

AUCKLAND UNITARY PLAN
INDEPENDENT HEARINGS PANEL

Te Paepae Kaiwawao Motuhake o te Mahere Kotahitanga o Tāmaki Makaurau

Report to Auckland Council
Hearing topic 074 Designations

Chorus New Zealand Ltd

Designations 2623-2631

May 2016

Report first prepared by Harry Bhana in accordance with the Auckland Unitary Plan Independent Hearing Panel procedure and in accordance with section 142 of the Local Government (Auckland Transitional Provisions) Act 2010, on 9 September 2015 updated and amended on 4 October 2015.

Adopted as Auckland Unitary Plan Independent Hearings Panel recommendations in accordance with the Auckland Unitary Plan Independent Hearing Panel procedure and in accordance with section 144 of the Local Government (Auckland Transitional Provisions) Act 2010 on date of signature.

Contents

1. Introduction	3
2. Assessment	3
3. Expert input.....	3
4. Mediation required	3
5. Hearing required	3
6. Recommendation to Panel	4
7. Panel recommendations to Auckland Council	5
8. Panel reasons	5
9. Assessment of modifications and submissions.....	6
10. Attachment 1 changes to text of the Proposed Auckland Unitary Plan	12

1. Introduction

The purpose of this report is to provide an assessment and recommendation in relation to designations, modifications and new designations classified by the Independent Hearings Panel as moderately complex. This classification will generally apply where there is a:

- i. rollover of a designation with no modifications and a submission lodged by third party;
- ii. modification to a designation that will result in more than minor effects and with or without submissions;
- iii. notice of requirement for a new designation for existing works with or without submissions.

2. Assessment

The assessment will address:

- i. effects on the environment of allowing the modification or requirement;
- ii. mitigation measures proposed by requiring authority including any proposed conditions;
- iii. other section 171 matters or section 168A(3) (if the requiring authority is Auckland Council) matters where relevant;
- iv. whether land is owned by the requiring authority.

See section 9 of this report for the assessment of each modification and requirement.

On the basis of the assessment, the report concludes that the following modifications/requirements should be recommended for confirmation subject to the amendments shown in Attachment 1:

2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630 and 2631

3. Expert input

Not applicable.

4. Mediation required

Not applicable.

5. Hearing required

Not applicable.

6. Recommendation to Panel

That the Panel recommends that the following modifications/requirements should be recommended for confirmation subject to the amendments shown in Attachment 1:

2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630 and 2631

Author	Harry Bhana
Author's Signature	
Date	9 September 2015 updated and amended on 10 October 2015

7. Panel recommendations to Auckland Council

The Auckland Unitary Plan Independent Hearings Panel recommends that Auckland Council recommends to the requiring authority that it confirms the notice of requirement for the modifications to the designations included in the Proposed Auckland Unitary Plan subject to the further modifications shown in Attachment 1.

This recommendation applies to the designations listed in section 9 below.

8. Panel reasons

The reasons for the Panel's recommendation are set out in section 9 below.

Panel Chair	David Kirkpatrick
Chair's Signature	
Date	18 May 2016

9. Assessment of modifications and submissions

Requiring authority	Chorus Ltd
Designation number (s)	2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630 and 2631
Designation purpose	Telecommunication and radiocommunication and ancillary purposes
Location	2623 - 6 Clayburn Road, Glen Eden 2624 - 1198A Huia Road, Huia 2625, - 142-144 Don Buck Road, Massey 2626 - 3125 Great North Road, New Lynn 2627 - 410 Old Te Atatu Road, Te Atatu 2628 - 504 South Titirangi Road, Titirangi 2629 -462A Scenic Drive, Waitatarua 2630 - 10 McEntee Road, Waitakere 2631 - 49 Kauri Road, Whenuapai
Designations given effect to	All have been given effect to.
Lapse date in operative plan	NA
Land ownership	NA
Land owned by the requiring authority	NA
Rollover designation with no modifications	No
Description of the modification	<p>Modifications applying to Designations 2623, 2624, 2625, 2627, 2628, 2629 and 2630</p> <p>i. Rollover height proposed for masts and antennas of 15m in place of operative plan height limit of 10m.</p> <p>Modifications applying to designations 2626 and 2631</p> <p>i. Rollover height proposed for masts and antennas of 20m in place of operative plan height limit of 10m.</p> <p>Modifications applying to Designations 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630 and 2631</p> <p>i. The operative plan provisions contained requirements in respect of outline plans and a series of definitions of various components of telecommunication equipment. These requirements and definitions were not included in the rollover.</p> <p>ii. The rollover provisions provided a new condition clarifying the extent of minor changes that would be permitted without the requirement for outline plans and also provided new conditions setting the maximum height of buildings and masts, noise limits and control of radio frequency effects.</p>
Assessment of rollover modifications and reasons	<p>Modifications to height limit for masts in 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630 and 2631.</p> <p>The requiring authority in the attachment to its memorandum of 17 July 2015 made this comment:</p> <p style="text-align: center;">The existing designation height limits for residential</p>

