

**BEFORE A BOARD OF INQUIRY  
NORTHERN CORRIDOR IMPROVEMENTS PROJECT**

**UNDER** Resource Management Act 1991

**AND**

**IN THE MATTER** Notices of requirement for designations and resource consent applications by the New Zealand Transport Agency for the Northern Corridor Improvements Project.

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**EXPERT EVIDENCE OF ANDREA LESLEY BRABANT  
ON BEHALF OF WASTE MANAGEMENT NZ LIMITED**

**PLANNING**

**25 MAY 2017**

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## EXECUTIVE SUMMARY

- A.** By way of summary, it is my opinion that the extent of the notice of requirement for the Northern Corridor Improvements project (**Project**), if confirmed, will have significant adverse effects on the operation of the Rosedale Refuse Transfer Station (**RTS**) owned and operated by Waste Management New Zealand Ltd (**WMNZ**). I have relied upon technical operational evidence provided by Mr Kennedy of WMNZ regarding the operations of the RTS and the space requirements for its ongoing operations.
- B.** I have reviewed the notice of requirement application and the subsequent evidence prepared on behalf of the New Zealand Transport Agency (**Transport Agency**). Within that material, there is no consideration in terms of s 171 of the Resource Management Act 1991 (**RMA**) regarding the effects of confirming the notice of requirement on the RTS. I consider that without this assessment, the Board of Inquiry (**BOI**) does not have sufficient information to confirm the current notice of requirement as it applies to the RTS site.
- C.** Mr Kennedy has given evidence on behalf of WMNZ. I agree with his evidence that the extent of the notice of requirement will, if confirmed, result in a reduction in site size for the RTS that will make the operation of the facility unworkable and may force the relocation of the facility.
- D.** As part of considering the effects on the operation of the RTS, if the notice of requirement is confirmed in respect of WMNZ's land, I have considered how the RTS fits into the wider waste network and the important role it plays as part of the integrated infrastructure servicing the waste needs of Auckland. In particular, I have:
- (a) Considered the importance of the RTS and its role in achieving waste minimisation, which is a key goal of the regulatory framework that governs the operation of the waste industry in New Zealand.
  - (b) Outlined the recognised shortage of industrial-zoned land in Auckland, which was a focus of studies and evidence heard as

part of the Auckland Unitary Plan ("**AUP**") process. This lack of supply results in a shortage of industrial-zoned land, which means there is a lack of alternative sites for the RTS if it was forced to relocate.

- E.** None of the matters in paragraph D above have been considered by the Transport Agency as part of its assessment of the effects on the RTS, where the notice of requirement is confirmed as currently proposed.
- F.** Mr Kennedy also sets out WMNZ's concerns with adverse reverse sensitivity effects as a result of the location of a Shared Use Path (**SUP**) adjoining the RTS site and overlooking the operation, and traffic management issues during construction of the Project. I have proposed conditions to mitigate these adverse effects.

## 1. INTRODUCTION

- 1.1 My full name is Andrea Lesley Brabant.
- 1.2 I am a Principal Planner and Team Leader of the Auckland Planning Team at Tonkin + Taylor and have been with the company since 2011. I am a qualified Planner with sixteen years' experience in New Zealand. I hold the qualification of Bachelor of Planning (Hons) from Auckland University. I am a full member of the New Zealand Planning Institute. I am also a member of the Resource Management Law Association and a certified hearing commissioner.
- 1.3 I am familiar with the refuse transfer station (RTS) owned and operated by WMNZ at Rosedale Road on the North Shore, which falls within the Northern Corridor Improvements (NCI) Project area.
- 1.4 I have been involved in the following projects that are waste related. These projects have given me an understanding of the planning issues specifically relating to the regional waste management network:
- (a) preparation of district and regional resource consent applications and subsequent preparation and presentation of expert evidence for the consenting of the Rotorua Refuse Transfer Station for Transpacific Industries (prior to it being sold and changed to WMNZ);
  - (b) preparation of resource consent applications for the consenting of scrap metal facilities for CMA Recycling in Tauranga and Auckland;
  - (c) preparation of the Assessment of Environmental Effects (**AEE**) Report and resource consent application for the Redvale Earthfill at the Redvale Landfill;
  - (d) review of relevant provisions, preparation of submissions, expert conferencing, mediation and expert evidence on the Proposed Auckland Unitary Plan on behalf of WMNZ with

specific emphasis on those objectives, policies and rules relating to the Auckland region's waste infrastructure; and

- (e) preparation of the AEE Report, and expert evidence in a joint Council hearing and in the Environment Court for the consenting of the Redvale Landfill.

