



12 Statutory Assessment

12.1 Introduction

The purpose of the statutory planning assessment is to provide analysis of the Project against the relevant legislative framework within which the designations and resource consents are sought.

Section 3 of this AEE has set out the statutory framework in which the Project sits and the relevant provisions of the RMA. It also comments on other relevant legislative documents as appropriate.

12.2 Statutory Framework

The statutory documents relevant to the consideration of the Project in terms of both the NoRs and resource consents are as follows:

- Resource Management Act (RMA);
- Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES_{Soil});
- Land Transport Management Act 2003 (LTMA);
- Government Roothing Powers Act 1989 (GRPA);
- Reserves Act 1977 (RA);
- Wildlife Act 1953 (WA);
- Fisheries Act 1983 (FA); and
- Heritage New Zealand Pouhere Taonga Act 2014.

Copies of the relevant provisions from these documents are attached in **Appendix E- Relevant Statutory References**. This Section assesses the Project against the requirements of the RMA, and briefly comments on other relevant legislation.

The relevant statutory provisions are set out in **Section 3** (Statutory and Policy Context).

This Section should also be read together with **Section 7** (Assessment of Alternatives) and **Section 9** (Assessment of Actual and Potential Environmental Effects).

12.3 Resource Management Act 1991

As detailed in **Section 3**, the consent authority must, when considering the matters set out in section 171 of the RMA, do so subject to Part 2 of the RMA. In addition, a consent authority's consideration of applications for resource consent under section 104 must also be subject to Part 2 of the RMA.

This section sets out the assessment of the Project against the statutory requirement of Part 2 and sections 171, 104D, 104, 105 and 107 of the RMA. **Sections 3 and 6** identify the NoRs and resource consents sought in this process respectively.

The following sections assess the Project against purpose and matters outlined in Part 2 of the RMA relevant to the proposal.

12.3.1 Consideration of notices of requirement

As set out in **Section 1**, the NZ Transport Agency proposes to alter the following existing designations to widen them and generally authorise the Project works:

- Designation 6751 – SH1-Greville North;
- Designation 6750 – SH1-Greville to Harbour Bridge;



- Designation 6756 – SH18-State highway; and
- Designation 6758 – Constellation Bus Station (alteration to conditions only; no change to designation footprint).

In addition, notices of requirement have been issued for two new designations, in order to authorise:

- The extension to the Busway, adjacent to SH1 (on the eastern side); and
- The proposed new shared use path (walkway and cycleway) adjacent to the extension to the Busway.

Section 171 of the RMA sets out the various matters to which particular regard must be had when considering notices of requirement for a designation (as outlined in **Section 3**). Under section 181, those same matters are to be considered 'with any necessary modifications', in relation to a notice of requirement for an alteration as if it were a notice of requirement for a new designation.

These matters have been discussed and assessed throughout the AEE and associated Technical Assessments. The purpose of this Section is to draw these matters together to provide a clear outline of the section 171(1) considerations and where these are addressed in more detail.

12.3.1.1 Section 171 considerations

Effects on the environment (s 171(1))

Under section 171 the decision maker must, subject to Part 2, consider the effects of the environment of allowing the requirement. Consideration of the Project against the matters within Part 2 of the RMA is set out below in **Section 12.3.3**.

The Project will have a range of effects, some of which are positive and others that are potentially adverse and vary in potential significance, scale and duration. The effects on the environment associated with the NoRs are assessed in detail in **Section 9**. **Sections 9 and 10** set out the proposed measures to avoid remedy or mitigate the adverse effects of the Project on the environment.

The Project will have significant positive transport effects (benefits) at a local and regional level, as it will improve the efficiency and capacity of the State highway and public transport network, including safety improvement features.

The Project is expected to increase daily flows on the Northern Motorway by up to 28,600 vehicles per day, two way, between the Greville interchange and the SH18 direct connections (based on 2031 traffic forecasts). Daily flows along the Upper Harbour Motorway, east of the Albany Highway interchange are expected to increase by 22,500 vehicles/day, two way (based on 2031 traffic forecasts). However, the additional capacity and new direct connections provided by the Project mean that travel times are predicted to improve, relative to the future scenario without the Project, even with these increases in flows.

While the Project is predicted to increase flows along both SH1 and SH18, decreases in flows are forecast on a number of parallel routes (based on 2031 traffic forecasts).

The Project will offer significant benefits for public transport in terms of providing quicker and more reliable journeys by bus, through the extension of the Busway to Albany Bus Station. In particular, northbound buses will no longer need to travel with general traffic at the Upper Harbour Interchange, as they leave the Constellation Bus Station. This will lead to benefits in terms of reduced travel times for buses and increased patronage. The increased patronage will in turn lead to less traffic congestion. In addition, the reduced traffic volumes on arterial routes will provide indirect benefits to public transport operators and users, by reducing congestion on these routes and improving bus travel times, where bus priorities are not already in place.

The Project will also deliver a number of safety improvements. Crash reductions are predicted through sections of motorway that the Project will fundamentally change, particularly on SH18 east of



Albany Highway. Small crash rate increases are predicted on sections outside the Project but where increases in traffic are expected. In total however, a net reduction in annual injury crashes on the motorway network is expected.

