

**BEFORE THE INDEPENDENT HEARINGS PANEL APPOINTED BY THE  
WESTERN BAY OF PLENTY DISTRICT COUNCIL**

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

**AND**

**IN THE MATTER** of Proposed Plan Change 92 to the  
Western Bay of Plenty District Plan  
First Review - Ōmokoroa and Te  
Puke Enabling Housing Supply and  
Other Supporting Matters

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**WESTERN BAY OF PLENTY DISTRICT COUNCIL PLANNING REPLY  
REGARDING NOISE RULE**

**Date: 12 October 2023**

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CooneyLeesMorgan

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## INTRODUCTION

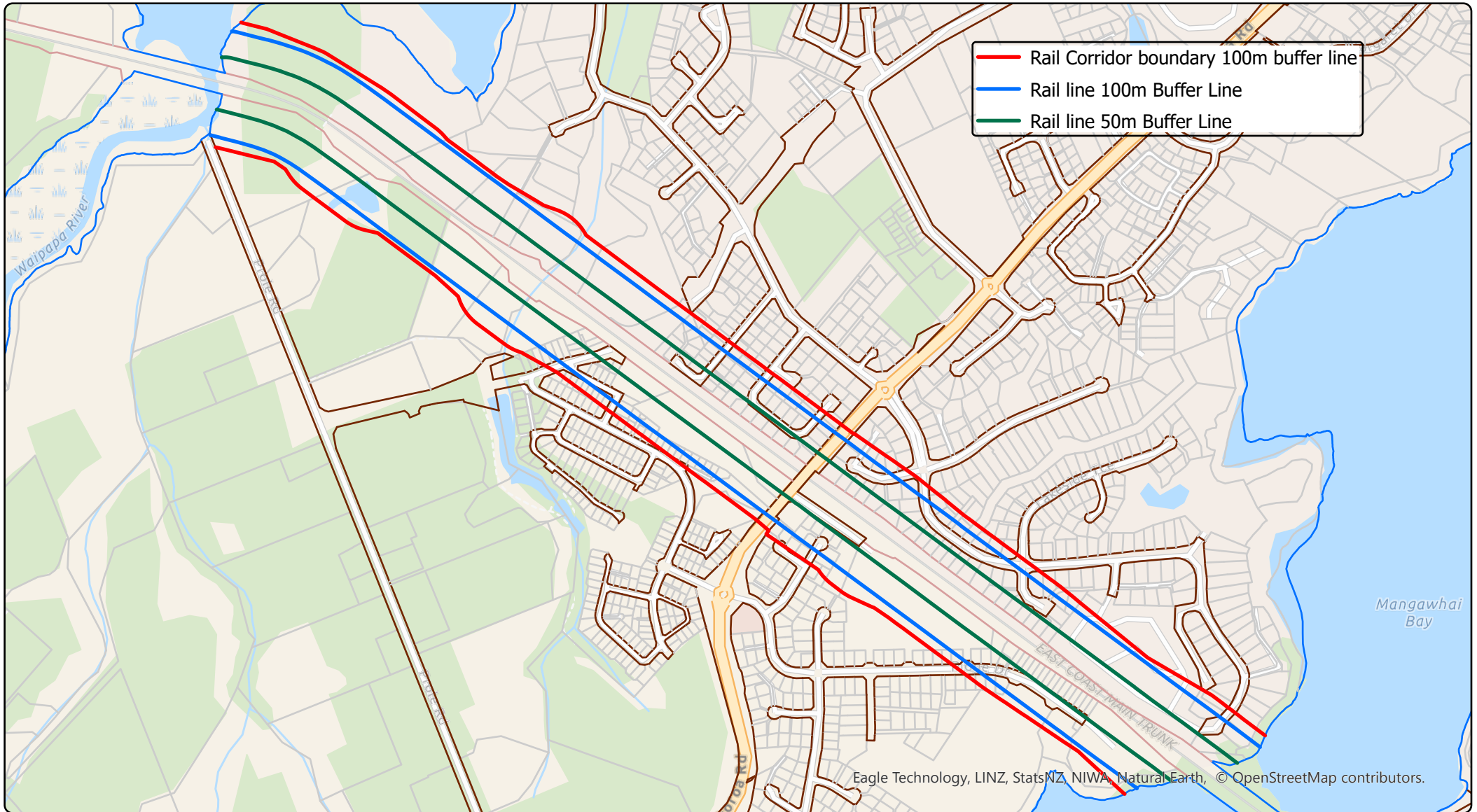
1. I refer to the Joint Memorandum of Counsel regarding noise rule dated 11 October 2023 and the draft Rail Noise Rule attached as Appendix A to that memorandum. The reply statement has been prepared to respond to matters in relation to rail noise and the draft Rail Noise Rule prepared by KiwiRail and Kāinga Ora noise experts. It does not repeat matters set out in the section 42A report and reply statements of evidence on behalf of the Council witnesses (dated 6 September 2023).
2. Direction 3 in the Post Hearing Directions relates to the offer during the hearing by Mr Styles (for Kāinga Ora) to discuss directly with Dr Chiles (for KiwiRail) the drafting of a rule in relation to indoor rail noise (Rule 4C.1.3.2(c)(iii)).
3. In the Reply Statement dated 29 September 2023 I provided a reply to the supplementary statement of evidence of Catherine Heppelthwaite (filed on behalf of KiwiRail on Friday 15 September).
4. The Joint Memorandum of Counsel states (at paragraph 2) that KiwiRail is seeking a 100m mapped setback and Kāinga Ora seeks a fully modelled contour. I provide comments below on this outstanding issue from a planning perspective.
5. From a planning perspective my concerns on the 100m blanket setback remain as set out in my earlier evidence and reply. By applying a blanket 100m setback, noise controls would be applied to land where the noise effects may be too low to justify controls.
6. For reasons outlined previously in my evidence and reply I consider the setback should be measured from the source of the noise, being the rail tracks. This is also confirmed by the Marshall Day Acoustics report (referenced in Dr Chiles Statement of Evidence dated 25 August 2023 at paragraph 7.4). To illustrate the difference between a distance measured from the rail tracks or rail boundary, I have had a series of maps prepared showing the 100m setback from the rail line vs the rail corridor boundary, and a map showing a 50m setback from the rail track. This outlines the number of properties and the extent of land captured by a blanket 100m setback rule. These maps are **attached** to this further statement.