and rural residential zone typologies in the Waitakere section of the District Plan have very restrictive height limits based on the zone height limit, and a 2m allowance for antennas above the roof of an existing building. These conditions are considered to be unrealistic for strategic telecommunications sites. In many instances, there are already existing masts and antennas on these sites exceeding these height limits. Further, similar designated sites in other sections of the District Plan allow for additional height, including those separately notified and confirmed for the Auckland Isthmus and North Shore. A new height limit for masts and antennas up to 15m on these sites is now proposed. However, in recognition of the higher sensitivity of these areas, additional conditions are also proposed for new masts and antennas covering the following matters:

Height in relation to boundary controls to apply from residential boundaries.

A limit of one mast per site for use by the requiring authority (where both Chorus and Spark are requiring authorities on the same site, only one mast in total for use by both requiring authorities will be enabled by the designation).

A 1m diameter limit for new masts and attached antennas above 8m in height

For antennas on buildings in the most sensitive zone types, an allowance for antennas 3m above the highest point of the existing building is proposed. The total height within this framework would still be subject to the overall height limit allowance for antennas of 15m and height in relation to boundary controls from sensitive boundaries. This allows for the height of the antenna to be benchmarked back to the height of the building as it exists. This method of benchmarking an antenna height back to the height of the building as existing is a method commonly used in District Plans and also in the National Environmental Standards for Telecommunication Facilities 2008 in relation to modifying structures within roads.

In regard to the modifications made to Condition 1 in Designations 2623, 2624, 2625, 2627, 2628, 2629 and 2630.

The requiring authority's proposal will result in a consistent approach to the height of masts and structures for designations for telecommunications facilities in residential zones. I note that it will bring the provisions of the former Waitakere area into line with other areas within the Auckland Council boundaries. I recommend that this modification is confirmed.

In regard to the modifications made to Condition 1 in Designations 2626, 2631.

	<p>Designation 2626 is in the Metropolitan Town Centre of New Lynn and Designation 2631 is located in the Future Urban Zone in Whenuapai. I am satisfied that the 20m is appropriate in the Metropolitan Town Centre zone. I do not consider that the 20m limit is appropriate on the Whenuapai site which is contained in a small settlement close to Hobsonville Point. I consider the 15m height limit generally applied to the height of masts in residential zones is more appropriate given the height limit applicable in the Future Urban Zone and the potential for future residential development.</p> <p>Modifications applying to Designations 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630 and 2631</p> <ul style="list-style-type: none"> i. The deletion of conditions relating to the content of outline plans is not necessary because these matters are addressed under section 176A of the Resource Management Act 1991. The definition of various items of telecommunication equipment is now appropriately addressed under the National Environmental Standards for Telecommunications Facilities 2008. I recommend that the deletion of these definitions is confirmed. ii. The introduction of standard conditions not previously applied to these designations under the operative plan is recommended for confirmation subject to the modifications I have recommended in a previous report (Report on Designations, modifications and requirements classified as moderately complex By Telecom Ltd 7511, 7512, 7536-7542) in regard to height in relation to boundary and noise conditions. I have recommended that these conditions should be reworded to reflect the eventual provisions of the Unitary Plan.
Notice of requirement	NA
Assessment of new designation and reasons	NA
Submitters and summary of relief sought in submissions applied to these designations	<p>2623 Submission 8628-29 by the requiring authority requests as follows: "Delete the height to boundary control from the conditions."</p> <p>2624 Submission 8628-30 by the requiring authority requested that noise condition 8 be amended as follows: Amend the noise condition [condition 8] to read: "Any new noise generating equipment (excluding any engine alternator required for emergency back-up power generation) shall not exceed the following noise limits: At the notional boundary 20m from the facade of any dwelling in a rural zone, or at the site boundary, whichever is closest to the dwelling: 7am- 10pm on any day: Leq 50 dB(A) 10pm-7am on any day: Leq 40 dB(A)."</p>

Submission 8628-31 by the requiring authority requested the deletion of the height to boundary control from the conditions.

