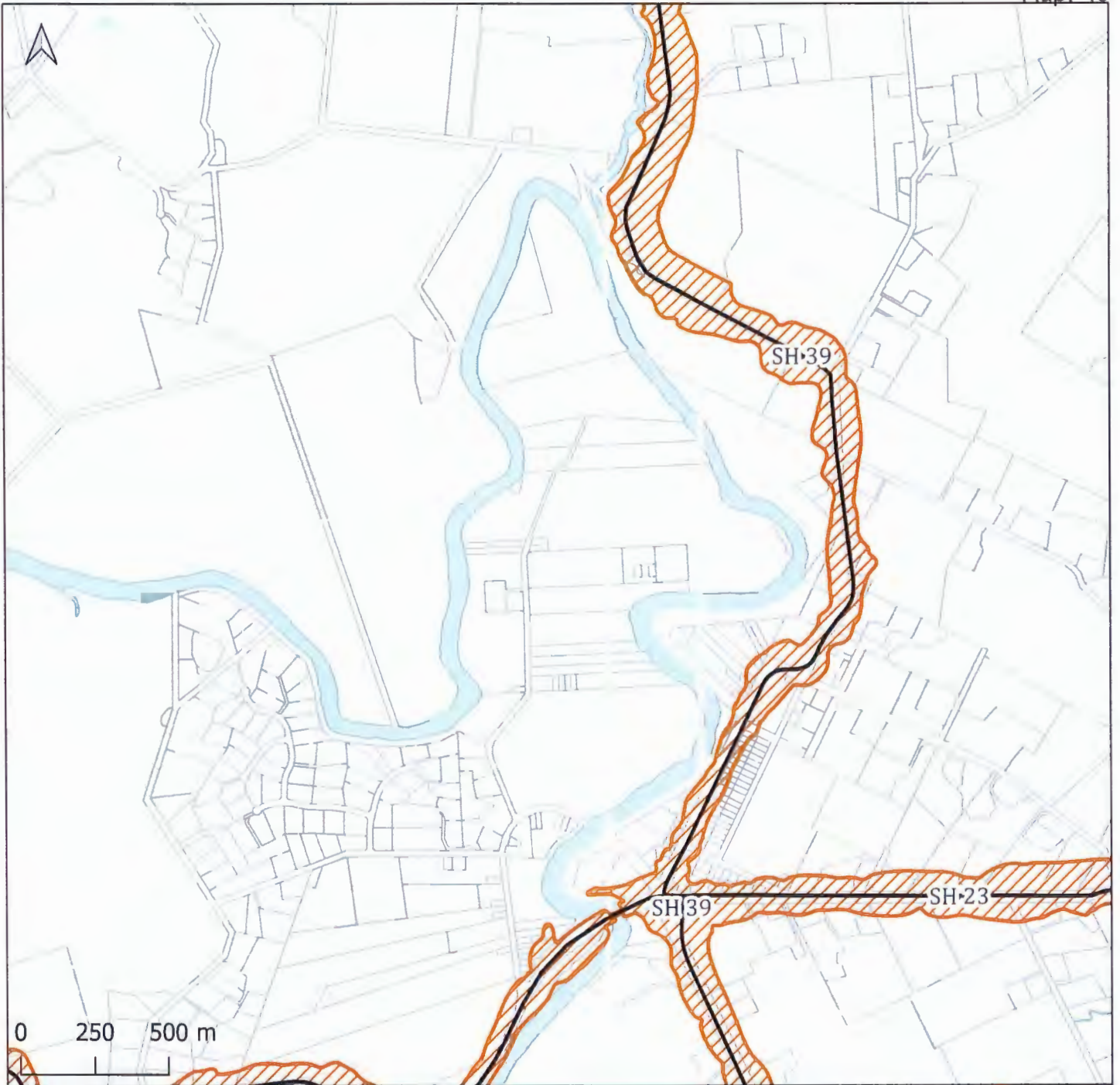
-  State highway noise control boundary *
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State highway noise control boundary

Waikato District Council
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Legend

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-  State highway
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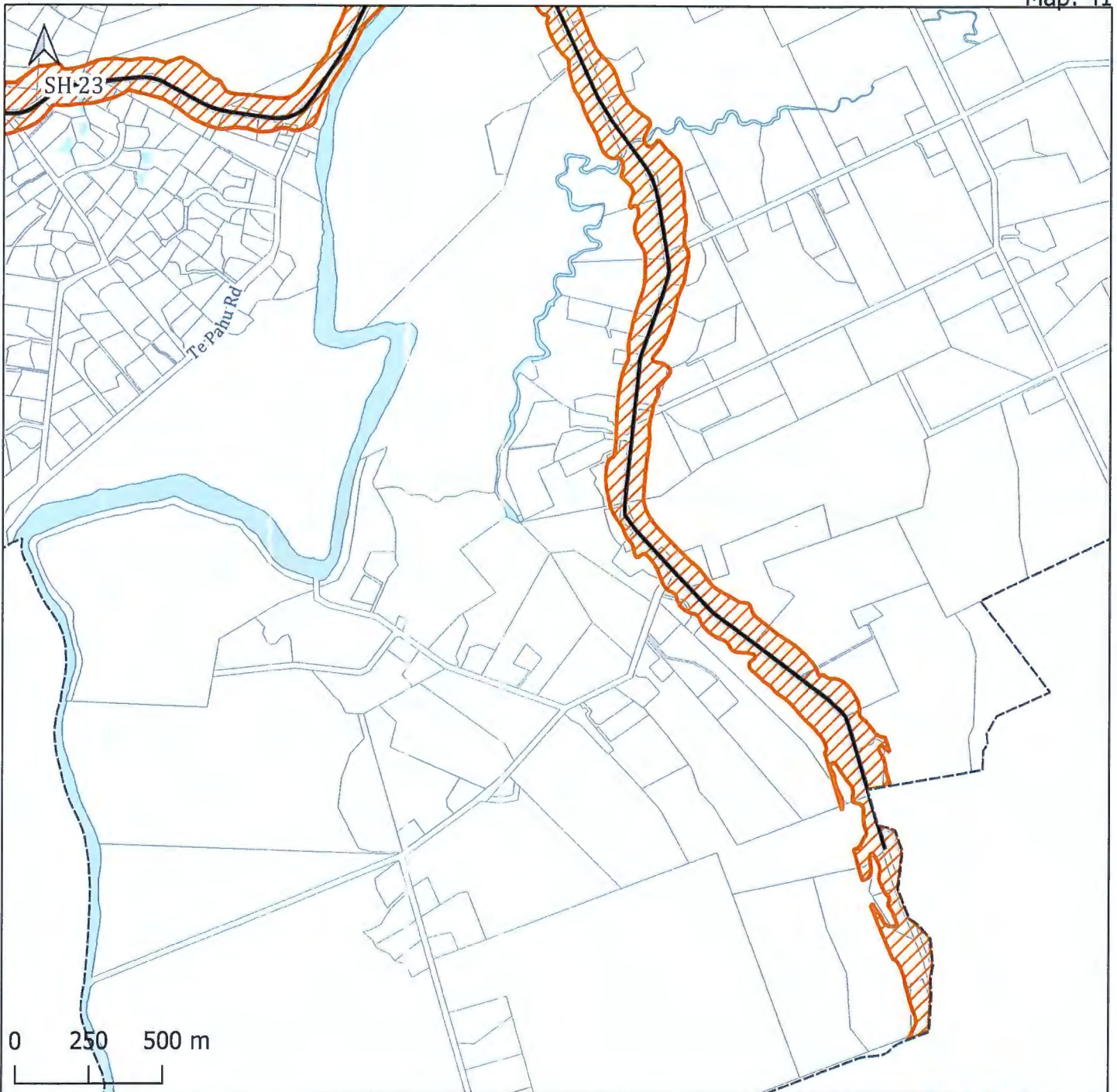


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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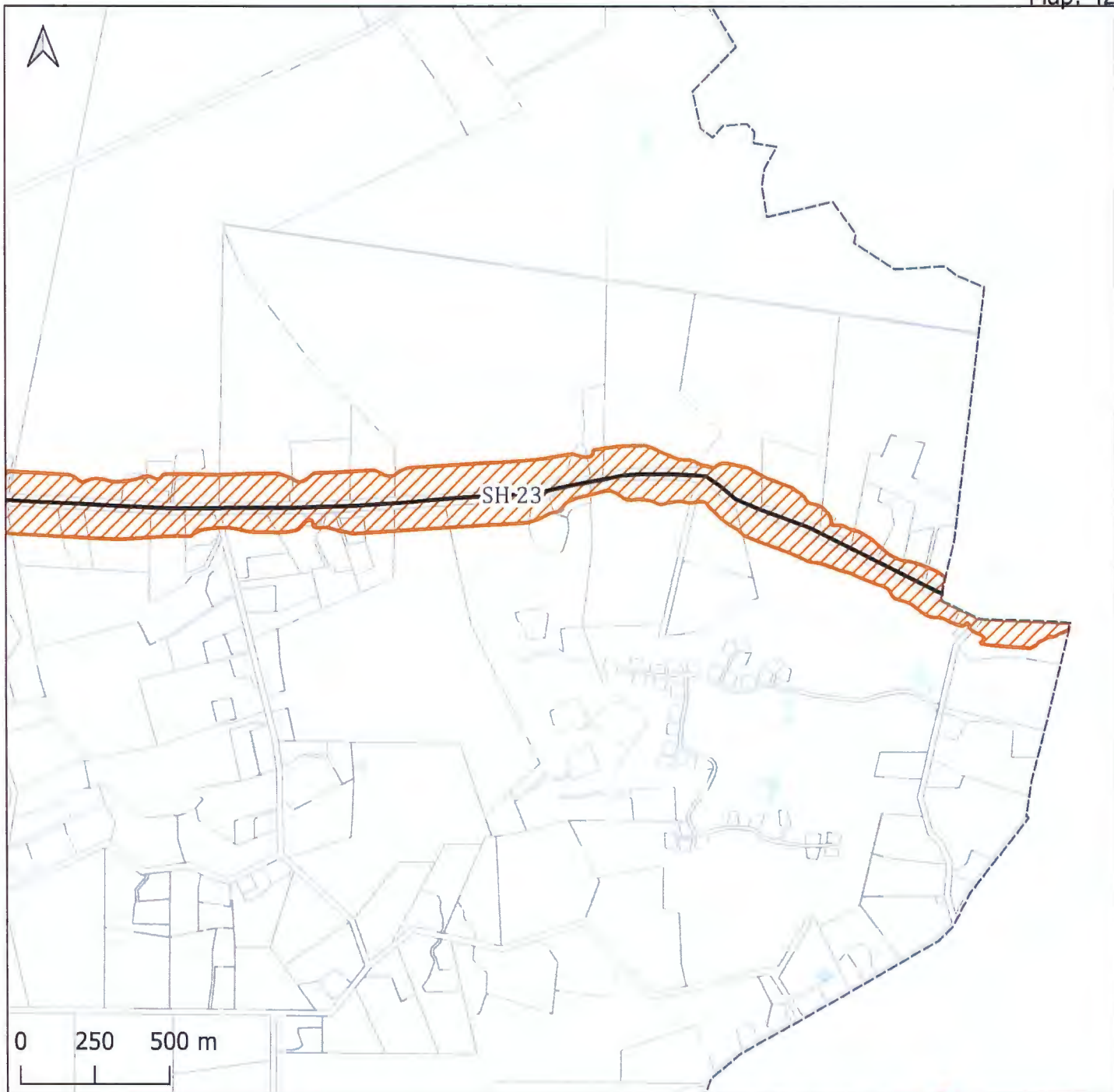
-  State highway noise control boundary *
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Waikato District Council
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Legend