7. I support the updates to the wording in the draft Rail Noise Rule related to suitably qualified expert and design certificates. I also support the new wording of (b), (c) & (d).
8. Part (e) of the draft Rail Noise Rule proposes an alternative for bedrooms and habitable space between 50-100m of the railway line. As I have previously raised in my evidence and reply, an acoustic expert or surveyor will still be required to certify that there is no line of sight to 3.8m directly above the formed railway track. This still leaves a blanket requirement to confirm compliance and uncertainty for a large number of properties which may not be affected by rail noise in the first place.
9. To assist the Panel I have provided a track changed version of the draft Rail Noise Rule. I have provided wording for the option of a blanket 50m setback along with changes to reference the "railway track" rather than "designation boundary".
  - iii. In Ōmokoroa and Te Puke, any new building or addition to an existing building located within 50m ~~100m~~ of the railway track ~~designation boundary~~, which contains a dwelling, accommodation facility, education facility, place of worship or marae, or medical or scientific facility shall meet the following requirements:
    - (a) The building is to be designed, constructed and maintained to achieve an internal design level of 35 dB  $L_{Aeq(1h)}$  for bedrooms and 40 dB  $L_{Aeq(1h)}$  for all other habitable rooms. Written certification of such compliance from a Suitably Qualified and Experienced Acoustic Consultant shall be submitted with the building consent application for the building concerned. The design certificate shall be based on:
      - 1) A source level for railway noise of 70  $L_{Aeq(1h)}$  at a distance of 12 metres from the nearest track; and
      - 2) The attenuation over distance being:
        - 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.
    - (b) For habitable rooms for a residential activity, achieves the following requirements:

- i. provides mechanical ventilation to satisfy clause G4 of the New Zealand Building Code and that provides at least 1 air change per hour, with relief for equivalent volumes of spill air;
  - ii. provides cooling and heating that is controllable by the occupant and can maintain the inside temperature between 18°C and 25°C; and
  - iii. does not generate more than 35 dB LAeq(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 (ii), or after a period of 30 minutes from the commencement of cooling (whichever is the lesser).
- (c) For other spaces, a specification as determined by a suitably qualified and experienced person.
- (d) 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 subclause (b).
- (e) The requirements of (a) to (d) to not apply where the building(s) within 50m ~~400m~~ of the railway track ~~designation boundary~~:
- i. Is in a location where the exterior façades of the bedroom(s) or habitable room(s) is at least 50m from the formed railway track and there is has a solid building, fence, wall or landform that blocks the line of sight from all parts of all windows and doors of those rooms to all points 3.8m directly above the formed railway track; or
  - ii. Is in a location where it can be demonstrated by way of prediction or measurement by an Suitably Qualified and Experienced Acoustic Consultant that the rail noise level at all exterior façades of the bedrooms or habitable rooms is no more than 15 dB above the relevant internal noise levels in (a).
  - iii. Written certification from a Suitably Qualified and Experienced Acoustics Consultant demonstrating compliance with either (e)(i) or e(ii) as relevant shall be submitted with the building consent application for the building concerned.

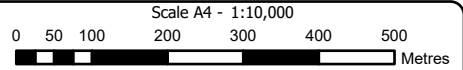
10. No further comment has been provided on the Vibration Alert Layer and as such my recommendation remains as set out in my reply evidence on 29 September 2023.