## **2. CODE OF CONDUCT**

2.1 I confirm I have read the Code of Conduct for Expert Witnesses 2014 contained in the Environment Court Practice Note and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2.2 I am authorised to provide expert planning evidence on behalf of WMNZ.

## **3. SCOPE OF EVIDENCE**

3.1 My evidence will deal with the following:

- (a) Background and the existing environment.
- (b) The importance of the operation of the RTS and its function within the wider waste network.
- (c) The statutory framework relating to infrastructure and waste minimisation in Auckland.
- (d) The statutory assessment of the Transport Agency's notice of requirement under s 171 of the RMA
- (e) An assessment of the notice of requirement as it relates to WMNZ's landholdings under Part 2 of the RMA.
- (f) Conditions of the designation necessary to mitigate the Project's adverse reverse sensitivity and construction traffic effects.

#### **4. BACKGROUND AND THE EXISTING ENVIRONMENT**

4.1 WMNZ is one of the leading providers of comprehensive waste and environmental services in New Zealand, and is a major player in the waste industry across the Auckland region. WMNZ has a comprehensive service offering, including: resource recovery, responsible waste management and transport solutions.

4.2 WMNZ owns and operates the Redvale Landfill (the largest in the Auckland region) and is a joint venture partner in Whitford Landfill with Auckland Council. They also own and operate a number of other strategic waste assets throughout Auckland including the Rosedale RTS on the North Shore.

4.3 The site at Rosedale Road is the only refuse transfer station within the North Shore area operated by WMNZ and is located at 117 and 123 Rosedale Road. The site was zoned Business 10 under the legacy North Shore District Plan. This zone was the heaviest business zone within North Shore District. WMNZ has historically purchased and developed sites in areas which were zoned for heavy industry.

4.4 Refuse transfer station sites need to be strategically located around the region in order to be effective in collecting and distributing waste. Mr Kennedy explains in section 2 of his evidence how the regional waste network operates, including the integration of facilities and the steps in the waste management process.

4.5 The surrounding area at Rosedale is a mixture of activities and land uses, including the motorway, the Rosedale closed landfill; other industrial activities; pockets of residential activities; the Watercare Rosedale wastewater treatment plant; and general business activities.

#### **5. THE REGIONAL WASTE MANAGEMENT NETWORK**

5.1 As set out in the evidence of Mr Kennedy, the efficient and safe disposal of waste from Auckland residents and businesses requires a comprehensive network of disposal and recovery facilities, which are necessary to sort and consolidate waste prior to transfer to landfill sites. The Rosedale RTS forms part of this comprehensive waste network and is an important physical infrastructure component.

- 5.2 RTS facilities need to be geographically located to serve a catchment of waste. This is because the purpose of these facilities is to sort and consolidate waste for onward distribution to landfill or other appropriate facility such as a cleanfill.
- 5.3 Waste in Auckland is generated by both residential households and businesses as well as through construction activity. The function and growth of Auckland cannot be supported if there is no infrastructure in place to deal with the waste generated.
- 5.4 In 2010, Auckland produced an estimated 1.174 million tonnes of waste to landfill.<sup>1</sup> This figure does not represent the total amount of solid waste collected, as part of the waste stream gets diverted by refuse transfer stations like the Rosedale RTS and either recycled or reused. The collection and processing of this waste is in my opinion of critical importance to the functioning of the Auckland region and I consider there would be serious adverse effects on the social and economic wellbeing of Auckland if this infrastructure was not in place.