Finally, the Project includes shared use paths parallel to SH1 from Oteha Valley Road to Constellation Bus Station, and parallel to SH18 from Albany Highway to Constellation Bus Station, together with connections to the local transport network. Accordingly, the Project's effects on pedestrians and cyclists are predominantly positive, and the Project will result in significantly increased safety and connectivity outcomes for active modes.

There are related positive social effects associated with these transport benefits. The Project will enhance movement and accessibility through the Project area with improved east – west connections at McClymonts Road, Rosedale Road and Constellation Drive. Consequently, access between schools, commercial/retail, employment areas and neighbourhoods will be enhanced. With the SH1 SUP better connectivity between communities along the SH1 access are anticipated for north – south cycle/ pedestrian movements avoiding local road options. Currently, pedestrian/cycle movement across SH18 from Unsworth Heights to North Harbour East is restricted to the underpass at Alexandra Stream. With the Project in place, north-south connectivity will be augmented from the residential area to the range of services within North Harbour East by way of the SH18 SUP and its local road linkages at Caribbean Drive, Paul Matthews Road and William Pickering Drive. A dedicated crossing at Constellation Drive will facilitate better accessibility to the range of services located to the east as well as to Constellation Bus Station.

There is also the potential for adverse effects associated with the Project. The effects of the Project are assessed in detail in **Section 9** (and the supporting Technical Assessments), and the proposed mitigation measures are summarised in **Section 10**. In summary:

- There is some potential for increased operational noise in some locations as a result of the Project. New noise barriers are proposed in a number of locations where this is considered the BPO to manage noise effects. In other locations, operational noise levels will be reduced;
- Operational vibration levels are not likely to increase as a result of the Project. As such no specific mitigation is considered necessary;
- Air quality (dust) effects during construction can be managed. The Project itself, once completed, will not generate adverse air quality effects;
- There will be some adverse effects on terrestrial ecology associated with the clearance of vegetation. Overall, the terrestrial ecological values within the Project area are considered to be low, with the exception of a SEA along the western side of the Oteha Valley Road northbound on-ramp (SEA_T_8297). The vegetation near the on-ramp will be impacted by the installation of a new culvert. However, provided mature trees are not removed, the adverse effects will be minor. It is considered that the overall effects of the Project on terrestrial ecology, with mitigation and appropriate monitoring, will be negligible;
- There will be landscape and visual effects associated with the removal of vegetation as well as with works within higher areas of natural character such as Lucas Creek, Oteha Stream and Alexandra Stream. Replacement planting and revegetation is proposed to address these effects;
- The Project will increase the amount of impervious area throughout the Project area generating increased runoff from motorway surfaces. Although not all stormwater effects are able to be avoided, the design of the Project has mitigated water quality and quantity effects to the greatest extent possible through treatment, detention, attenuation and outlet protection, and will improve the quality of stormwater runoff from existing and new impervious surfaces within the Project area. This is seen as a benefit of the Project;
- There is also the potential for adverse freshwater ecology effects arising from stormwater runoff from roads, including hydrocarbons. However, through appropriate mitigation, any potential adverse effects on freshwater ecology are anticipated to be no more than minor;



- A number of sites along the Project alignment have been identified as a risk due to potential land contamination. Potential contaminants have been assessed based on the historic land uses, and measures proposed to minimise any adverse effects that may occur with the exposure to contaminated soils. In addition, the Project will include works within the Rosedale Closed Landfill. Without mitigation this could have the potential to generate significant adverse effects during construction on the environment and the health of personnel working within the site and the wider community. Mitigation measures will include consideration of specific construction management aspects and health and safety issues and be addressed during detailed design and construction in the vicinity of the Rosedale Closed Landfill. With these measures in place it is anticipated that any actual or potential adverse effects from contaminated land and the Rosedale Closed Landfill during the operation of the Project will be minor;
- No archaeological sites or historic heritage remains that may be encountered or adversely affected by the development of the Project have been identified. Notwithstanding this, if any sites are encountered, accidental discovery protocols are to be adhered to in order to avoid any damage or irreversible effects. Overall, it is considered that with the implementation of the mitigation proposed, the effect of the Project on archaeological and heritage values will be less than minor; and
- On-going engagement has occurred throughout the development of this Project with interested mana whenua groups. The Project has taken into consideration the views and concerns raised through various hui and in cultural values assessments that have been prepared. Overall, it is considered that the Project has addressed the concerns identified and appropriately addressed any adverse effects on mana whenua values that have been identified.