2625

Submission 8628-32 by the requiring authority requests as follows: Amend any condition referring to a height in relation to boundary control, to read: “45° measured at 3 m vertically from side and rear boundaries”.

2626

Submission 8628-33 by the requiring authority requests as follows:

Amend the noise condition [condition 3] to read: “Any new noise generating equipment (excluding any engine alternator required for emergency back-up power generation) shall not exceed the following noise limits:
a. At the boundary of any property zoned Metropolitan Centre: 7am-10pm on any day: Leq 65 dB(A) 10pm-7am on any day: Leq 55 dB(A) b. At the boundary of any adjacent residential zoned property: 7am-10pm on any day: Leq 55 dB(A) 10pm-7am on any day: Leq 45 dB(A).”

2627

Submission 8628-34 by the requiring authority requests as follows:

Amend any condition referring to a height in relation to boundary control, to read: “45° measured at 3 m vertically from side and rear boundaries.”

2628

Submission 8628-35 by the requiring authority requests as follows:

Amend the noise condition [condition 8] to read: “Any new noise generating equipment (excluding any engine alternator required for emergency back-up power generation) shall not exceed the following noise limits:
At the notional boundary 20m from the facade of any dwelling in a rural zone, or at the site boundary, whichever is closest to the dwelling: 7am- 10pm on any day: Leq 50 dB(A) 10pm-7am on any day: Leq 40 dB(A).”

Submission 8628-36 by the requiring authority requests as follows: “Delete the height to boundary control from the conditions.”

2629

Submission 8628-37 by the requiring authority requests as follows:

Amend the noise condition [condition 8] to read: “Any new noise generating equipment (excluding any engine alternator required for emergency back-up power

	<p>generation) shall not exceed the following noise limits: At the notional boundary 20m from the facade of any dwelling in a rural zone, or at the site boundary, whichever is closest to the dwelling: 7am- 10pm on any day: Leq 50 dB(A) 10pm-7am on any day: Leq 40 dB(A).”</p> <p>Submission 8628-38 by the requiring authority requests as follows: “Delete the height to boundary control from the conditions.”</p> <p>2630 Submission 8628-39 by the requiring authority requests as follows: Amend any condition referring to a height in relation to boundary control, to read: “45° measured at 2.5 m vertically from side and rear boundaries”.</p> <p>2631 Submission 8628-40 by the requiring authority requests as follows: Amend the noise condition [condition 4] to read: 'Any new noise generating equipment (excluding any engine alternator required for emergency back-up power generation) shall not exceed the following noise limits: At the boundary of any adjacent residential zoned property: 7am-10pm on any day: Leq 55 dB(A) 10pm-7am on any day: Leq 45 dB(A).”</p>
<p>Assessment of submissions and reasons</p>	<p>The requiring authority has requested deletion of the height in relation to boundary references from Designations 2623, 2624, 2628 and 2629. In the case of 2623 the site is located in the Terrace Housing and Apartment Buildings Zone; in the case of 2628 the site is zoned Large Lot Residential; and in the case of 2624 and 2629 the site is zoned Rural Conservation. In all cases the height in relation to boundary controls do not apply in the zones. I recommend that in response to the submissions requesting deletions of these provisions, that they be amended to reference the height in relation to boundary controls of the underlying zoning of the Unitary Plan. This ensures that provisions of the designated land will remain consistent if there is any change to the underlying zoning.</p> <p>The requiring authority has requested amendment of the height in relation to boundary references in the conditions for Designations 2625, 2627 and 2630. In the case of 2625 and 2627 the site is located in the Mixed Housing Urban Zone and in the case of 2630 the site is zoned Rural and Coastal Settlement. In all three cases the height in relation to boundary controls requested are consistent with the provisions of the underlying zoning. I recommend that the height in relation to boundary conditions are amended to reference the height in relation to boundary controls of the underlying zoning of the Unitary Plan. This ensures that provisions of the designated land will remain consistent if there is any change to the underlying zoning.</p>