## 6. STATUTORY FRAMEWORK – WASTE INFRASTRUCTURE

- 6.1 Waste in New Zealand is controlled and regulated by a number of key statutes. These are:
- (a) The Waste Minimisation Act 2008, which seeks to reduce the amount of waste generated in New Zealand and protect the environment from the effect of waste generation and disposal. It provides for tools such as the waste disposal levy and waste minimisation funding.
  - (b) The Local Government Act 2002, which sets out the functions of local authorities. Solid waste collection and disposal is identified as a core service of local authorities
  - (c) The RMA, which manages the effects of activities on the environment, including the effects of waste facilities.
- 6.2 These statutes have resulted in a number of statutory plans being developed. Specifically within the Auckland Region there is the Auckland Waste Management and Minimisation Plan (**WMMP**) and the AUP. In my

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<sup>1</sup> Auckland Waste Management and Minimisation Plan

opinion, the WMMP must be had regard to under s 171(d) of the RMA when considering the effect of allowing the Transport Agency's notice of requirement, while the provisions of the AUP must be had regard to under s 171(1)(a). (I address these statutory tests in section 7 below.)

- 6.3 The overarching aspirational goal of Auckland Council is zero waste by 2040. It is my opinion that the role of RTS facilities within the waste network in Auckland is critical to achieving both this aspirational goal, and the outcomes regarding waste reduction and management of environmental effects sought through the legal framework summarised above. This is because RTS facilities provide the critical linkage role of sorting and consolidating waste before distribution to landfill or another downstream facility.
- 6.4 The Council's goal of zero waste is about reducing residual waste to landfill. It therefore prioritises the recovery, reuse and recycling of waste. I consider while there is a role for households and individuals in achieving this goal, the more critical role is played by infrastructure operators like WMNZ. This is demonstrated in the WMMP where it identifies that Auckland Council only controls approximately 17% of the waste stream in Auckland, with the remainder managed by companies such as WMNZ. Therefore I consider the continued operation of the Rosedale RTS, which Mr Kennedy explains is a critical part of WMNZ's network, is important in achieving the Council's strategic waste initiatives.

#### **Proposed Auckland Unitary Plan**

- 6.5 The Rosedale RTS and the wider Project works area is subject to the AUP. I discuss the operative AUP provisions further below.
- 6.6 As part of the Proposed Auckland Unitary Plan process, I was involved on behalf of industrial clients including WMNZ. This involved being part of both the infrastructure working group and the industry working group. There were a number of key strategic areas we examined as part of these two groups which flowed through to the changes made to the Proposed Plan and ultimately the final AUP. I discuss these changes below as part of addressing the AUP provisions relevant to the assessment of the notice of requirement.

## Infrastructure

- 6.7 The notice of requirement for the Project seeks to provide for transport infrastructure. Importantly, consideration also needs to be given to how the project interacts with other infrastructure that may be affected where the notice of requirement is confirmed.
- 6.8 The recognition, enablement and support of infrastructure was a key topic through the hearings process for the Proposed Unitary Plan. Discussions around how to appropriately provide for infrastructure were critical to the formulation of some key strategic drivers in the now operative Plan, including key Regional Policy Statement (**RPS**) provisions set out under section B3 relating to Infrastructure, transport and energy. I consider the following RPS objectives and policies are relevant to considering the effects of the Project on Waste Management's Rosedale RTS:

**Objective B3.2.1(2)** – The benefits of infrastructure are recognised, including:

- (i) Providing essential services for the functioning of communities, businesses and industries within and beyond Auckland;
- (ii) Enabling economic growth;
- (iv) Contributing to the economy of Auckland and New Zealand;
- (v) Providing for public health, safety and the well-being of people and communities;
- (vi) Protecting the quality of the natural environment; and
- (vii) Enabling interaction and communication, including national and international links for trade and tourism”.

**Objective B3.2.1(4)** – The functional and operational needs of infrastructure are recognised.

**Objective B3.2.1(8)** – The adverse effects of infrastructure are avoided, remedied or mitigated.

**Policy B3.2.2(7)** – Encourage the co-location of infrastructure and the shared use of existing infrastructure corridors where this is safe and satisfies operational and technical requirements”.

- 6.9 The objectives and policies above highlight the important role infrastructure has to play in providing for the health and well-being of people and communities and providing essential services. I consider the RTS undertakes these important functions.