-  State highway noise control boundary *
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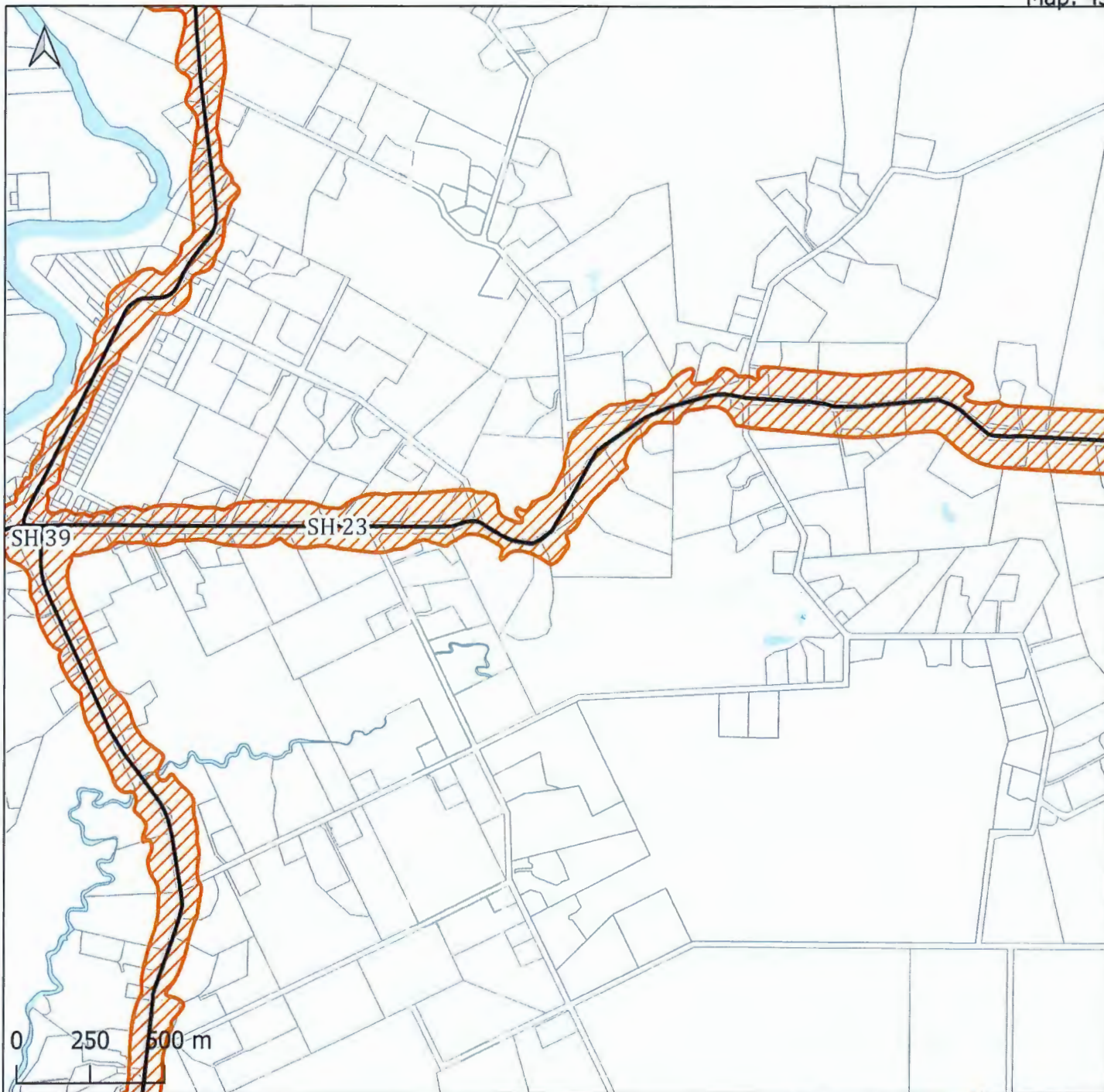


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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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Legend

-  State highway noise control boundary *
-  State highway
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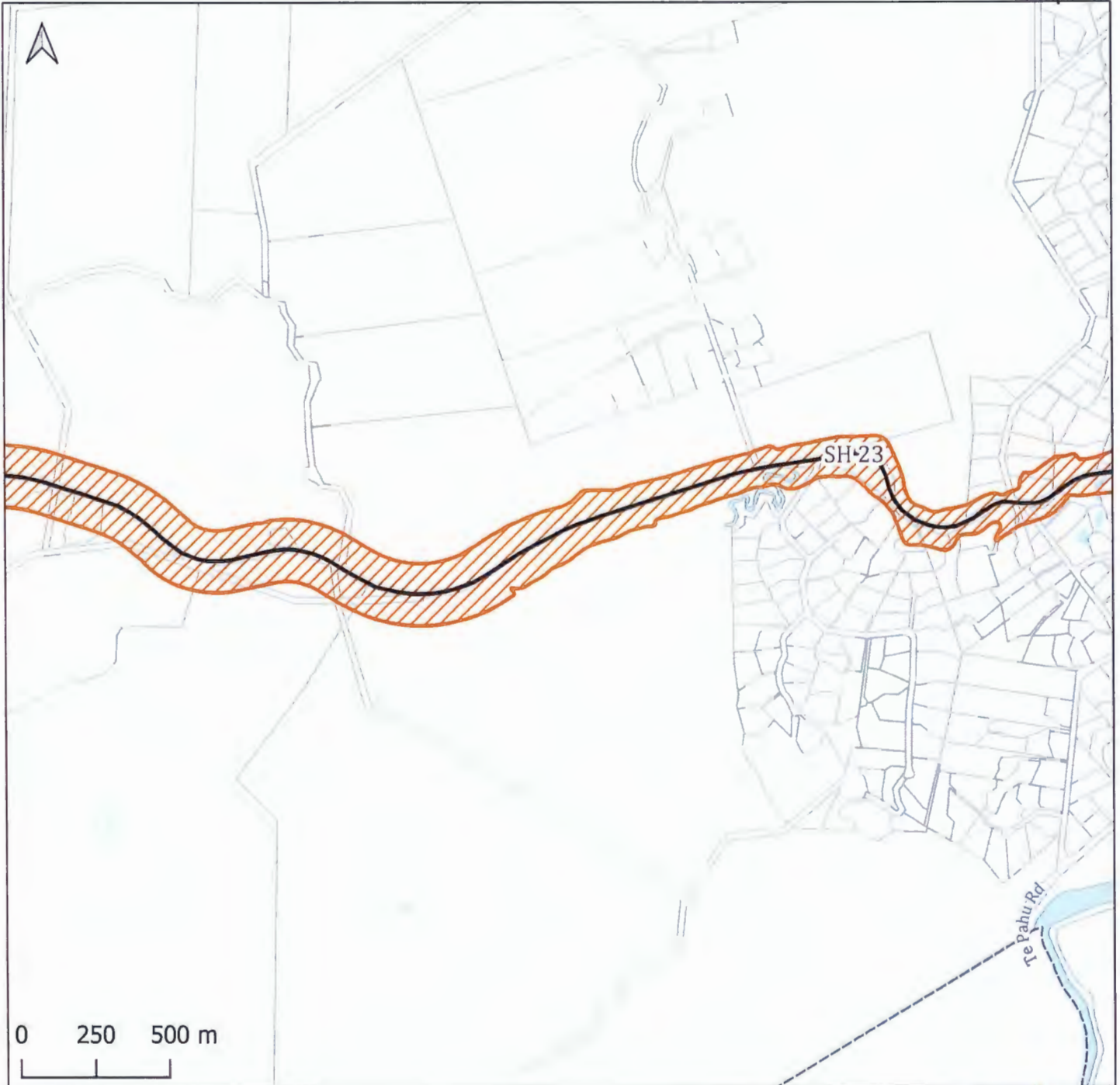


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Waikato District Council
 Prepared 19 Oct 2023
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Legend

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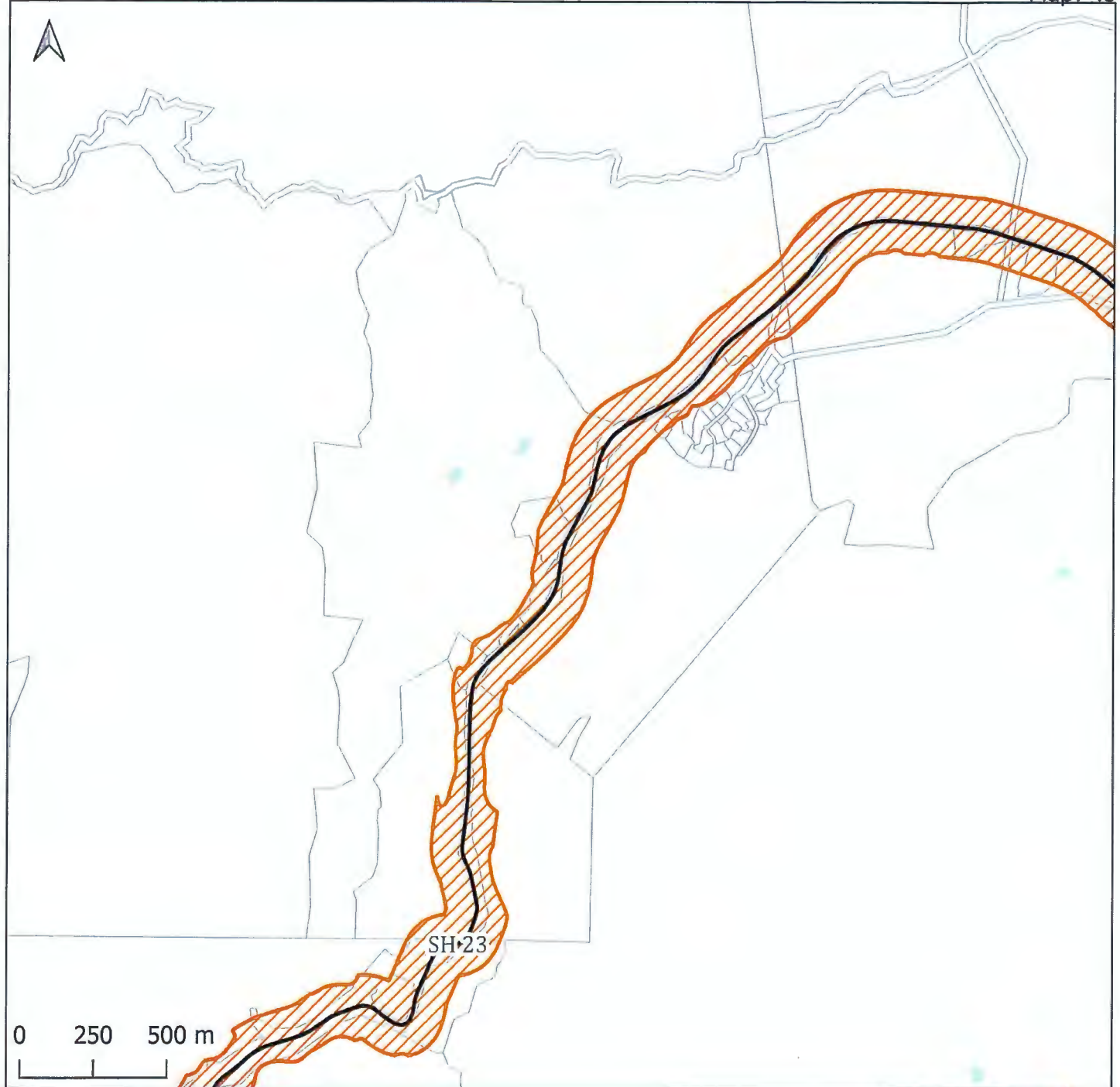