**Anna Price**  
**12 October 2023**

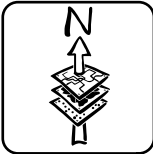


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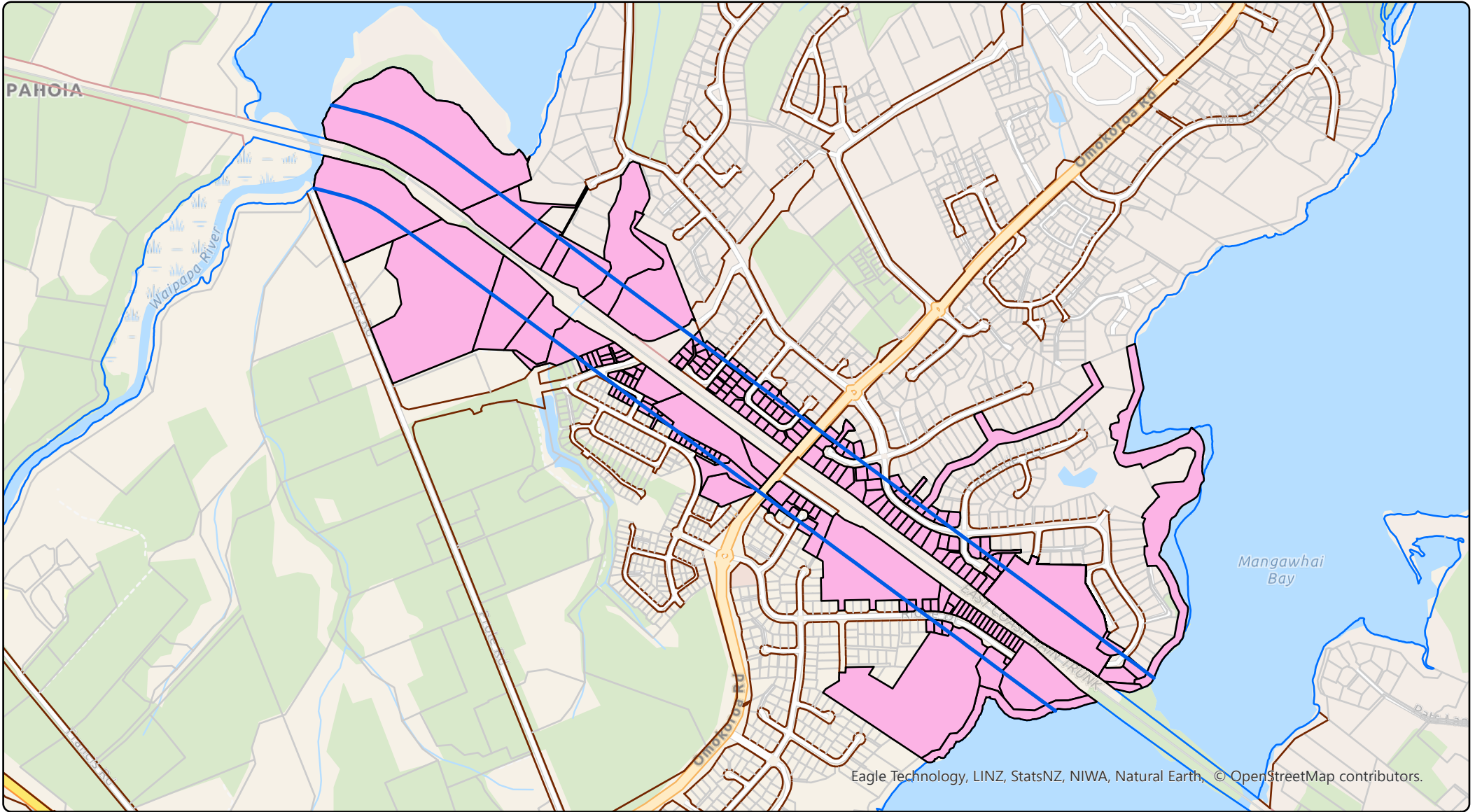
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## ŌMOKOROA RAIL BUFFER LINES