- 6.10 The Independent Hearings Panel (**Panel**) for the AUP released their report on Hearing topic 012 (Infrastructure, energy and transport) in July 2016. As part of that report, the Panel discussed the importance of infrastructure to the region's economy and to the well-being of people and communities. As part of this, the Panel recommended that municipal landfills should be included in the definition of infrastructure, which was accepted by the Council in its decision on the Plan.
- 6.11 The Panel also considered that infrastructure enables other activities to occur. In relation to the RTS site and its role as part of the wider waste infrastructure, I consider the following comment from the Panel in their recommendation report is relevant:<sup>2</sup>
- Typically, and especially for inter-connected networks, the whole system or network is essential to provide the infrastructure service. The efficacy of an infrastructure service almost always depends on the functioning of every element of it.
- 6.12 The key point is that the RTS is not a stand-alone business or a site that operates in isolation. On the contrary, it is a site that is part of a wider network of key waste management infrastructure that is essential to the functioning of Auckland. I consider that as part of the design of the Project, there has been no real assessment by the Transport Agency of the RTS in this light and no consideration of what confirmation of the notice of requirement could mean for the operation of the site within the context of the wider waste network. The AEE and evidence on behalf of the Transport Agency also does not consider what mitigation options could be offered or proposed to ensure this infrastructure is not adversely affected.
- 6.13 This is despite the fact that the effects of the Project on other infrastructure has been considered through the Auckland Council's s 149G report that has been prepared for the BOI on the Project's key issues. In particular, the need to ensure any effects of the Project on other infrastructure are avoided, remedied or mitigated in a way that allows those infrastructure services to continue in a safe and efficient way was specifically identified as a key issue. I also note that the evidence of Mr McGregor on behalf of the Transport Agency says that the design of the Project was developed in conjunction with potentially affected infrastructure providers.

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<sup>2</sup> Auckland Unitary Plan Independent Hearings Panel, Report to Auckland Council Hearing topic 012, Infrastructure, energy and transport. July 2016

- 6.14 However, notwithstanding that, I note from Mr Kennedy's evidence that WMNZ was not one of the infrastructure providers included in the development of the Project's design. The result is that no recognition or consideration of the potential effects of the Project on the operation of Waste Management's Rosedale RTS, or Auckland's waste management infrastructure of which the RTS is an integral part, appears to have been by the Transport Agency in developing its Project for notification.

### **Shortage of Industrial Land**

- 6.15 The other important theme that arose through the Unitary Plan hearings process and which is relevant, is the recognised shortage of industrial land in Auckland. Under the AUP, on the North Shore there is no heavy industry zoned land and only minimal Light Industry zoned land (with a large percentage of the Light Industry zone land area covering the Watercare Rosedale Water Treatment Plant and therefore effectively unavailable for other industrial activities).
- 6.16 The RTS occupies an area just over 1ha (this is 123 and 117 Rosedale Road combined). If the RTS were needed to relocate, it would need a site of comparable size to be properly accommodated.
- 6.17 As part of the development of the AUP, Auckland Council undertook a Capacity for Growth Study.<sup>3</sup> Business areas were examined as part of this to determine how much availability or vacancy there was and the ability to accommodate more business land or floor space.
- 6.18 The Capacity for Growth study showed in 2012 that across the whole of the Auckland Region and for all business zone types (ie not just industrial-zoned land), for a site size of between 1-2ha there were only 77 parcels of business-zoned land that were vacant. Unfortunately there was no further breakdown of which area these parcels were located within or the type of business zoning they had so I cannot conclusively say how many of these vacant sites might have been located in the North Shore and were also zoned for Industry rather than general business. However, I do consider this supports Mr Kennedy's evidence that finding a replacement site on the North Shore for the RTS would be difficult, as 77 sites on a region wide basis is not a large pool of vacant business land.