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State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
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- Legend**
-  State highway noise control boundary *
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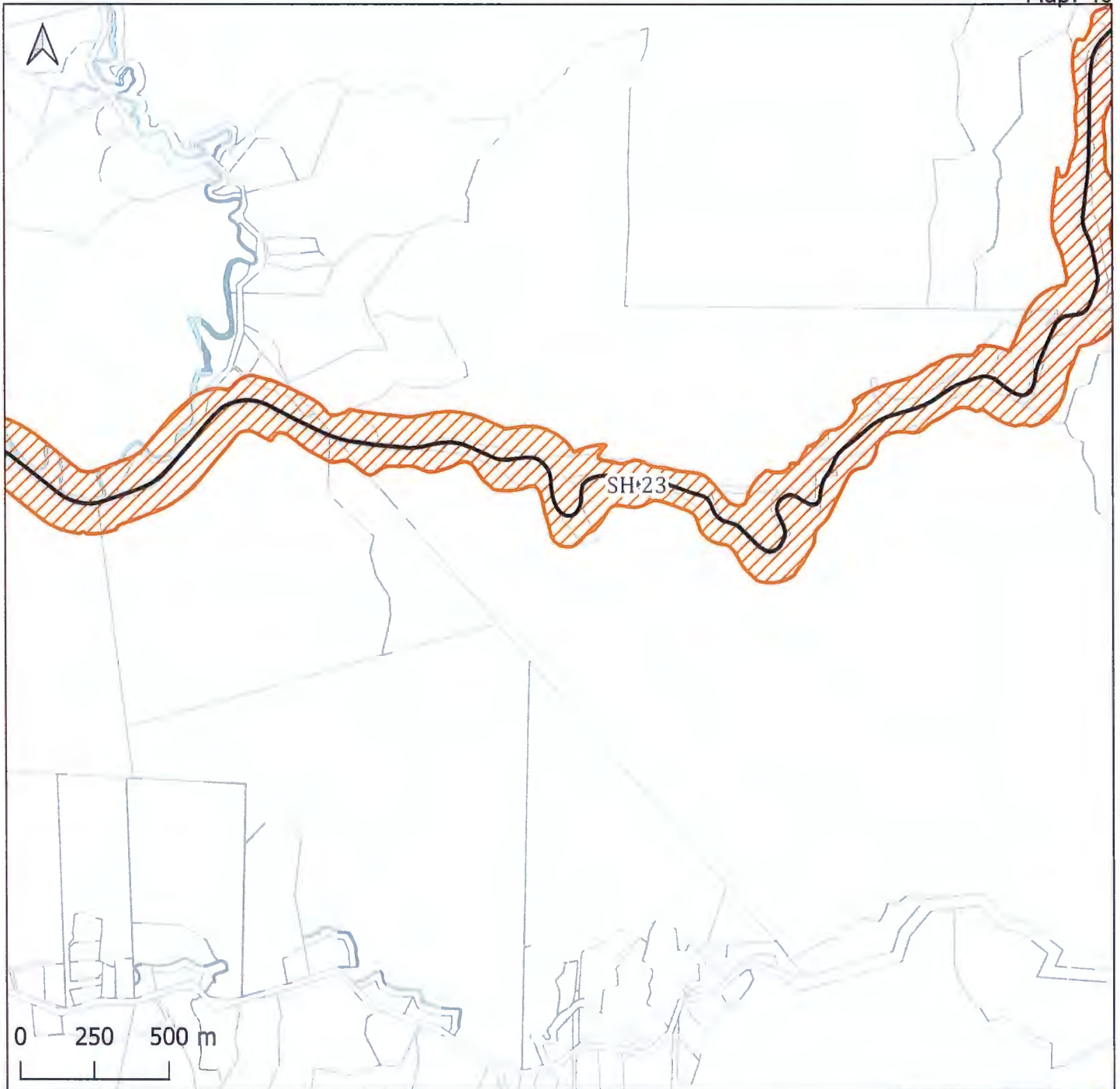


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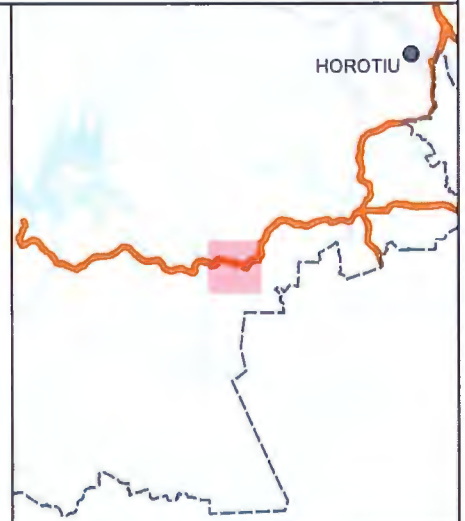
State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
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Legend

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-  River/lake
-  Waikato District Council boundary