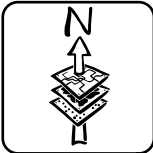
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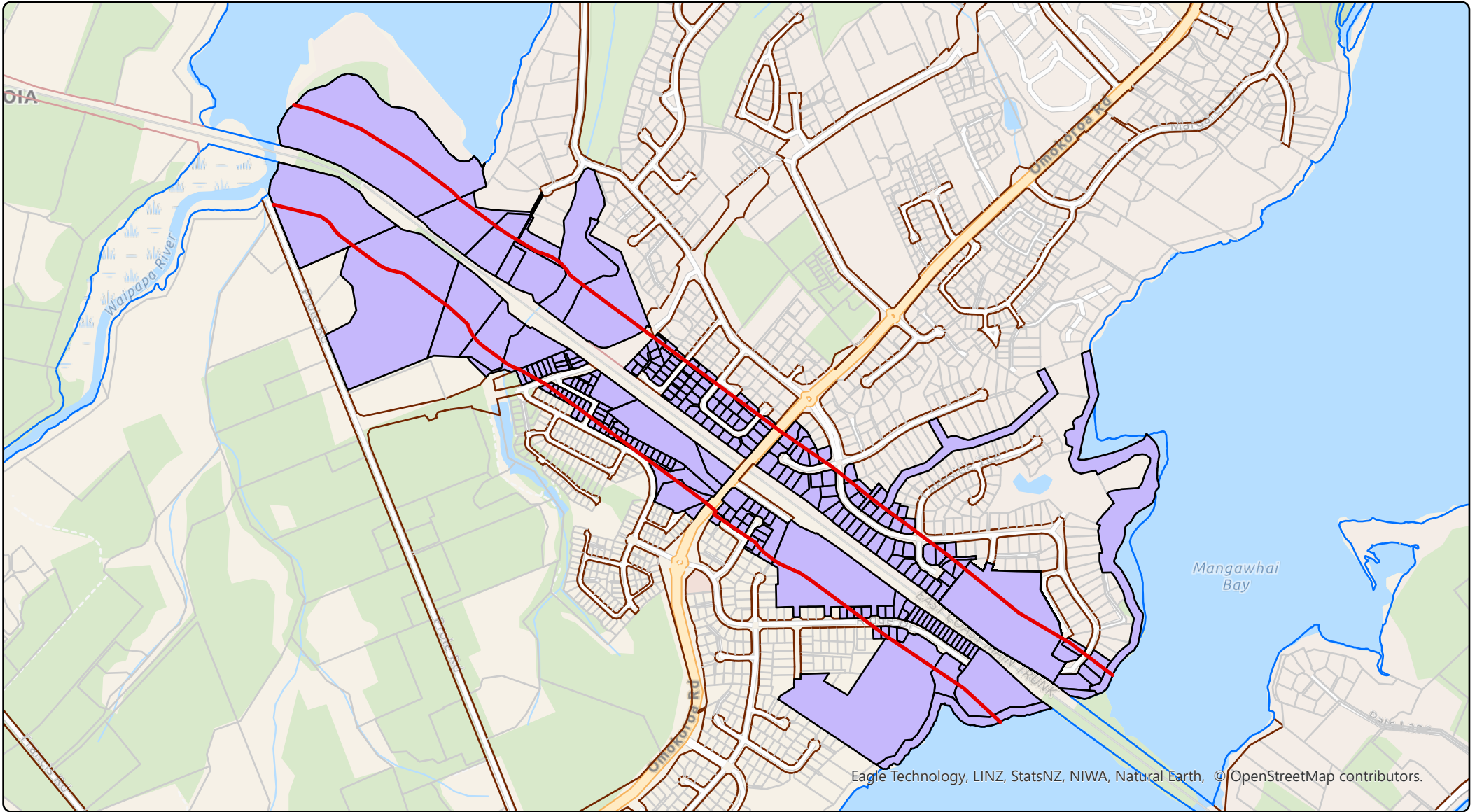
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Scale A4 - 1:12,500  
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## ŌMOKOROA RAIL LINE 100m BUFFER - 334 LOTS