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<sup>3</sup> Capacity for Growth Study 2013 – Auckland Council

- 6.19 In addition, the RTS operation needs to be located within an industrial zoning as that provides for the land use component (in terms of s 9 of the RMA) as a permitted activity under the AUP. Outside of an industrial zoning the activity itself becomes non-complying and the objectives and policies do not support it. There are specific policies both within the zoning provisions and the air quality provisions that actively discourage activities in the general business zones that may have noxious, offensive or undesirable qualities. This is further compounded by all business zones outside of industrial zoned sites requiring a high air quality amenity. I do not consider it is practical for a refuse transfer station operation to meet these requirements as they are a true industrial activity. This results in the RTS operation being limited to a location within either a Heavy or Light Industry zoning.
- 6.20 It is my view that the known lack of industrial land supply in Auckland should have been considered as part of the Transport Agency's assessment of the Project under s 171 of the RMA, when considering the extent of the notice of requirement and the adverse effects it could have (if confirmed) on the Rosedale RTS and its operations.

## **7. SECTION 171 OF THE RMA**

- 7.1 Section 171(1) of the RMA sets out the tests when considering a notice requirement and any submissions received. Specifically s 171(1) says:

- (1) When considering a requirement and any submissions received, a territorial authority must subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to –
  - (a) any relevant provisions of
    - (i) A national policy statement;
    - (ii) A New Zealand coastal policy statement;
    - (iii) A regional policy statement or proposed regional policy statement;
    - (iv) A plan or proposed plan; and
  - (b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if the requiring authority does not have an interest in the land sufficient for undertaking the work; or it is likely that work will have a significant adverse effects on the environment; and

- (c) Whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and
- (d) Any other matter the territorial authority considers reasonably necessary in order to make a recommendation on the requirement".

7.2 I address each of the s 171(1) tests below, in relation to the effects on the ongoing operation and function of Waste Management's Rosedale RTS, where the notice of requirement as proposed by the Transport Agency is confirmed.

### **Effects of allowing the requirement**

7.3 Mr Kennedy sets out in detail the adverse effects of allowing the notice of requirement on the ongoing operation of the Rosedale RTS in section 5 of his evidence.

7.4 Given Mr Kennedy's evidence, it is my opinion that the extent of the notice of requirement on WMNZ's landholdings will, if confirmed, result in adverse effects on the Rosedale RTS site, which forms part of the existing environment. These effects must therefore be considered in terms of s 171 RMA when determining whether to confirm the notice of requirement as it relates to WMNZ's landholdings and, if so, on what conditions.

7.5 In summary, the adverse effects of allowing the notice of requirement on Waste Management's landholdings include:

- (a) Adverse effects on the ongoing ability for the RTS to continue to operate from its current location, and in doing so provide for the growth in demand for waste transfer services on the North Shore.
- (b) Wider adverse effects on the regional waste management network. These adverse effects are significant and arise because allowing the notice of requirement will compromise the RTS's continued performance of its role as an intermediate waste management facility that is an integral part of the wider waste management network.
- (c) Adverse reverse sensitivity effects on the day-to-day operation of the Rosedale RTS, resulting from the proposed SUP which will give significant numbers of pedestrians and cyclists visibility of the RTS' operations.

(d) Adverse construction traffic effects on the operation of the Rosedale RTS, during the period of proposed closure of Rosedale Road.

7.6 I have considered the adverse effects in (a) and (b) above when addressing each of the tests in section 171(1)(a) - (d) of the RMA below, and then undertaken a Part 2 assessment, in terms of whether the notice of requirement should be confirmed as it applies to WMNZ's landholdings.

7.7 I have then separately considered the adverse reverse sensitivity and construction traffic. This is because these effects will arise irrespective of whether the notice of requirement is confirmed as it relates to WMNZ's land, and can be mitigated through amendments to the conditions of the designation.

7.8 Having reviewed the application documents and evidence of the Transport Agency, I consider that in lodging its notice of requirement for the Project, the Transport Agency has not properly considered the adverse effects on the ongoing operation of the Rosedale RTS, if its requirement is confirmed. In its application, the Transport Agency has chosen to take a narrow approach to the consideration of effects, and has not considered the adverse effects of the Project on the operation of the Rosedale RTS, or how this fits within Auckland's wider strategic waste network and the adverse effects that will arise where it can no longer function efficiently as part of that network.