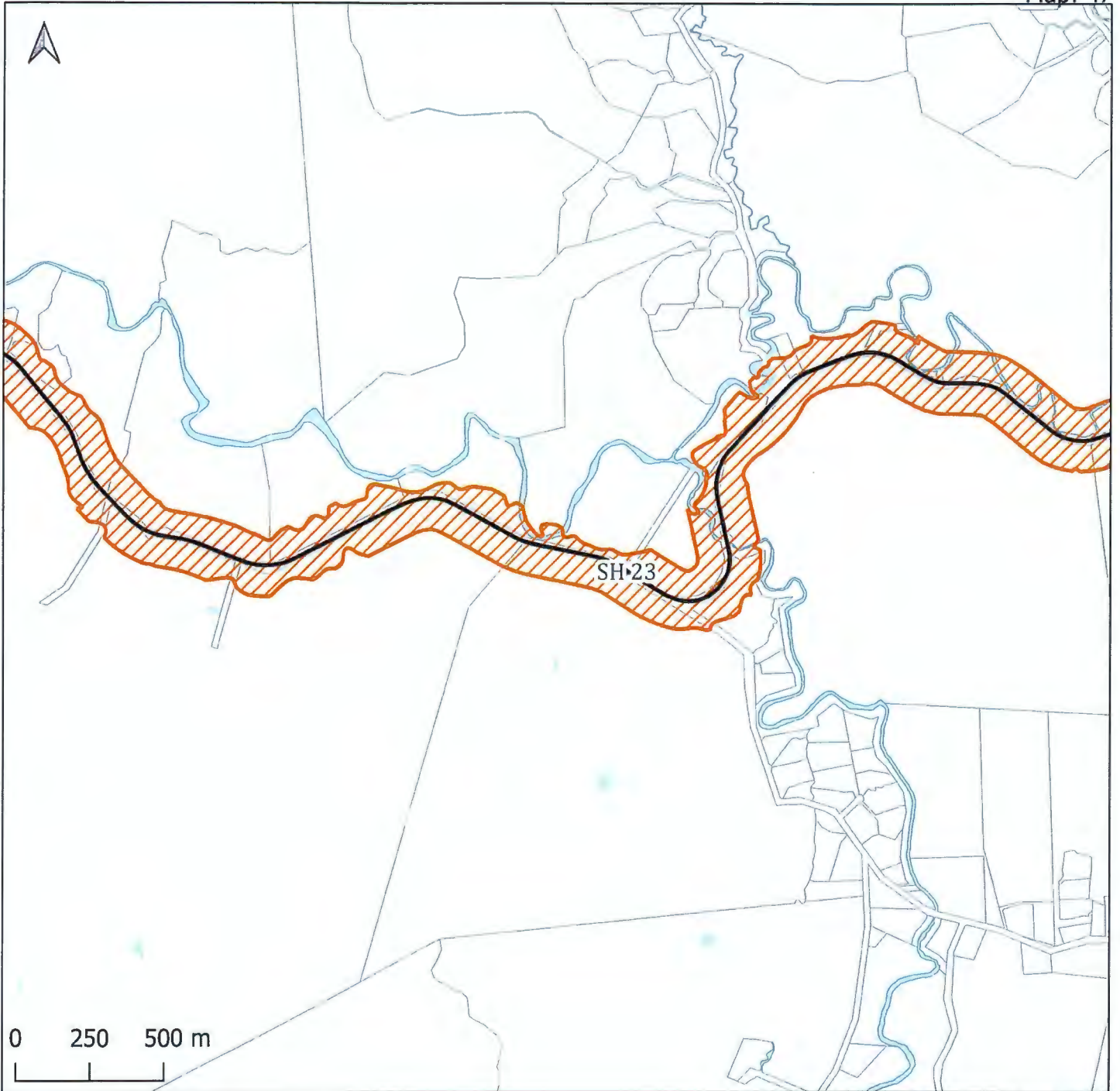


* Note: symbology may be different on final District Plan maps








State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
 Ref: ME46460



Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary

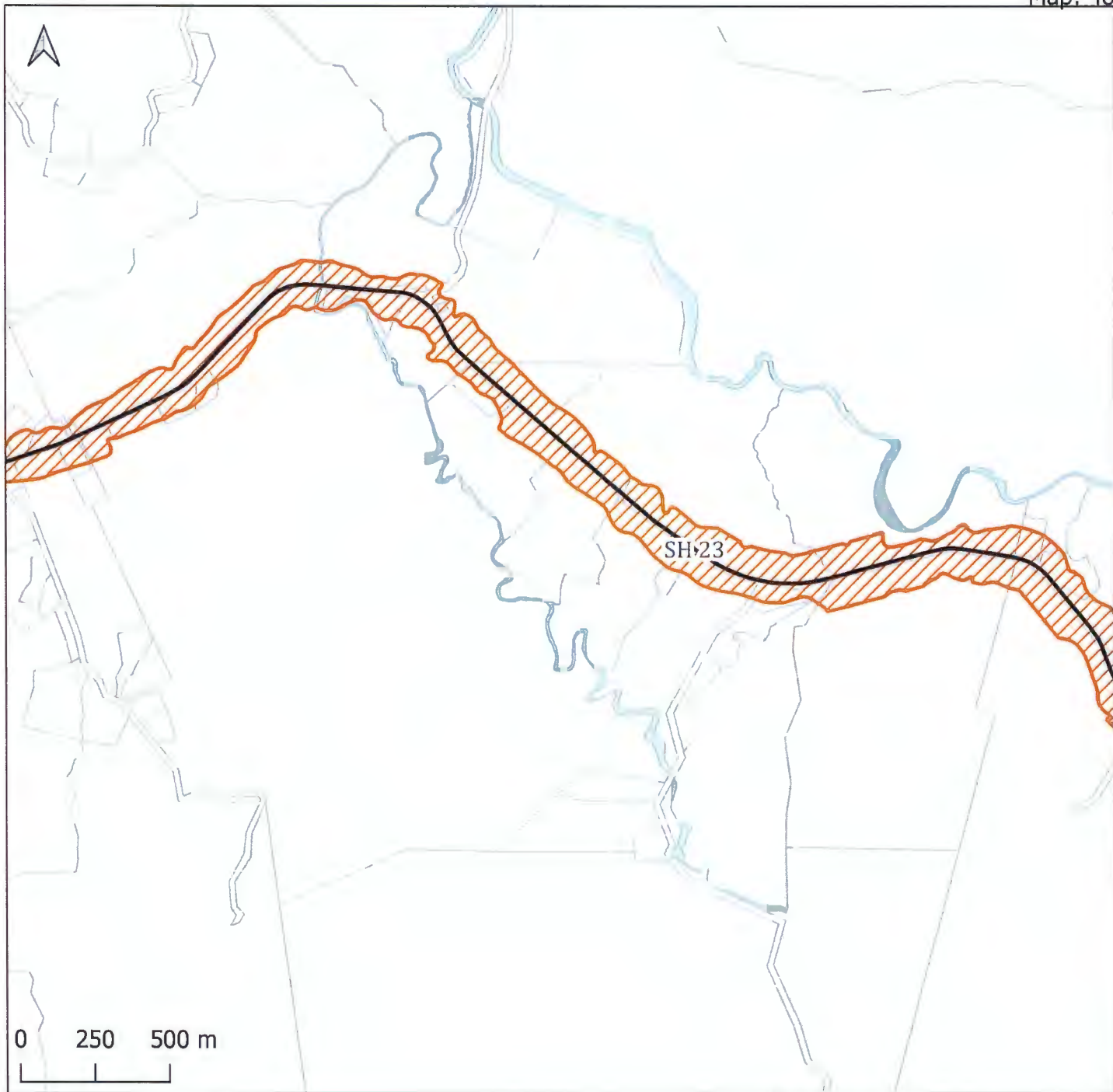


* Note: symbology may be different on final District Plan maps








State highway noise control boundary

Waikato District Council
 Prepared 19 Oct 2023
 Cadastre Boundaries and addresses - Land
 Information New Zealand
 Projection: NZTM2000
 Ref: ME46460



Legend

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-  Property boundary
-  River/lake
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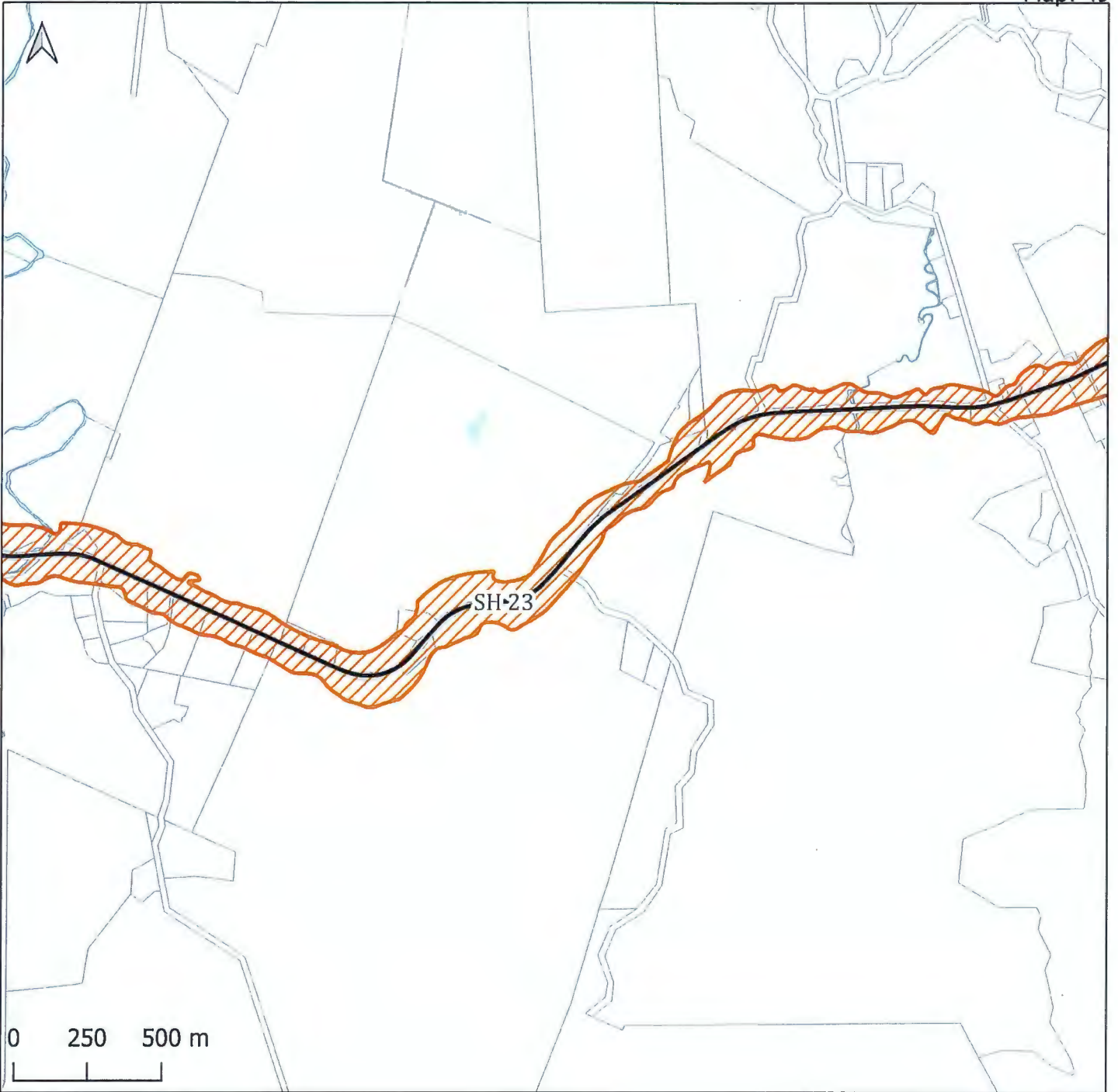


* Note: symbology may be different on final District Plan maps








State highway noise control boundary

Waikato District Council
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Legend

-  State highway noise control boundary *
-  State highway
-  Property boundary
-  River/lake
-  Waikato District Council boundary



* Note: symbology may be different on final District Plan maps








State highway noise control boundary

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-  State highway noise control boundary *
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-  River/lake
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Appendix 3

WAIKATO DISTRICT PLAN – PROPOSED DISTRICT PLAN APPEALS

SECTION 32AA EVALUATION REPORT

Introduction

1. This appendix sets out the context for the settlement of KiwiRail Holdings Limited (“KiwiRail”) and Waka Kotahi New Zealand Transport Agency (“NZTA”) appeals against parts of the decisions of the Waikato District Council (“Council”) in respect of the Proposed Waikato District Plan (“PDP”) and undertakes an assessment of the agreed provisions against the requirements of section 32AA of the Resource Management Act 1991 (“RMA”). This section 32AA analysis has been prepared by the Council taking into account the positions of the Appellants and Kāinga Ora.
2. Section 32AA of the RMA requires a further evaluation of the changes made to the PDP since the previous evaluation report was completed. The reasons for the recommended amendments (as required by s32(1)(b)(iii)), are set out in the appeal documentation and paragraphs 19-44 of the consent memorandum. The parties which have joined each of the appeals under section 274 of the RMA are set out in paragraph 16 of the consent memorandum (“the s274 parties”).
3. The section 32AA evaluation has been divided into the following two sections which replicate the areas of agreement between the parties:
 - (a) Matter 1 – Acoustic and vibration related provisions/maps
 - (b) Matter 2 – Rail corridor setback standard
4. For efficiency, the policy evaluation framework, which applies to both matters, is included at the end of this report from paragraph 66 onwards.

Matter 1: Acoustic and vibration related provisions/maps

5. Paragraphs 21-34 of the consent memorandum set out the proposed amendments to the PDP policies, rules, standards and maps to address concerns about the impacts of state highway and rail corridor noise and vibration, as agreed by the parties (“the agreed amendments”). The agreed amendments are analysed against the criteria in section 32AA in the following paragraphs.

New NOISE chapter rules and amendments to APP1

6. The Independent Hearings Panel (“IHP”) declined to include in the PDP Decisions Version acoustic provisions to manage the adverse health and amenity effects of noise generated by rail corridors and state highways. The reasons given for the IHP rejecting the acoustic provisions requested by NZTA and KiwiRail are set out in paragraphs 9-10 of the consent memorandum. However, the key reasoning for the IHP’s decision was that the provisions were inherently unfair to adjoining landowners who were being asked to bear the burden of mitigating the noise generated by the railway or state highway.¹
7. Both NZTA and KiwiRail appealed this decision, seeking the introduction of acoustic provisions for new or altered buildings containing sensitive activities, in proximity to rail corridors and state highways. Both appeals originally requested that these new provisions be inserted into the AINF chapter of the PDP on the basis that one complete version of the provisions in a district wide chapter was more efficient and less likely to create inconsistencies across the PDP compared to inserting the provisions into each individual zone chapter.

¹ Paraphrased from paragraph 203 of IHP Decision Report 13: Infrastructure.

8. Most of the s274 parties opposed this relief, except for NZTA and KiwiRail who supported each other's appeals, Lakeside Developments Ltd who supported KiwiRail's appeal and Meridian Energy Limited who was neutral on the relief sought.
9. In considering the position of the IHP that state highway and rail corridor acoustic provisions which impose consent obligations on landowners are inherently unfair, NZTA and KiwiRail have amended several key aspects of their requested relief to address these concerns, as detailed below.