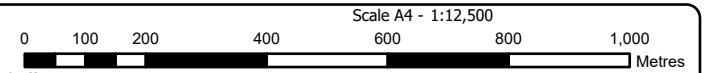




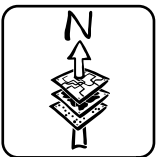
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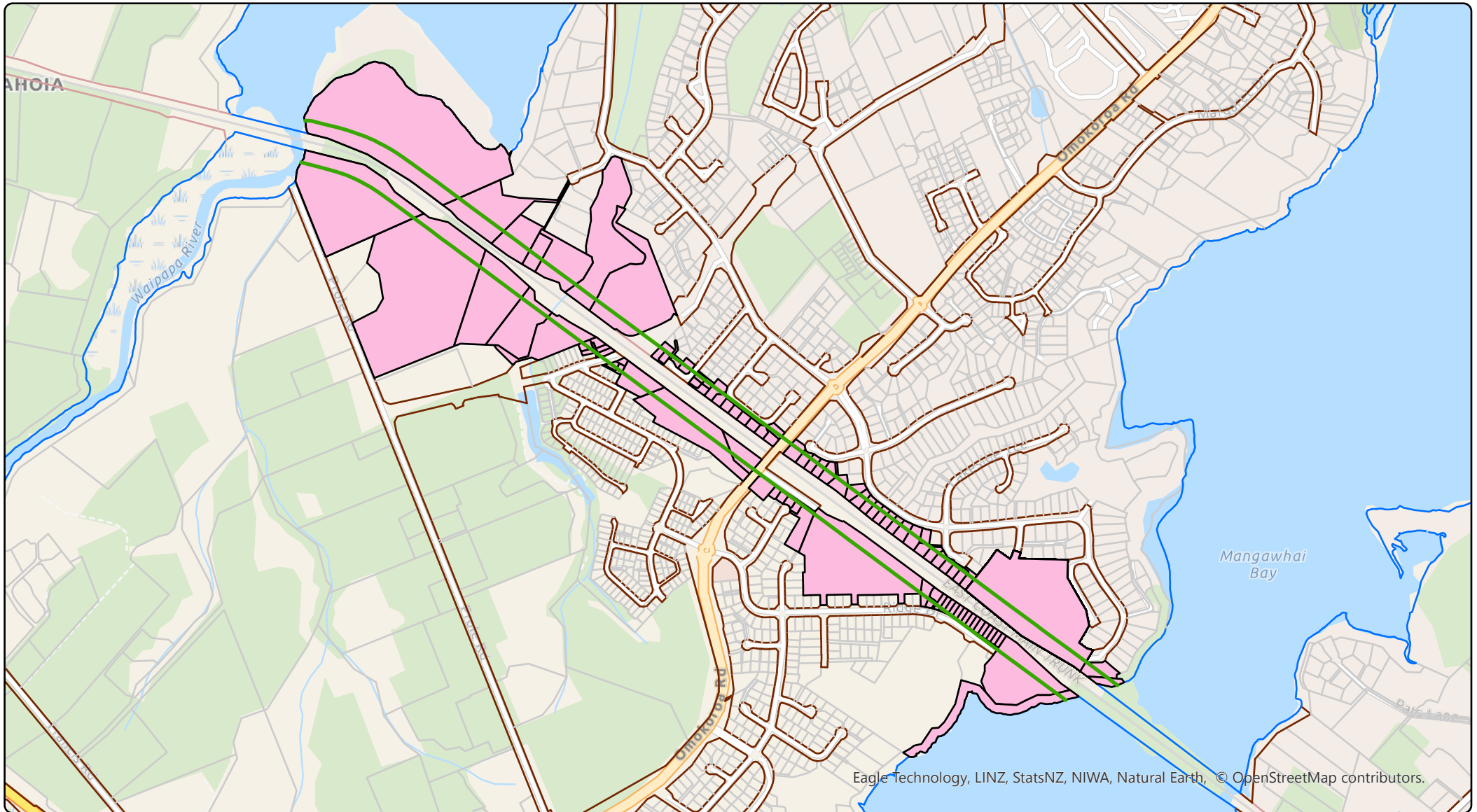
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**ŌMOKOROA**  
**RAIL CORRIDOR BOUNDARY**  
**100m BUFFER - 383 LOTS**







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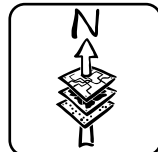
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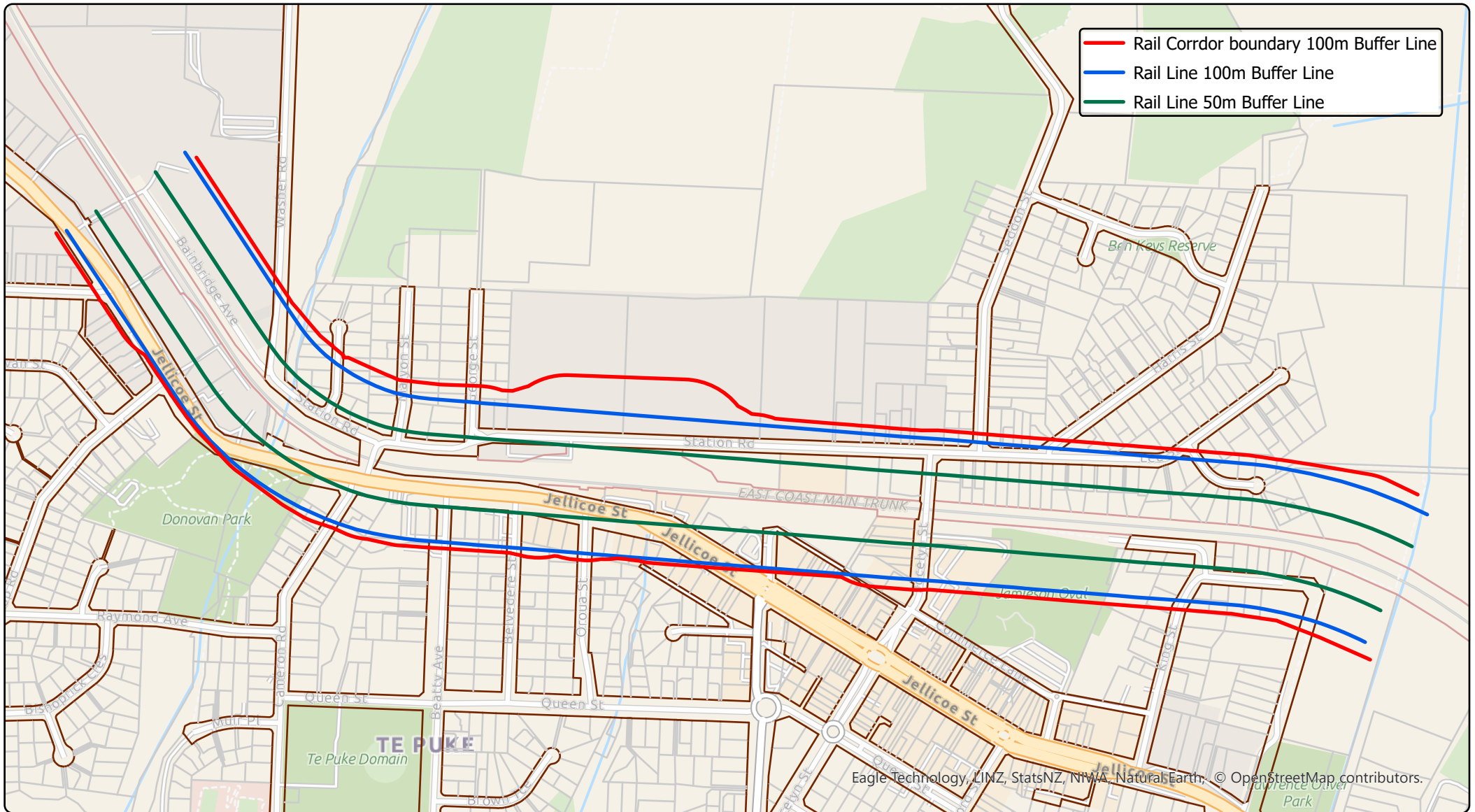
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## ŌMOKOROA RAIL LINE 50m BUFFER - 214 LOTS