7.9 Given this and Mr Kennedy's evidence summarised above, I therefore disagree with paragraph 14.5 of Mr Burn's evidence where he states that "...the adverse effects of the Project are avoided and the residual impacts are mitigated". From WMNZ's perspective, the adverse effects of the Project on its Rosedale RTS will not be avoided, remedied or mitigated if the notice of requirement is confirmed in its current form.

#### **Section 171(1)(a) – planning framework assessment**

7.10 As discussed in section 6 of my evidence, the RTS site is part of a connected waste infrastructure network. The AUP, particularly through the RPS provisions, places importance on the enablement and protection of infrastructure and infrastructure networks to enable these to serve communities and the region.

7.11 Consideration has been given by the Transport Agency to these provisions in relation to the improvements that the Project will make to a key piece of transport infrastructure, being State Highway 1. However, it is my opinion that the Transport Agency has not adequately considered how these objectives and policies apply to other infrastructure within the Project area that may be adversely affected, in particular the Rosedale RTS and the region's waste infrastructure.

7.12 I have outlined key infrastructure provisions from the AUP in my evidence above. There are also important provisions contained within the AUP relating to industry and the protection of industrial land that are relevant and should be had regard to under s 171(1)(a). Specifically, under the RPS B2.5 Commercial and Industrial Growth chapter, I consider the following to be relevant:

**Objective B2.5.1(3)** - Industrial growth and activities are enabled in a manner that does all of the following:.... promotes the efficient use of buildings, land and infrastructure in industrial zones, recognises the particular locational requirements of some industries..

**Policy B2.5.2(8)** - Enable the supply of industrial land which is relatively flat, has efficient access to freight routes, rail or freight hubs, ports and airports, and can be efficiently served by infrastructure.

**Policy B2.5.2(9)** – Enable the efficient use of industrial land for industrial activities and avoid incompatible activities....

7.13 The majority of the RTS site is located within the Light Industry zone. In my opinion, in addition to the RPS infrastructure and industry provisions, The following objectives and policies are relevant from the Light Industry zone and should also be had regard to:

**Objective H17.2(1)** – Light industrial activities locate and function efficiently within the zone.

**Objective H17.2(2)** – The establishment of activities that may compromise the efficiency and functionality of the zone for light industrial activities is avoided.

**Policy H17.3(2)** – Avoid reverse sensitivity effects from activities that may constrain the establishment and operation of light industrial activities.

7.14 Taken together, the AUP provisions give clear direction to the enablement and protection of both infrastructure and industry within the Auckland region. I consider the RTS site falls under both of those categories. It serves an important function as part of the regional waste infrastructure

and is an industrial activity that relies on the protection and provision of industrial-zoned land in key locations around Auckland.

**Section 171(1)(b) – alternatives assessment**

- 7.15 As part of the Project, the Transport Agency has undertaken an assessment of alternatives for the alignment of the Project, which is not disputed by WMNZ.
- 7.16 However, I consider that in order to give adequate consideration to alternatives as required by s 171(1)(b), it is important to have a complete picture of what all the potential effects of the Project may be on the environment and to have regard to these effects when undertaking the alternatives assessment. I cannot find within the application documentation or evidence provided by the Transport Agency any consideration of the effects on the Rosedale RTS that may result from the preferred alignment option, or the other alternatives considered. I consider this means the alternatives assessment may have been undertaken without all necessary information to make an informed decision.

**Section 171(1)(c) – work reasonably necessary to achieve requiring authority objectives**

- 7.17 It is not disputed that the Project, in general, is reasonably necessary to achieve the Transport Agency's objectives, which it has defined. However, this is just one of the matters that the BOI must have regard to when considering the effects on the environment of allowing the requirement under s 171 of the RMA.

**Section 171(1)(d) – any other matter**

- 7.18 I consider the role of waste minimisation in enabling social and economic well-being and the regulatory framework that governs this key initiative is an important other matter to which regard can be had under s 171(d).
- 7.19 In particular, I identified in section 6 of my evidence the WMA as an important matter for consideration in terms of the effects of the Transport Agency's notice of requirement on the RTS. The purpose of the WMA is to encourage waste minimisation and a decrease in waste disposal to landfill, in order to protect the environment and provide environmental, social, economic and cultural benefits. There is a responsibility under the Act for territorial authorities to promote effective and efficient waste

management and minimisation within their districts. To achieve this, territorial authorities must adopt a WMMP.