Tailored provisions to respond to the Waikato District context

10. All parties involved in the appeal negotiations agree that there is the potential for adverse health effects resulting from road and rail noise, on the residents of neighbouring properties around state highways and rail corridors. This fact was not disputed by the IHP in their decision and the IHP even expressed a desire for *"a set of controls that are tailored to the Waikato district, with careful consideration of the actual and reasonably potential adverse noise and vibration effects on the land surrounding the network after the best practicable option has been adopted to minimise the effects at the source."*²
11. The negotiations between Council, KiwiRail, NZTA and the s274 parties with respect to this relief focused on identifying appropriate options for managing adverse health effects from state highway and rail noise in the Waikato district. This involved:
 - (a) New noise contour mapping undertaken by AECOM and utilised by NZTA to map anticipated state highway noise across all state highways in the Waikato district. This has resulted in a graduated set of noise contours (mapped on the planning maps as the State Highway Noise Control Boundary overlay) which show the highest levels of noise around State Highways 1 and 2 (capped at 100m and reducing down to 20m at some points along state highways with lower volumes of traffic). This is a more nuanced and effects-based approach to managing the effects of state highway noise on adjoining land which responds to the actual and reasonably potential adverse levels of state highway noise.
 - (b) Technical evidence provided by KiwiRail which demonstrated that the levels of noise within 100m of the rail corridor justified provisions requiring acoustic insulation. This has resulted in the introduction of the requested 100m Rail Corridor Noise Control Boundary overlay around the Northern and Eastern Main Trunk Lines.
 - (c) For the Rotowaro and Hautapu Branch lines, the parties have agreed to the introduction of a 100m Rail Corridor Noise Alert Area as opposed to a noise control boundary. Rather than placing consenting obligations on landowners to demonstrate compliance with noise standards, the alert area places existing and prospective property owners on notice of the potential presence of rail noise so that they can make informed decisions about the construction or alteration of buildings containing sensitive land uses. Whilst KiwiRail considers the effects in these areas still require management, the parties have agreed that the current and predicted level of rail noise in these locations does not justify, at this time, the introduction of provisions which impose acoustic requirements on sensitive land uses along these branch lines.
 - (d) Focusing any new noise provisions on the management of state highway noise within buildings only. NZTA has agreed that the new suite of noise provisions will not control outdoor noise, which reduces the potential consenting and mitigation burden on landowners.
 - (e) KiwiRail and NZTA's obligations under sections 16 (duty to avoid unreasonable noise) and 17 (duty to avoid, remedy or mitigate adverse effects) of the RMA. NZTA and KiwiRail are aware of and consider that they comply with these obligations. For example, NZTA is responsible for

² Decision Report 13: Infrastructure, paragraph 206

managing the noise effects from new and altered roads (largely through designation conditions) and to achieve this, they seek to internalise noise effects as far as practicable by applying NZS 6806. KiwiRail also undertakes multiple measures to manage and reduce noise from the rail corridor including: installation of rail grinding and tamping, ballast cleaning and replacement, and automated monitoring of rolling stock wheel condition. However, even with the implementation of these measures, the operation of the state highway and railway networks can result in adverse noise effects which cannot be completely internalised within the state highway and rail corridors.

12. The above amendments to the requested relief respond directly to the concerns the IHP raised, these being that the requested noise provisions were not sufficiently tailored to the Waikato context and likely impacted land where noise levels were not high enough to justify acoustic mitigation. The use of spatially mapped overlays which are targeted to the likely noise experienced from different parts of the linear transport network, ensures that the sites which bear the associated costs (e.g. cost of resource consents, noise reports, insulation) are the same sites which are most likely to experience the effects generated by the state highways and rail corridors and receive the benefits in terms of improved health and amenity within buildings.

Alternative pathways

13. The parties have agreed to insert two new rules into the NOISE chapter of the PDP, which provide multiple permitted pathways for landowners seeking to construct new buildings or alter existing buildings containing sensitive land uses within a State Highway or Rail Corridor Noise Control Boundary. The rules give landowners options to avoid the need for a resource consent and/or the engagement of an acoustic expert. The rationale for this was to make the imposition of acoustic insulation requirements fairer to adjacent landowners and more targeted to those receivers which are most at risk from the adverse effects of noise exposure.
14. New NOISE-R44 relates to the construction of a new building containing a sensitive land use and includes a new permitted activity rule, a restricted discretionary activity rule, activity-specific standards and matters of discretion. The existing PDP definition of “sensitive land use” is used in NOISE-R44.
15. Activities captured by NOISE- R44 have four pathways to achieve compliance with the permitted activity rule:
 - (a) The space is designed, constructed and maintained to achieve the specified indoor design noise levels in Table 28 of Appendix 1 – Acoustic insulation (“APP1”).
 - (b) The space is designed, constructed and maintained in accordance with the construction schedule contained in Table 29 of APP1 and meets the ventilation requirements of Section 8.1(2) of APP1.
 - (c) An appropriately qualified and experienced acoustic specialist demonstrates, by prediction or measurement, that the noise at all exterior façades is no more than 15 dB above the indoor design noise levels.
 - (d) The nearest exterior façade of the building is at least 50m from the formed state highway carriageway or railway track, and a solid building, fence, wall or landform blocks line of sight from all windows and doors to the formed state highway carriageway or 3.8m directly above the railway track.
16. New NOISE-R45 relates to alterations, additions or change in use of an existing building to add or increase a sensitive land use within a State Highway or Rail Corridor Noise Control Boundary. New NOISE-R45

includes a new permitted activity rule, a restricted discretionary activity rule, activity-specific standards and matters of discretion. The existing PDP definition of “sensitive land use” is again used in NOISE-R45.

17. Activities captured by NOISE-R45 have similar pathways to compliance with the permitted activity rule as in NOISE-R44, with two additional compliance pathways:
 - (a) Where the alteration, addition or change does not increase the gross floor area of a sensitive land use activity.
 - (b) For internal alterations to residential units, does not increase the gross floor area of the sensitive land use activity by more than 5m² within each 10 year period.
18. These additional compliance pathways enable re-allocation of space between existing habitable rooms (such as partitioning or combining of existing bedrooms), and modest conversion of non-habitable space to habitable space (such as incorporation of a hallway or linen cupboard into an adjacent bedroom). While these pathways improve the function of a residential unit at minimal cost, they also ensure that the conversion of larger non-habitable spaces into habitable space (such as conversion of attached garaging into additional bedrooms), provides appropriate sound insulation.
19. It is noted that the interpretation of new NOISE-R44 and NOISE-R45 relies on new technical standards which are proposed to be inserted into APP1 of the PDP. These technical standards contain:
 - (a) the maximum indoor design noise levels for state highway and rail corridor noise (Clause 8.1(1) and new Table 28);
 - (b) some assumptions for measuring baseline state highway and rail corridor noise (Clauses 8.1(2) and (3));
 - (c) an alternative construction schedule for controlling noise in State Highway and Railway Noise Effects Areas in addition to the requirements of the New Zealand Building Code (Table 29); and
 - (d) mechanical ventilation requirements for when windows must be closed to achieve indoor design noise levels (Clauses 8.1(4) and (5)).
20. These technical standards have been developed collaboratively by acoustic and mechanical ventilation experts provided by Council, NZTA, KiwiRail and Kāinga Ora Homes and Communities (“Kāinga Ora”³).
21. The above package of amendments to the NOISE chapter rules and APP1 provides more options to landowners to achieve permitted activity status compared to the relief originally requested by KiwiRail and NZTA.

Amendments to All Infrastructure (AINF) Chapter – Policy 27

22. The IHP included in the PDP Decisions Version a policy (AINF-P27) which recognised the need for the protection of transport infrastructure from reverse sensitivity effects. However, the IHP did not include any reference in AINF-P27 to the health effects on adjoining residents resulting from rail corridor and state highway noise and did not include a reference to design controls, as requested by NZTA and KiwiRail in their submissions.

³ Kāinga Ora was the only s274 party to engage acoustic, vibration and mechanical ventilation experts to assist with technical negotiations on noise and vibration provisions. All other s274 parties were provided with opportunities to engage in the negotiations and provide feedback but were not directly involved in provision drafting or technical negotiations between experts.

PDP (Decisions Version) text:	
AINF-P27 Land Transport Network	<p>(1) Avoid, remedy or mitigate effects of subdivision, use and development that would compromise:</p> <ul style="list-style-type: none"> (a) The road function, as specified in the road hierarchy; (b) The access by emergency services and their vehicles; and (c) The safety and efficiency, including the maintenance, upgrading, development and operation of the land transport network. <p>(2) Minimise reverse sensitivity effects on the land transport network through setbacks for noise sensitive activities established in proximity to existing transport corridors.</p>

23. In its appeal, KiwiRail sought that AINF-P27 be amended to include reference to design controls for sensitive land uses to manage reverse sensitivity effects and adverse health and amenity effects on occupants of sensitive land uses. NZTA's appeal also requested amendments to AINF-P27 to make it clear that reverse sensitivity effects include the potential adverse health and amenity effects from existing state highway noise on the occupants of new buildings containing sensitive land uses. Lakeside Development Ltd supported KiwiRail's proposed amendments to AINF-P27 as a s274 party, however a range of other s274 parties⁴ opposed the changes as part of a broader opposition to any further restrictions on land adjacent to the rail corridor and state highways.
24. The following amendment to AINF-P27 was developed by Council, NZTA, KiwiRail and Kāinga Ora as a s274 party to both appeals. Given that the parties have agreed to introduce new provisions to manage the effects of noise from rail corridors and the state highway on adjacent land (as explained in paragraph 5-21 of this report), all parties agreed that it is important that there is policy level support for the new provisions, being the addition of new NOISE chapter rules, amendments to APP1 and associated mapping of Noise Control Boundary overlays for both state highways and rail corridors. The replacement of the word 'and' with 'or' in AINF-P27(1)(b) is to fix a drafting error. The adoption of the proposed amendments to AINF-P27 resolves the appeal point for both NZTA and KiwiRail, and all s274 parties with an interest in this part of the two appeals have agreed to the amendments.

Agreed amendment	
AINF-P27 Land Transport Network	<p>(1) Avoid, remedy or mitigate effects of subdivision, use and development that would compromise:</p> <ul style="list-style-type: none"> (a) The road function, as specified in the road hierarchy; (b) The access by emergency services and their vehicles; and <u>or</u>

⁴ Kāinga Ora (opposed KiwiRail and NZTA), Federated Farmers, Murray Fullerton, Steven and Teresa Hopkins and Perry Group (opposed NZTA only).

	<p>(c) The safety and efficiency, including the maintenance, upgrading, development and operation of the land transport network.</p> <p>(2) Minimise reverse sensitivity effects on the land transport network <u>and effects on indoor amenity and health for sensitive land uses through setbacks for noise sensitive activities</u> established in proximity to existing transport corridors <u>by mapping potentially affected areas and introducing design controls.</u>'</p>
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Section 32AA evaluation (noise)

25. The Council's evaluation of the agreed amendments with respect to noise (amendments to AINF-P27, introduction of NOISE-R44 and NOISE-R45, amendments to APP1 and the introduction of the State Highway and Rail Corridor Noise Control Boundary overlays on the planning maps) against the criteria in section 32AA of the RMA is provided below.