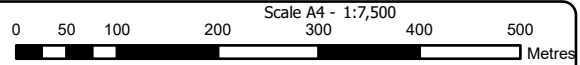




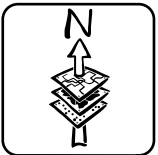
- Rail Corridor boundary 100m Buffer Line
- Rail Line 100m Buffer Line
- Rail Line 50m Buffer Line

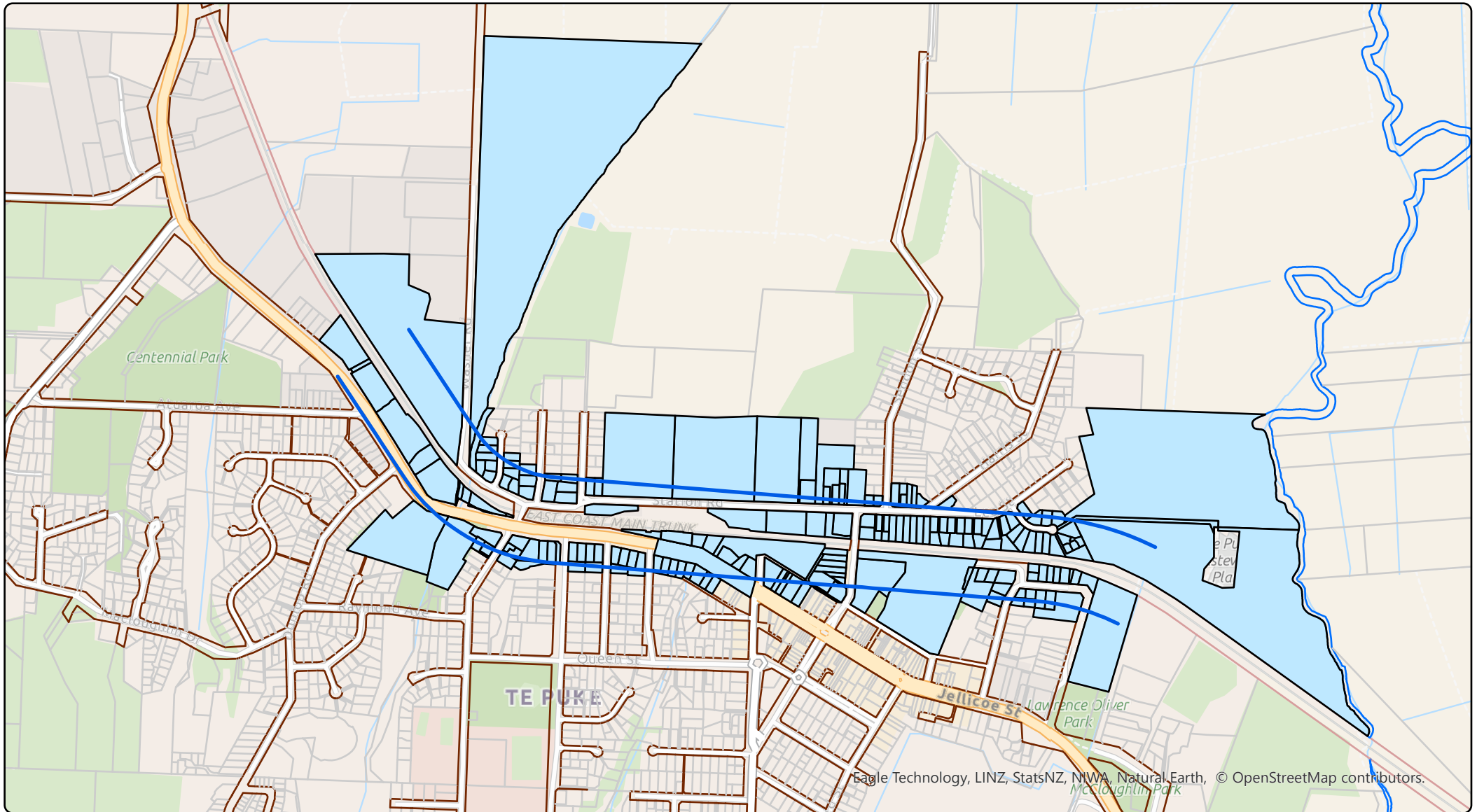
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## TE PUKE RAIL BUFFER LINES