	For Designations 2624, 2626, 2628, 2629 and 2631 the requiring authority has requested amendments to the noise condition. Generally these reflect the noise limits applicable under the Proposed Auckland Unitary Plan, although that does not appear to be the case in respect of the proposed amendment to 2631. The submissions by the requiring authority seeking amendment of the noise conditions to better reflect Proposed Auckland Unitary Plan provisions are recommended, but subject to directly referencing the noise control to the provisions applying in the underlying zoning.
Engagement by requiring authority with submitters.	Not necessary.
Recommendation to Panel	That Designations 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630 and 2631 as set out in the notified version of the Proposed Auckland Unitary Plan be recommended for confirmation subject to the amendments to set out in Attachment 1.
Response from requiring authority	Agrees with the above recommendations to Panel that the designations be confirmed. Disagrees with the above recommendations to the Panel that the noise and height in relation to boundary conditions be referenced to the underlying zoning. Concerns relate to certainty and ease and efficiency of determining relevant provisions in respect of any particular designated site.
Report writer's further recommendations	I accept the requiring authority's position regarding potential uncertainty, future change and potential difficulty in ascertaining relevant requirements during day-to-day operations of their facilities. Accordingly I have recommended the noise and height in relation to boundary conditions relate directly to the noise limits and height in relation to boundary provisions applicable under the Proposed Auckland Unitary Plan for the underlying zoning at the time the Proposed Auckland Unitary Plan was notified. Recommendations have been amended accordingly.
Recommendation from Panel	The Panel agrees with the report writer's recommendations.
Panel Reasons	The Panel agrees with the report writer's reasons.

10. Attachment 1 changes to text of the Proposed Auckland Unitary Plan

That Designations 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630 and 2631, as set out in the notified version of the Proposed Auckland Unitary Plan, be recommended for confirmation subject to the following amendments:

Designations 2623, 2624, 2625, 2627, 2628, 2629, 2630

Delete all attachments and insert: No attachments

Designations 2623

Amend Condition 2 to read as follows:

- ~~2. Any new mast and associated antennas shall comply with the height in relation to boundary controls [included in Attachment 1 to this Notice] from any adjoining residential and rural residential zoned boundaries and road boundaries.~~ Any new mast and associated antennas shall not exceed a diameter of 1m for those parts of the equipment exceeding 8m in height above ground level

Amend Condition 4 to read as follows:

- ~~4. Antennas mounted on the roof of buildings shall not extend more than 3m above the maximum height of the highest part of the roof, provided that they comply with Condition 1. and shall comply with the height in relation to boundary [included in Attachment 1 to this Notice] from any adjoining residential and rural residential zoned boundaries and road boundaries.~~

Designations 2624

Amend Condition 2 to read as follows:

- ~~2. Any new mast and associated antennas shall comply with the height in relation to boundary controls [included in Attachment 1 to this Notice] from any adjoining residential and rural residential zoned boundaries and road boundaries.~~ Any new mast and associated antennas shall not exceed a diameter of 1m for those parts of the equipment exceeding 8m in height above ground level.

Amend Condition 4 to read as follows:

- ~~4. Antennas mounted on the roof of buildings shall not extend more than 3m above the maximum height of the highest part of the roof, provided that they comply with Condition 1., and shall comply with the height in relation to boundary controls [included in Attachment 1 to this Notice] from any adjoining residential and rural residential zoned boundaries and road.~~

Delete Condition 8 and replace with the following:

8. Any new noise generating equipment (excluding any engine alternator required for emergency back-up power generation) shall not exceed the following noise limits:
At the notional boundary 20m from the facade of any dwelling in a rural zone, or at the site boundary, whichever is closest to the dwelling: 7am-10pm on any day: Leq 50 dB(A) 10pm-7am on any day: Leq 40 dB(A).

Designation 2625

Delete Condition 2 and replace with the following:

2. Any new mast and associated antennas must not project beyond a 45 degree recession plane measured from a point 3m vertically above ground level along any side and rear boundary where the adjoining sites have a residential zoning. Any new mast and associated antennas shall not exceed a diameter of 1m for those parts of the equipment exceeding 8m in height above ground level.

Delete Condition 4 and replace with the following:

4. Antennas mounted on the roof of buildings shall not extend more than 3m above the maximum height of the highest part of the roof, provided that they comply with Condition 1, and must not project beyond a 45 degree recession plane measured from a point 3m vertically above ground level along any side and rear boundary where the adjoining sites have a residential zoning.

Designation 2626

Delete Condition 3 and replace with the following:

3. Any new noise generating equipment (excluding any engine alternator required for emergency back-up power generation) shall not exceed the following noise limits:
 - a. At the boundary of any adjacent property zoned Metropolitan Centre: 7am-10pm on any day: Leq 65 dB(A) 10pm-7am on any day: Leq 55 dB(A)
 - b. At the boundary of any adjacent residential zoned property: 7am-10pm on any day: Leq 55 dB(A) 10pm-7am on any day: Leq 45 dB(A).