Effectiveness and efficiency

26. The amendments to AINF-P27 are effective and efficient because they clarify that the intention of the policy is to minimise effects on indoor amenity and health and reverse sensitivity effects, and that the mechanism to achieve this policy includes mapping and design controls.
27. Inclusion of the new acoustic provisions (NOISE-R44 and NOISE-R45, supported by new technical standards in APP1 and the noise control boundary mapping) will support an efficient outcome as the provisions address health and amenity effects and minimise reverse sensitivity effects which, if not addressed, could lead to the inefficient operation of nationally significant infrastructure. This in turn gives effect to Objective AINF-O2 of the PDP, which requires that infrastructure is protected from reverse sensitivity effects, and its construction, operation, maintenance, repair, replacement and upgrading is not compromised.
28. As set out above, the activities captured by NOISE-R44 (being new buildings containing sensitive land uses) have four pathways to comply with the permitted activity rule. The activities captured by NOISE-R45 have the same pathways plus an additional two pathways to recognise that minor changes to existing buildings do not always increase the risk of adverse health and amenity effects for users of those buildings, and that the rules should be targeting alterations of buildings that do increase those risks.
29. The parties have agreed that where compliance is not achieved via the permitted activity pathways, a restricted discretionary activity consent is required, with the matters of discretion appropriately focussing the resource consent application on the relevant effects and potential site-specific responses.
30. Acoustic provisions with multiple permitted activity pathways, as proposed, are more efficient and effective than more limited pathways (the more restrictive alternative) or leaving the effects entirely unmanaged (the more permissive alternative).

Costs and benefits

31. The proposed amendment to AINF-P27 will provide greater clarity to plan users. There is no additional cost associated with this amendment as it merely provides policy level support for the new NOISE provisions.

32. The inclusion of the new acoustic provisions (NOISE-R44 and NOISE-R45, supported by new technical standards in APP1 and the noise control boundary mapping) will require additional assessments for some buildings and activities in some locations, and the costs associated with this. Construction costs associated with the new provisions potentially involve installing upgraded glazing, mechanical ventilation, and other mitigation features. It is noted however that the proposed performance standards are not set at idealistic stringent levels which would prevent *all* adverse noise effects. Instead, they are set at pragmatic reasonable levels designed to avoid the worst noise effects which could have the biggest impact on human health and amenity.
33. Section 32(2)(b) of the RMA provides that the quantification of costs and benefits of amendments are only required "if practicable". In this instance, it is difficult to provide reliable generalised estimates of the costs because they are context specific. At best, a range of percentage costs can be provided based on different factors/scenarios. For example, the nature and cost of mitigation works will differ with the distance from the rail and state highway network. Further, the extent of mitigation required can be dependent on localised factors such as topography and whether there are buildings or other structures providing a screening effect in between the building and the state highway/rail corridor. Other factors to consider include:
- (a) A landowner may choose to take a practical approach when designing a building to locate only those ancillary spaces not subject to the controls (such as garages and bathrooms) on the side of the building facing the state highway or rail corridor. This may reduce or completely avoid the need for mitigation measures.
 - (b) The true additional cost of complying with these provisions will also depend on the extent to which such measures would have been included in the building design anyway - either due to building code requirements and / or because the landowner voluntarily chose to adopt them (e.g. the installation of a heat pump).
34. There is the potential for these costs to be offset by potential energy savings over time, particularly with respect to the mechanical ventilation standards and the construction schedule (if used). The costs may be capitalised in the value of the property, given the increased amenity provided by incurring the costs. All other things being equal, houses with double glazing and / or heat pumps are generally worth more than those without. Thus, while this option imposes upfront costs on homeowners, these may not be lost and could be considered as investments in the quality and future marketability of the property.
35. The benefits of the new acoustic provisions are improved health and amenity for occupants and reduced risk of reverse sensitivity effects. The acoustic provisions will enable greater certainty for landowners as to their ability to live and work free from potential health and amenity impacts when their buildings are located in close proximity to transport infrastructure.

Risk of acting or not acting

36. With respect to AINF-P27, there is a risk in not acting in that the current policy wording does not provide sufficient policy level support for the new rules governing sensitive land uses near rail corridors and state highways. If the acoustic provisions are inserted into the PDP but AINF-P27 is not amended, this could create confusion for plan users when attempting to assess an application for an infringement of NOISE-R44 or NOISE-R45 against the relevant policy framework.
37. For the new acoustic provisions (NOISE-R44 and NOISE-R45, supported by new technical standards in APP1 and the noise control boundary mapping), the risk of not acting involves the potential for health, amenity and reverse sensitivity effects occurring. This is not considered to be a situation where there is uncertain or insufficient information such that the risk of acting or not acting needs to be evaluated in detail. The location of the state highway and rail corridors, and the adverse effects of road and rail noise with respect to noise sensitive activities, are well understood.

Decision about most appropriate option

38. The agreed amendment with respect to AINF-P27 is considered to be the most appropriate option as it will provide for the health and amenity of the community and minimise reverse sensitivity effects on the land transport network.
39. The proposed acoustic provisions are considered to be appropriate in achieving the purpose of the RMA, in particular enabling people and communities to provide for their health and safety, and to avoid, remedy or mitigate effects on the environment, including reverse sensitivity effects.
40. For the Rotowaro and Hautapu branch lines that have lower volumes of trains compared to the main trunk lines, it is considered more appropriate at this stage to manage noise effects through a Rail Corridor Noise Alert Area overlay, which signals that higher levels of noise from the rail corridor may be experienced in this location. This is as opposed to imposing sound insulation requirements on landowners (the more restrictive alternative) or leaving the effects entirely unaddressed (the more permissive alternative). It is noted that the section 32AA analysis for the introduction of the Rail Corridor Noise Alert Area overlay is equally applicable as that for the introduction of the other alert layer (the Rail Vibration Alert layer), discussed in the following paragraphs.

Introduction of a Rail Vibration Alert layer

41. NZTA and KiwiRail sought to introduce into the PDP vibration effects areas for both state highways and rail corridors. Following the filing of the appeals and after discussions between the parties, NZTA has advised that it no longer seeks the inclusion of vibration controls (NZTA has advised that this is based on a policy position; not on whether vibration is an effect) however KiwiRail continue to consider that vibration controls for the rail corridor are appropriate, having regard to the technical evidence. Kāinga Ora does not consider vibration controls for either the road or rail corridor are appropriate, based on the technical evidence provided.
42. While KiwiRail considers that vibration effects in rail corridor areas still require management, given the practicalities of implementing vibration controls, KiwiRail has advised they are prepared to accept the inclusion of a rail vibration "alert layer" in the PDP as alternative relief. Council, KiwiRail and Kāinga Ora have therefore agreed to amend the planning maps to introduce a Rail Corridor Vibration Alert Area, applying 60m from the designation boundary of the rail corridor. This includes both the Northern and Eastern Main Trunk Lines and the Rotowaro and Hautapu branch lines.

Section 32AA analysis (vibration)

43. The Council's evaluation of the agreed amendment with respect to vibration (being the insertion of the Rail Corridor Vibration Alert Area information layer on the planning maps) against the criteria in section 32AA of the RMA is provided below. Note that this analysis is equally applicable to the introduction of the other alert layer, the Rail Corridor Noise Alert Area, which is being applied to the Rotowaro and Hautapu branch lines as discussed in paragraph 11(c) of this report.
44. The benefit of using an alert area layer is that it places existing and prospective property owners on notice about the potential presence of effects. This allows them to make informed decisions about the construction or alteration of buildings containing sensitive land uses, without imposing consenting obligations on them to demonstrate compliance with technical standards.
45. Using alert area layers to manage potential adverse effects generated by the rail corridor will be more efficient and effective at balancing the infrastructure and health and amenity considerations resulting from development compared to other alternatives (for example, no provisions or information layers at all). Alert area layers are an efficient and effective mechanism to provide valuable information to current and prospective owners to allow them to elect to manage the effects they may experience themselves.

There are no rules or other PDP provisions associated with the alert layers and therefore no costs arising from their inclusion in the PDP.

46. The risk of not acting is that existing and prospective property owners may not be put on notice of the potential presence of vibration effects (and noise effects in the case of the Rotowaro and Hautapu branch lines) and therefore will not be making an informed decision around construction and location of buildings in proximity to the rail corridor. The risk of acting is minimal as the alert layers are for information purposes only and do not impose any resource consenting or other requirements on landowners.
47. It is considered appropriate to manage the vibration effects (and noise effects in the case of the Rotowaro and Hautapu branch lines) through an alert layer that signals that higher levels of vibration (and noise) may be experienced in this location. This is as opposed to imposing vibration isolation (or noise control) requirements on landowners (the more restrictive alternative) or leaving the effects entirely unaddressed (the more permissive alternative).

Matter 2 – Rail Corridor setback standards

48. KiwiRail sought to amend the various zone chapters in the PDP, which the rail corridor traverses, to require all new buildings and structures, and alterations to existing buildings or structures, to be set back a minimum of 5m from the boundary of the rail corridor. It is noted that the PDP Decisions Version included 5m setbacks in the Settlement Zone and Large Lot Residential Zone; 5m setbacks for buildings containing sensitive land uses in the General Residential Zone, General Rural Zone and the Rural Lifestyle Zone; and no setback for the remaining zones adjacent to the rail corridor. These setbacks appear to have been retained in the absence of any rules to manage noise and vibration in the PDP. The IHP considered that setbacks would provide "some degree of protection" against reverse sensitivity effects for regionally significant transport infrastructure.
49. However, the intent of the requested setback, as set out in the KiwiRail appeal, is to manage the interface between operations within the railway corridor and activities that may occur near the boundary of adjoining land, and to ensure the safe and efficient operation of the rail corridor. The setback is intended to reduce the risk of health and safety issues caused by people entering the rail corridor because they do not have enough space on their own properties to undertake common activities such as maintenance of buildings.
50. The rail corridor is regularly used by heavy freight trains that need space free from obstructions to operate safely and efficiently. KiwiRail's submission sought a setback control to ensure there is sufficient space for people to safely conduct their activities within their own land, whilst minimising the potential interference with the railway corridor. If sufficient space on private land is not provided for certain activities particularly for repairs and maintenance, the only option to complete these activities is for people to encroach (unlawfully) onto the rail corridor, which could result in potentially significant adverse consequences.
51. KiwiRail considers that a setback of 5m is required to ensure a safe distance for repairs and other maintenance activities being carried out on buildings and structures adjacent to the railway corridor. Kāinga Ora considers that the relevant zone setback is sufficient for these activities to be undertaken. However, in the context of the Waikato district, KiwiRail, Kāinga Ora and Council have agreed to a setback from the railway corridor designation boundary of 2.5m for residential zones and 3m for all other zones that are traversed by or adjoin a railway corridor designation. The difference in setback distances between these zones is based on the typical heights and typologies of buildings within commercial and industrial zones vs those in residential zones (i.e. buildings in commercial and industrial zones are typically taller, and have a typology of form such as tilt slab design that places this height closer to boundaries and which is harder to maintain and requires more space). With respect to rural zones, the

greater setback is based on the additional space that landowners have within which to place any buildings, given the larger lot sizes of these zones.