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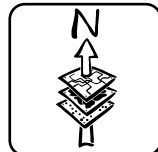
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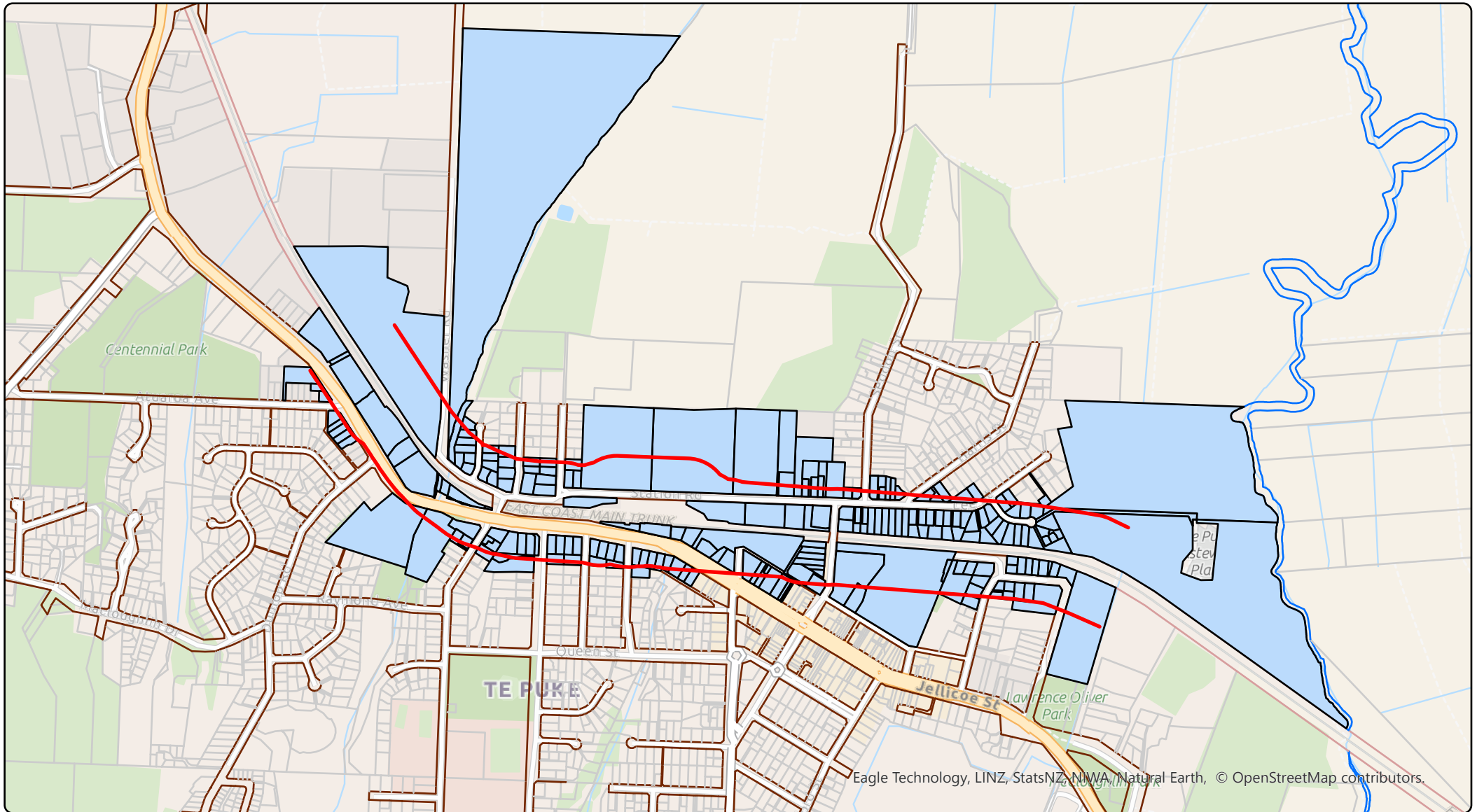
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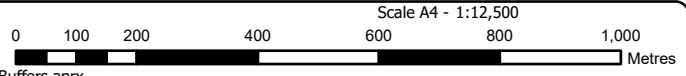
**TE PUKE  
RAIL LINE  
100m BUFFER - 207 LOTS**