- 7.20 As set out in the WMMP for Auckland, of the four landfills and 17 transfer facilities servicing the Auckland region, Auckland Council has full control of only one facility – the Waitakere Refuse and Recycling Transfer Station. Auckland Council has no operational control of any landfills other than Claris landfill on Great Barrier Island. Therefore, implementing and achieving goals under the WMMP requires the involvement of the key waste industry participants like WMNZ and the efficient operation of sites such as the Rosedale RTS. I consider this is an important other matter to be had regard to when considering the effects of the notice of requirement of the Project on the RTS, and the implications for regional waste minimisation initiatives if the RTS can no longer efficiently function.

## **8. PART 2 OF THE RMA**

- 8.1 I consider that the notice of requirement as applied for in its current form will not meet the overall purpose of the RMA of sustainable management. While the Project as a whole offers benefits to the community, in terms of s 5(2)(c) it is not clear that these benefits will be achieved while avoiding, remedying or mitigating adverse effects.
- 8.2 Specifically, there has not been sufficient consideration of the potential adverse effects of the Project on the ongoing operation of the site or consideration of how the Project could adversely affect how the RTS contributes to people and communities' social and economic wellbeing. This contribution is important as the RTS forms part of the critical waste infrastructure network that services the region, and is part of the system in place to achieve national waste minimisation initiatives.
- 8.3 Furthermore, in relation to s 7 of the RMA, as identified earlier in my evidence, the RTS is located on industrial land, which has been recognised by Auckland Council as being in short supply in the medium to long term in Auckland. I consider further loss of industrial land to a non-industrial activity is not an efficient use of this land resource as in terms of s 7(b).

## 9. REVERSE SENSITIVITY

9.1 Mr Kennedy's evidence sets out the adverse reverse sensitivity effects that WMMZ considers the Project will have on the Rosedale RTS. These effects will arise irrespective of whether the current notice of requirement is confirmed, or where a modified requirement is confirmed to address the Project's adverse effects on the ongoing operation of the RTS as set out above.

9.2 Specifically, WMNZ's concerns relate to the SUP along the eastern boundary of the proposed new busway, which will adjoin and be elevated above the RTS site. WMNZ is concerned about the potential for adverse reverse sensitivity effects on the operation of the RTS to arise via the SUP through the introduction of cyclists and pedestrians in close proximity to the RTS. WMNZ's experience, as set out by Mr Kennedy, is that where the members of the public are able to view the operation of its waste management facilities, they are more likely to complain about perceived amenity effects (odour, dust and noise), even where those effects are either permitted by the relevant planning framework or the conditions of WMNZ's resource consents.

9.3 Mr Burn for the Transport Agency has responded in his evidence to this concern. In paragraph 16.10 of his evidence Mr Burn says that:

...as far as the matter of reverse sensitivity goes I have examined the council files for the RTS site and note that the RTS is the subject of a suite of land use and discharge consents. A discharge permit (No26218) was granted in 2004 which included a condition requiring inter alia that there be no noxious, dangerous or offensive odours discharged beyond the boundary of the site.

9.4 Mr Burn then goes on to say that this consent expired in 2012 and he believes it has not been renewed. Mr Kennedy has confirmed that the site has a current air discharge permit. The current consent contains the standard odour condition relating to offensive and objectionable odours beyond the site's boundary. The condition says:

Beyond the boundary of the site, there shall be no dust or odour caused by discharges from the site which, in the opinion of the enforcement officer, is noxious, offensive or objectionable.

9.5 This condition does not require there to be no discernible odour beyond the boundary of the RTS. I have been involved in projects relating to air

discharge applications and the air quality experts have confirmed this approach to the management of odour effects is appropriate.

- 9.6 Exposure to unpleasant odours can affect people's enjoyment of their surroundings and create nuisance. For this reason odour is primarily considered in terms of its effects on amenity. In New Zealand, the relevant guidance is set out in the Good Practice Guide for Managing and Assessing Odour in New Zealand.<sup>4</sup> Different people have different sensitivity to odours and the Good Practice Guide (section 3.4.1) states that:

It is usually insufficient for an odour to simply be detected at or beyond the boundary of a site. As discussed in Section 3.3.1, the odour must be sufficient to create an adverse effect and the odour must be objectionable or offensive in the opinion of an ordinary reasonable person.