52. The setback standards include a new permitted activity rule, a restricted discretionary activity rule and associated matters of discretion. Certain structures that are appropriate within the setback area, as they do not generally require substantial space for maintenance activities such as fences, poles, aerials, are exempted from the setback standard. Retaining walls are also exempted from the setback standard but are required to be setback 1.5m from the railway corridor to ensure that the railway corridor is not affected by earthworks.
53. The agreed matters of discretion for the setback provisions have been further refined compared to the relief originally sought in KiwiRail's appeal to focus on the location, size and design of the building as they relate to the ability to safely use, access and maintain buildings without requiring access on, above or over the rail corridor.

Section 32AA evaluation (setbacks)

54. The Council's evaluation of the agreed amendments with respect to the insertion of the new setback standards for buildings and structures in proximity to the rail corridor into the relevant zone chapters against the criteria in section 32AA of the RMA is provided below.

Effectiveness and efficiency

55. The Council considers the proposed setbacks will be more efficient and effective than designating a wider corridor to provide a safety buffer as they provide flexibility for landowners to use the areas of their land within the setback through the resource consent process. This will allow for situations where building within the setback is acceptable.
56. The proposed setbacks are also preferable to the alternative option of providing no setbacks in the PDP. Allowing buildings and larger structures to be built very close or hard up to the designated rail corridor boundary will not support an efficient outcome in terms of the rail network. Incursions related to landowners unlawfully accessing the rail corridor to undertake activities such as building repairs and maintenance can lead to disruption to, and the inefficient operation of, the rail network, as well as safety concerns for people entering the railway corridor.
57. The railway corridor is identified as regionally significant infrastructure in both the Waikato Regional Policy Statement ("WRPS") and the PDP. As such, it is important to ensure that rail infrastructure can continue to operate in a safe, efficient and effective manner. In considering the most appropriate method of achieving this outcome, the parties identified three options:
 - (a) **Option 1 (status quo)** – No specified building setbacks from railway corridor boundaries are contained within the PDP (except for those in the decisions version of the PDP relating to buildings containing sensitive activities). Any setbacks applying to all buildings and structures would be dependent on the underlying zone setback rules.
 - (b) **Option 2 (the relief sought in KiwiRail's appeal)** – A district wide "blanket" 5m building setback from the railway corridor boundary for all buildings and structures.
 - (c) **Option 3 (the agreed provisions)** – A 2.5m building setback from the railway corridor in residential zone and a 3m building setback from the railway corridor in the non-residential zone, with specific exemptions for certain structures that are appropriate within the setback.

58. Option 3 is considered to be the most efficient and effective option in the context of the Waikato district for the following reasons:
- (a) Providing for a railway corridor setback better protects the safe, efficient and effective operation of rail infrastructure, as per the relevant objectives and policies in the WRPS and the PDP, compared to the alternative of no specified building setbacks, as well as providing for the health and safety of people operating adjacent to the railway corridor..
 - (b) Reducing the setback distance from 5m (as sought in KiwiRail's appeal) to 2.5m and 3m reduces the costs on landowners and provides more flexibility for them to use more of their land whilst still providing for safe access and maintenance purposes (including space for ladders and scaffolding).
59. The proposed exemptions from the setback standards for fences, aerials and poles as well as the lesser setback for retaining walls means the setback standards are efficient and effective in only applying to those structures for which a setback control is appropriate. These types of structures generally do not require setbacks for access or maintenance purposes, and requiring setbacks for these structures could lead to inefficient use of space and/or the need for landowners to obtain unnecessary resource consents.
60. The proposed standards give effect to objective AINF-02 of the PDP, which requires that the construction, operation, maintenance, repair, replacement and upgrading of infrastructure not be compromised. They also give effect to WRPS objective UFD-01 which requires that development and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes.

Costs and benefits

61. The benefits of the insertion of the rail corridor setback standards into the PDP include providing a safer and more efficient rail network and reducing the potential costs incurred by railway operations regarding obstructions within the railway corridor. The proposed setback standards will also enable greater certainty around the provision of a safe environment for owners and occupiers to undertake maintenance activities on their properties.
62. While the setback standards may limit buildings and structures in some locations (with associated costs), this will depend on the topography of the site, design of the building/structure, other requirements (for example height in relation to boundary standard), amenity and geotechnical constraints. The cost of the proposed setback provisions are not unreasonable nor disproportionate as landowners can still develop their land within the setback through the resource consent process.
63. It is considered that the potential costs of allowing landowners to build up to, or very close to, the boundary of the rail corridor (namely the risk to safety arising from inadvertent conflict between persons and trains, risks to the efficient operation of the rail network and the need to use the permit to enter system to access the rail corridor for maintenance activities); are greater than the costs imposed on landowners relating to restrictions on the use of their land.

Risk of acting or not acting

64. This is not considered to be a situation where there is uncertain or insufficient information such that the risk of acting or not acting needs to be evaluated, as the location of and safety requirements for the railway corridor are well understood. However, it is noted that not acting would potentially increase risks to public safety and network efficiency and may also result in an inefficient operation of nationally significant infrastructure due to unexpected shutdowns.

Decision about most appropriate option

65. The proposed setback standards are considered to be an appropriate option as they enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety, while at the same time avoiding, remedying or mitigating adverse effects on nationally significant infrastructure.

Policy framework evaluation (for Matters 1 and 2):

National Policy Statement on Urban Development 2020

66. The National Policy Statement on Urban Development 2020 ("NPS-UD") is relevant to the resolution of the NZTA and KiwiRail appeals as the Council is a "tier 1" local authority under the NPS-UD. Decisions on plan provisions that may impact urban environments should consider whether they will compromise the ability of local authorities to give effect to the NPS-UD. The agreed amendments to the PDP to resolve these appeals will have an impact on proposals to develop urban environments near the land transport network in the Waikato district.
67. Objective 1 of the NPS-UD provides:
- Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.*
68. The agreed amendments to the PDP for Matters 1 and 2, as discussed above, manage state highway and rail corridor noise effects on sensitive activities within new and altered buildings close to the land transport network. In addition to this, they also alert adjacent landowners that they may experience some rail vibration effects (and rail noise effects in the case of the Rotowaro and Hautapu branch lines) near rail corridors. The agreed amendments assist Council to give effect to the NPS-UD as development to achieve a well-functioning urban environment. The agreed amendments will ensure that new and altered buildings near the land transport network are constructed in a manner that allows people to provide for their health, safety and amenity with respect to potential noise and vibration effects.

Regional Policy Statement

69. State highways and railway corridors are recognised as regionally significant infrastructure in the WRPS. Relevant objectives, policies and methods in the WRPS are as follows:
- (a) **UFD-01**
- Development of the built environment (including transport and other infrastructure) and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes including by:*
- [...]
- 3. integrating land use and infrastructure planning, including by ensuring that development of the built environment does not compromise the safe, efficient and effective operation of infrastructure corridors;*
- [...]

5. recognising and protecting the value and long-term benefits of regionally significant infrastructure;

[...]

7. minimising land use conflicts, including minimising potential for reverse sensitivity

(b) **UFD-P2 – Co-ordinating growth and infrastructure**

Management of the built environment ensures:

1. the nature, timing and sequencing of new development is co-ordinated with the development, funding, implementation and operation of transport and other infrastructure, in order to:

a. optimise the efficient and affordable provision of both the development and the infrastructure;

b. maintain or enhance the operational effectiveness, viability and safety of existing and planned infrastructure;

c. protect investment in existing infrastructure; and

...

3. the efficient and effective functioning of infrastructure, including transport corridors, is maintained, and the ability to maintain and upgrade that infrastructure is retained; and

(c) **EIT-P1 – Significant infrastructure and energy resources**

Management of the built environment ensures particular regard is given to:

1. that the effectiveness and efficiency of existing and planned regionally significant infrastructure is protected;

...

(d) **EIT-M1 – Plan provisions**

Regional and district plans shall include provisions that give effect to EIT-P1, and in particular, that management of the built environment:

1. avoids, as far as practicable, adverse effects on the function of significant transport corridors as defined in Maps 25 and 26, and otherwise remedies or mitigates any adverse effects that cannot be practicably be avoided;

(e) **EIT-M5 – Measures to avoid adverse effects**

Local authorities should ensure that appropriate measures are implemented to avoid adverse effects of development of the built environment on the safe, efficient and effective operation of regionally significant infrastructure.

(f) **UFD-M2 – Reverse sensitivity**

Local authorities should have particular regard to the potential for reverse sensitivity when assessing resource consent applications, preparing, reviewing or changing district or regional plans and development planning mechanisms such as structure plans and growth strategies. In particular, consideration should be given to discouraging new sensitive activities, locating near existing and planned land uses or activities that could be subject to effects including the discharge of substances, odour, smoke, noise, light spill, or dust which could affect the health of people and / or lower the amenity values of the surrounding area.

70. The agreed amendments to the PDP for Matters 1 and 2 give effect to the WRPS as follows:

- (a) The regionally significant infrastructure objectives, policies and methods are given effect to by recognising the benefits of the state highway and railway networks and managing effects from traffic using those networks.
- (b) The objectives, policies and methods regarding reverse sensitivity are given effect to by the identification of those areas (and inclusion of acoustic design controls) where state highway and rail noise effects on sensitive activities (within new and altered buildings) may occur, and rail vibration may be experienced by landowners. This will assist to manage reverse sensitivity effects on regionally significant infrastructure.
- (c) The objectives, policies and methods relating to avoiding adverse effects on the safe, efficient and effective operation of the rail network as regionally significant infrastructure are given effect to through the provision of a setback from the rail corridor for buildings and structures to manage health and safety effects.

PDP Objectives and Policies

71. The objectives and policies with respect to reverse sensitivity are located in the Strategic Direction and All Infrastructure (AINF) chapters of the PDP. The relevant objectives and policies are as follows:

- (a) **SD-O7** - *Recognise the importance of regionally significant infrastructure and regionally significant industry.*
- (b) **SD-O10** - *Existing activities are protected from reverse sensitivity effects.*
- (c) **AINF-O2** - *Infrastructure is protected from reverse sensitivity effects, and its construction, operation, maintenance, repair, replacement and upgrading is not compromised.*
- (d) **Policy AINF-P3**

(1) Have regard to the benefits that infrastructure provides, including:

- (a) Enabling enhancement of the quality of life and residential standard for people and communities;*
- (b) Providing for public health and safety;*
- (c) Enabling the functioning of business and growth and development;*
- (d) Managing adverse effects on the environment;*

(e) Enabling the transportation of freight, goods and people;

(f) Enabling interaction and communication; and

(g) Providing for lifeline utility services.

(2) Have particular regard to the benefits that the use and development of renewable energy provide.

(e) Policy AINF-P6

Require the development, operation, maintenance, repair, replacement, upgrading and removal of infrastructure and its associated structures to avoid, remedy or mitigate adverse effects on the environment, community health, safety and amenity.

(f) Policy AINF-P27⁵

(1) Avoid, remedy or mitigate effects of subdivision, use and development that would compromise:

(a) The road function, as specified in the road hierarchy;

(b) The access by emergency services and their vehicles; and

(c) The safety and efficiency, including the maintenance, upgrading, development and operation of the land transport network.