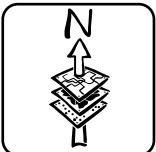


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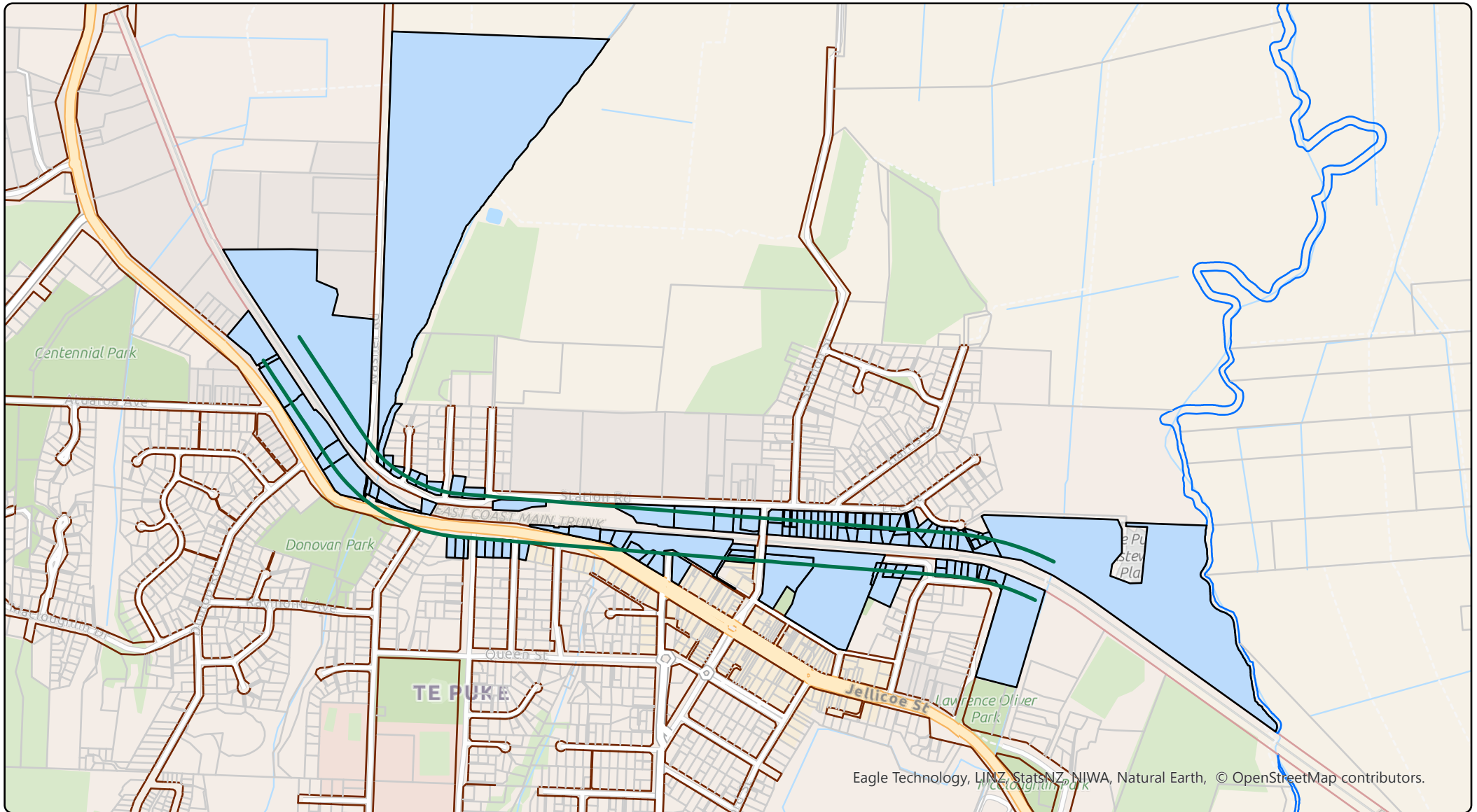
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## TE PUKE RAIL CORRIDOR 100m BUFFER - 230 LOTS



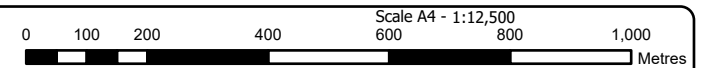




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## TE PUKE RAIL LINE 50m BUFFER - 109 LOTS