Designation 2627

Amend Condition 2 to read as follows:

2. Any new mast and associated antennas ~~shall comply with the height in relation to boundary controls [included in Attachment 1 to this Notice]~~ from any

~~adjoining residential and rural residential zoned boundaries and road boundaries. must not project beyond a 45 degree recession plane measured from a point 3m vertically above ground level along any side and rear boundary where the adjoining sites have a residential zoning.~~ Any new mast and associated antennas shall not exceed a diameter of 1m for those parts of the equipment exceeding 8m in height above ground level.

Amend Condition 4 to read as follows:

4. Antennas mounted on the roof of buildings shall not extend more than 3m above the maximum height of the highest part of the roof, provided that they comply with Condition 1, and ~~shall comply with the height in relation to boundary controls [included in Attachment 1 to this Notice] from any adjoining residential and rural residential zoned boundaries and road boundaries~~ must not project beyond a 45 degree recession plane measured from a point 3m vertically above ground level along any side and rear boundary where the adjoining sites have a residential zoning.

Designation 2628

Amend Condition 2 to read as follows:

2. ~~Any new mast and associated antennas shall comply with the height in relation to boundary controls [included in Attachment 1 to this Notice] from any adjoining residential and rural residential zoned boundaries and road.~~ Any new mast and associated antennas shall not exceed a diameter of 1m for those parts of the equipment exceeding 8m in height above ground level.

Amend Condition 4 to read as follows:

4. Antennas mounted on the roof of buildings shall not extend more than 3m above the maximum height of the highest part of the roof, provided that they comply with Condition 1., ~~and shall comply with the height in relation to boundary controls [included in Attachment 1 to this Notice] from any adjoining residential and rural residential zoned boundaries and road boundaries.~~

Delete Condition 8 and replace with the following:

8. Any new noise generating equipment (excluding any engine alternator required for emergency back-up power generation) shall not exceed the following noise limits:
At the boundary of any adjacent residential zoned property: 7am-10pm on any day: Leq **50** dB(A) 10pm-7am on any day: Leq **40** dB(A).

Designation 2629

Amend Condition 2 to read as follows:

2. ~~Any new mast and associated antennas shall comply with the height in relation to boundary controls [included in Attachment 1 to this Notice] from any adjoining residential and rural residential zoned boundaries and road~~

~~boundaries~~. Any new mast and associated antennas shall not exceed a diameter of 1m for those parts of the equipment exceeding 8m in height above ground level.

Amend Condition 4 to read as follows:

4. Antennas mounted on the roof of buildings shall not extend more than 3m above the maximum height of the highest part of the roof, provided that they comply with Condition 1, ~~and shall comply with the height in relation to boundary controls [included in Attachment 1 to this Notice] from any adjoining residential and rural residential zoned boundaries and road boundaries.~~

Delete Condition 8 and replace with the following:

8. Any new noise generating equipment (excluding any engine alternator required for emergency back-up power generation) shall not exceed the following noise limits:
At the notional boundary 20m from the facade of any dwelling in a rural zone, or at the site boundary, whichever is closest to the dwelling: 7am-10pm on any day: Leq 50 dB(A) 10pm-7am on any day: Leq 40 dB(A).

Designation 2630

Amend Condition 2 to read as follows:

2. Any new mast and associated antennas ~~shall comply with the height in relation to boundary controls [included in Attachment 1 to this Notice] from any adjoining residential and rural residential zoned boundaries and road boundaries~~ must not project beyond a 45 degree recession plane measured from a point 2.5m vertically above ground level along any side and rear boundary where the adjoining sites have a residential zoning. Any new mast and associated antennas shall not exceed a diameter of 1m for those parts of the equipment exceeding 8m in height above ground level.

Amend Condition 4 to read as follows:

4. Antennas mounted on the roof of buildings shall not extend more than 3m above the maximum height of the highest part of the roof, provided that they comply with Condition 1, ~~and shall comply with the height in relation to boundary controls [included in Attachment 1 to this Notice] from any adjoining residential and rural residential zoned boundaries and road boundaries~~ boundaries must not project beyond a 45 degree recession plane measured from a point 2.5m vertically above ground level along any side and rear boundary where the adjoining sites have a residential zoning.

Designation 2631

Amend Condition 1 to read as follows:

1. The height of any new mast and any antennas (mounted on a mast or building) shall not exceed ~~20m~~ 15m above ground level (excluding any lightning rod).

Delete Condition 4 and replace with the following

4. Any new noise generating equipment (excluding any engine alternator required for emergency back-up power generation) shall not exceed the following noise limits:
At the boundary of any adjacent residential zoned property: 7am-10pm on any day: Leq **55** dB(A) 10pm-7am on any day: Leq **45** dB(A).