(2) Minimise reverse sensitivity effects on the land transport network and effects on indoor amenity and health for sensitive land uses through setbacks for noise sensitive activities established in proximity to existing transport corridors by mapping potentially affected areas and introducing design controls.

72. The agreed amendments to the PDP for Matters 1 and 2 give effect to the above PDP objectives and policies as follows:

- (a) The objectives and policies with respect to reverse sensitivity, health, safety and amenity are given effect to as the agreed amendments identify those areas (and include acoustic design controls) where state highway and rail noise effects on sensitive activities within new and altered buildings may occur, and rail vibration may be experienced by landowners. This will assist to manage reverse sensitivity effects on regionally significant infrastructure.
- (b) The objectives and policies with respect to avoiding, remedying or mitigating adverse effects on community, health, safety and amenity, and avoiding, remedying or mitigating the safe and efficient operation of the rail network as a land transport network are given effect to through the provision of a setback for buildings and structures from the rail corridor. The rail corridor setback standard will reduce the likelihood of activities occurring on land adjacent to the rail corridor (like maintenance and repair) resulting in an incursion affecting the rail corridor, as there will be sufficient space provided for these activities on private property. This will both protect landowners from a safety perspective by ensuring there is enough space to work around buildings and structures without accessing the rail corridor and allow for the continued safe and efficient operation of the rail network by keeping it clear of obstructions.

⁵ Amendments to this policy are those agreed to by the parties involved in the NZTA and KiwiRail appeals.

National Planning Standards

NOISE Chapter

73. The purpose of the National Planning Standards ("Standards") is to ensure council plans and policy statements are easier to prepare, understand and comply with. The Standards do this by improving the consistency of the format and content of plans, including providing direction on the location of where rules should be located within a plan.

74. KiwiRail's appeal sought that the proposed noise and vibration provisions be included in the AINF chapter of the PDP Decisions Version, or alternatively, be included in the relevant zone chapters. Direction 7 – District Wide Matters of the Standards provides, as a mandatory direction, that:

33. If provisions for managing noise are addressed, they must be located in the Noise chapter.

These provisions may include:

...

c. sound insulation requirements for sensitive activities and limits to the location of those activities relative to noise generating activities.

75. The parties have therefore agreed that the new noise and vibration provisions should be located in the NOISE chapter of the PDP Decisions Version, in order to comply with the direction in the Standards. As the AINF and NOISE chapters are both district wide chapters, the parties are satisfied that there is no difference in effect in terms of which chapter the provisions are inserted into and no issue as to scope with respect to the relief sought in KiwiRail's appeal.

Overlays

76. Direction 12 – District Spatial Layers Standard of the Standards provides the following definition of 'overlay':

An overlay spatially identifies distinctive values, risks or other factors which require management in a different manner from underlying zone provisions.

77. Under the Standards, "provisions" introduced by the spatial layer must be located in the appropriate district wide chapter.

78. The Standards define "provisions" as:⁶

All content in a policy statement or plan, including but not limited to background content, issues, objectives, policies, methods, rules, and anticipated environmental results.

79. The agreed amendments include both rules and non-rule methods (i.e. mapping, advice notes, compliance standards).⁷ The agreed spatial mapping includes:

- (a) Throughout the Waikato district, mapping a State Highway Noise Control Boundary overlay within the modelled 53dB noise contour (and up to a maximum of 100m) from the painted edge of the state highway carriageway.

⁶ Standards direction 1 – Foundation Standard - Interpretation

⁷ RMA s75(1)(c) and (2)(b)

- (b) Throughout the Waikato district, mapping a Rail Corridor Noise Control Boundary overlay 100m from the designated boundary of the rail corridor.
 - (c) On the Hautapu and Rotowaro Branch Lines only, mapping a Rail Corridor Noise Alert Area overlay 100m from the designated boundary of the rail corridor.
 - (d) Throughout the Waikato district, mapping a Rail Corridor Vibration Alert Area overlay within 60m from the designated boundary of the rail corridor.
80. The use of a mapped overlay for management of noise effects ensures that the associated overlay rules apply to locations and sites which may be subject to a level of noise which could cause adverse effects. The use of a mapped overlay also ensures that the sites which bear the costs (e.g. the cost of applying for resource consents, commissioning noise reports and insulating dwellings) are the sites which experience the effects generated by the road and rail corridors and receive the benefits of the overlay in terms of securing improved health and amenity within buildings. This is considered to be an appropriate use of an overlay which is consistent with direction 12 – District Plan Spatial Layers Standard in the Standards.

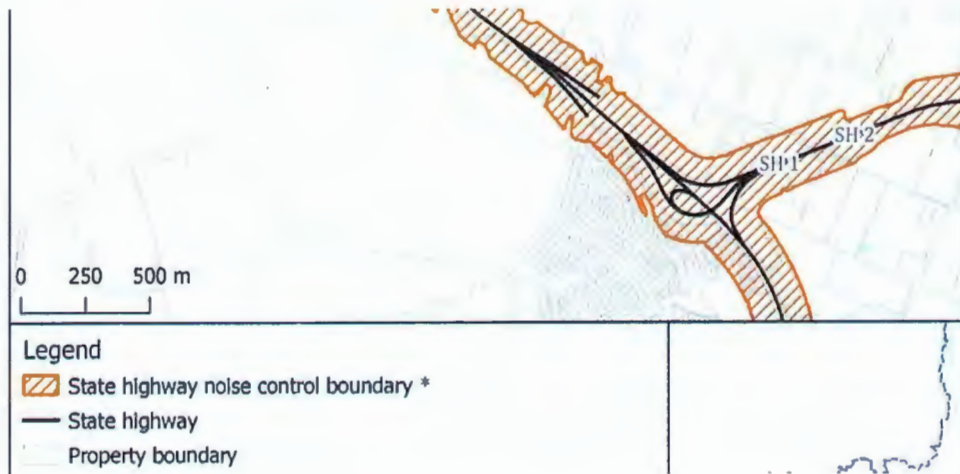
Mapping standard

81. Mandatory direction 13 - Mapping Standards directs that a plan must use the symbols in Table 20 of the Standards wherever the maps display the features listed in that table and, if required, the symbols may be labelled on the maps.
82. Table 20 - Symbol of the Standards includes a symbol for a noise control boundary overlay:

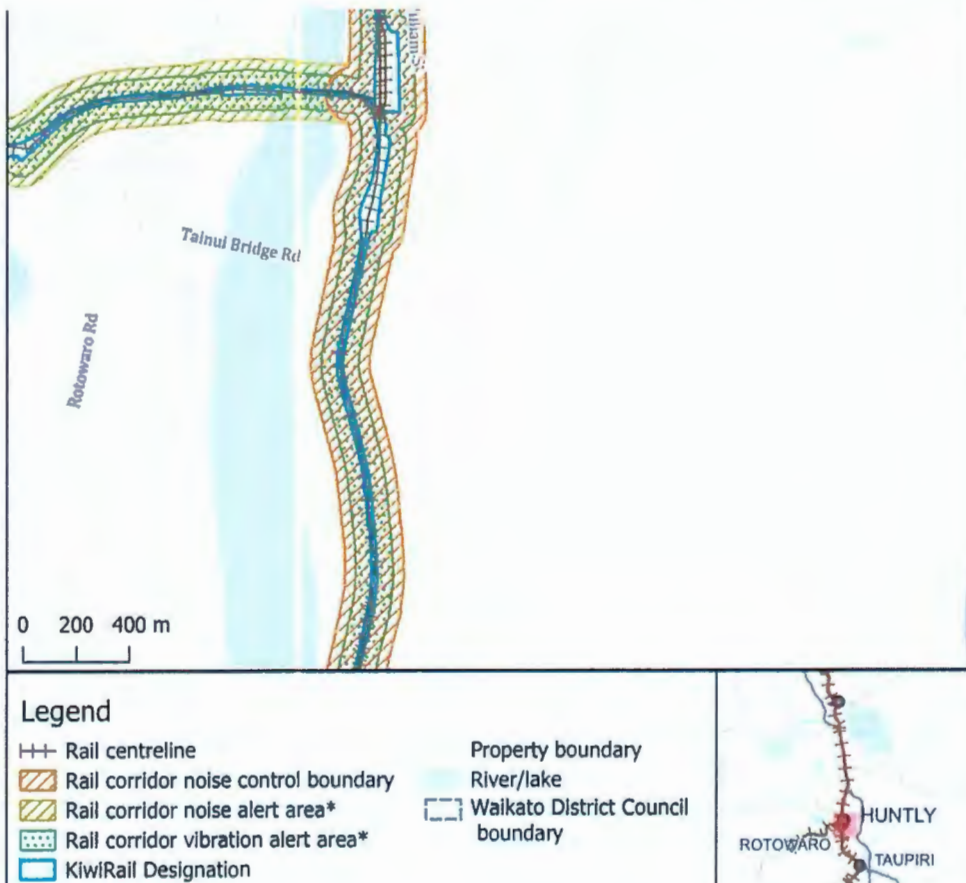
Noise control boundary overlay		Polygon Fill: None Angle: 45.00 Line width: 1 pts	Line separation: 5 pts RGB 245, 130, 33 Outline width: 2 pts
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83. The agreed State Highway and Rail Corridor Noise Control Boundary overlays introduced into the PDP have been mapped by Council using the above symbology mandated in the Standards, with the addition of labels to differentiate between the two different overlays.
84. It is noted that the proposed Rail Corridor Noise Alert Area and Rail Corridor Vibration Alert Area overlays are information layers only as opposed to noise control boundaries, and therefore do not fall within the mandatory mapping symbols in Table 20. These overlays have been mapped by Council using labels to differentiate between the two overlays.

85. A sample map showing the State Highway Noise Control Boundary overlay is included below:



86. A sample map showing the Rail Corridor Noise Control Boundary, Rail Corridor Noise Alert Area and Rail Corridor Vibration Alert Area overlays applying to the Rail Corridor is included below:



87. When the planning maps are viewed via Council's online mapping system, the four proposed overlays (State Highway and Rail Corridor Noise Control Boundaries, Rail Corridor Noise Alert Area and Rail Corridor Vibration Alert Area) will be able to be turned on and off as separate layers to assist plan users with their application. Once the draft consent order is confirmed by the Court, the new state highway and rail corridor overlays will 'go live' on the Council planning maps and the notations will be the same as shown on the sample maps above.

Setback provisions for rail

88. The parties have agreed to insert into the PDP permitted activity standards requiring buildings and structures to be setback from the designated boundary of the railway corridor (3m in non-residential zones and 2.5m in residential zones). The parties agree that the most appropriate location for the new setback provisions are the relevant zone chapters, given that setbacks which manage health and safety issues around the rail corridor do not fall within the mandated content of the Energy, infrastructure and transport chapter under direction 7 of the Standards.⁸

⁸ The rail corridor setback is not a statement about the status of transport corridors, a noise related metric or noise measurement method or for the purpose of managing reverse sensitivity effects, therefore it should be located in the relevant zone chapters as opposed to under the Energy, infrastructure and transport section of the PDP.