- 9.7 I consider that the SUP will introduce a cross section of the general public into the vicinity of the RTS. The technical reports supporting the notice of requirement state that the Project will result in significantly improved safety and connectivity outcomes for active modes with the addition of the SUP. Some of these people will likely be sensitive to odours. While the RTS may meet the tests relating to an ordinary reasonable person as described in the Good Practice Guide, it is possible there will be people who will be more sensitive than this, which could result in complaints about the operation of the RTS even though it is operating within the bounds of its consent. This is likely to create a reverse sensitivity effect on the operation of the RTS and has the potential to affect the commercial operation.

- 9.8 I therefore consider that mitigation is required to reduce the likelihood of reverse sensitivity effects occurring on the RTS. This can be achieved via the requirement for the RTS to be screened from the SUP and the access ramp / stairs, so that it is not visible to pedestrians and cyclists using this new transport infrastructure. In my opinion, the following condition on the designation requiring screening is appropriate and will mitigate, to some extent, the Project's potential adverse reverse sensitivity effects:

The Requiring Authority shall include screening in the form of a solid fence along the edge of the proposed Shared Used Path (SUP) and access ramp / stairs, where it adjoins the Refuse Transfer Station (RTS) site at 123 and 117 Rosedale Road. The fence should ensure that the RTS is predominantly screened from the SUP.

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<sup>4</sup> Good Practice Guide for Managing and Assessing Odour in New Zealand. Ministry for the Environment. June 2003

## 10. CONSTRUCTION TRAFFIC EFFECTS

10.1 Mr Kennedy also sets out WMNZ's concerns in relation to the proposed partial closure of Rosedale Road during the construction of the Project. As he explains, this closure will result in adverse effects on WMNZ, as it is not appropriate for its trucks to use an alternate route through sensitive areas during the time when the construction of the Project necessitates the partial closure of Rosedale Road.

10.2 In my opinion, given the importance of Rosedale Road in providing access to the RTS, the Transport Agency does need to work closely with WMNZ in preparing a construction programme that will, as far as practicable, mitigate the adverse effects of any necessary partial closure of Rosedale Road. I consider this can be achieved by the imposition of the conditions below relating to the preparation of the Construction Traffic Management Plan (CTMP).

10.3 I accept that the condition needs to be limited to operators like WMNZ who generate high levels of traffic, so as to allow the CTMP to be efficiently prepared by the Transport Agency. It will therefore be necessary to identify a trigger (based on the average number of vehicle movements per day, or similar). I consider the determination of the appropriate trigger can be addressed during caucusing of the relevant experts, so I have not proposed a trigger in my evidence.

10.4 The condition I propose is as follows:

The Requiring Authority shall ensure that, when developing the CTMP, the suitably qualified person preparing the CTMP shall:

- (a) Use best practice to better understand the effects of construction of the Project or Project stage on the affected road network, which may include the use of traffic modelling tools. Any such assessment should be undertaken in consultation with Auckland Transport, and have the ability to simulate land restrictions and road closures
- (b) Be undertaken in consultation with operators of high traffic generating activities (in excess of \*\* vehicle movements on average per day) due to their high reliance on the road network and the implications on their operations from road restrictions; and
- (c) As far as practicable, include measures to avoid road closures and also the restriction of vehicle, cycle and pedestrian movements.

**11. CONCLUSION**

- 11.1 It is my opinion that in preparing the notice of requirement for the Project, the Transport Agency did not properly consider effects on the existing Rosedale RTS as required by s171 of the RMA. The potential effects on the operation of this facility have wider ramifications for Auckland's network of waste infrastructure, particularly as the ability to relocate the RTS is not straight forward. Without this consideration being undertaken by the Transport Agency, I consider there is insufficient evidence to confirm the extent of the notice of requirement as it relates to WMNZ's Rosedale RTS.

**Andrea Lesley Brabant****25 May 2017**