Finally, there will be a number of temporary adverse effects associated with the initial construction works, as follows:

- Large volumes of earthworks are required for the construction of this Project generating sediment with the potential to enter waterways. A variety of erosion and sediment control measures are proposed to first minimise erosion and then control and treat any sediment-laden runoff prior to any discharge of construction waters. The pH levels are to be tested for construction waters potentially containing contaminants such as concrete prior to removal or discharge to an appropriate location. The preparation and adherence to CESCPS will ensure that the adverse effects of construction water will be appropriately avoided or mitigated such that overall they will be no more than minor;
- In terms of construction noise, there are locations where the recommended noise levels for both residential and commercial activities will be exceeded during the construction works, which is not unusual for the construction of major infrastructure projects. Many of the effects arising from construction noise are site-specific and the actual effects will vary from activity to activity. It is considered that night-time works over one or two nights is acceptable provided residents have been kept informed and a clear timeframe is provided. Where more than two consecutive nights are proposed for night works where the noise standards may be exceeded, alternative strategies are to be implemented;
- There is the potential for vibration generated from the construction phase of the Project to have adverse effects on the properties adjacent to the Project corridor. However, it is considered that the adverse effects associated with vibration during the construction phase while can be managed to reduce effects as far as practicable;
- The construction of the Project will see the control of dust emissions during the construction phase through the preparation of, and compliance with, a CEMP and a Dust Management Plan. These documents will control factors such as frequency, intensity, duration, offensiveness, location, buffer distances, erosion, dust mitigation, response programme and on-going monitoring. It is expected that if these documents are strictly adhered to throughout the construction phase of the Project and consequently, the adverse effects, although not avoided, will be no more than minor; and
- During the construction period, adverse transport effects will be encountered due to road closures, temporary lane closures, and temporary speed restrictions which will cause increased congestion in some parts of the State highway and local road network. A CTMP is to be prepared which will manage the adverse transport effects throughout the construction of the Project.

Overall, it is considered that the Project will have significant benefits, while any adverse effects (both during construction and longer term) will be able to be appropriately avoided, remedied or mitigated.



RMA planning documents (s 171(1)(a)(i) – (iv))

Relevant provisions of the applicable statutory planning documents are considered in **Section 11**. In summary, it is considered that:

- The Project is in accord with the objectives and policies of the NPS_{FM};
- In terms of the NPS_{ET}, the design of the Project has been mindful of the significance of the electricity transmission network, and solutions have been identified to avoid any disruptions or major relocations of transmission. As such, the Project works are considered to be consistent with the NPS_{ET};
- The Project is consistent with the relevant objectives and policies in the AUP, including the RPS; and
- The Project is consistent with the relevant objectives and policies of the ACRPS and the ACRP:ALW which still have legal effect.

The overall conclusion of this assessment outlined in **Section 0** is that the Project is not contrary to the objectives and policies of all relevant instruments.

Adequate consideration of alternative sites, routes or methods (s 171(1)(b))

The alternatives assessment process undertaken in the development of the Project is explained in detail in **Section 7**.

There have been a number of alternatives assessments throughout the development of the Project in order to progressively refine the options for improving network connections in the Project area. This process has been thorough and robust in terms of the requirements of section 171(1) and Schedule 4 of the RMA

Whether the work and designations/alterations are reasonably necessary to achieve the objectives of the NZ Transport Agency (s 171(1)(c))

The NZ Transport Agency's objectives for the Project are:

- To help facilitate interregional travel between Auckland and Northland by completing the Western Ring Route to motorway standard;
- To improve connectivity of the SH1 and SH18 interchange;
- To improve safety, efficiency, reliability and the capacity of:
 - SH1 between SH18 and Albany; and
 - SH18 between SH1 and Albany Highway.
- To provide safe walking and cycling facilities adjacent to SH1 and SH18 and connections to local transport networks; and
- To extend the Busway from Constellation Bus Station to the Albany Bus Station.

Both the works and the designations and alterations are considered to be reasonably necessary because:

- The works are reasonably necessary to provide motorway standard connections between SH1 and SH18, increase the capacity of the State highways, and provide for the new walking and cycling facility and Busway extension;
- The alterations to designations 6750 (SH1), 6751 (SH1), 6756 (SH18) and 6758 (Constellation Bus Station) are reasonably necessary because they will:
 - Widen the Project corridor to provide for additional features such as the new connections between SH1 and SH18 and additional State highway lanes;
 - Authorise the NZ Transport Agency to undertake the proposed works;
 - Allow the Project to be clearly and accurately identified in the AUP, by updating the existing designations to show what will be constructed;



- Provide a more efficient planning tool than using resource consents or plan changes to authorise the Project, given the complexity of the design detail and mitigation planning. In addition:
 - Altering (i.e. widening) the existing State highway designations is more appropriate than adding on new designations to enable these works outside of the current designation footprints, because it will mean conditions can be imposed over the Project works and operations in a coherent way.
 - It is reasonably necessary for the SH1 designation (6751) to be extended over the same area as the busway and shared use path, in order to enable services beneath those assets which will support the State highway.
 - The expanded designations will provide space for construction service areas. Following completion of construction, there may be the opportunity to reduce the designation subject to providing sufficient space for maintenance activities.
- The new designations are reasonably necessary because they will:
 - Enable the construction and ongoing operation of the Busway extension and the new shared use path.
 - Allow the required land to be identified in the AUP, to provide a clear indication of the intended land use.
 - Provide a more efficient planning mechanism than a resource consent or plan change. In addition, it is reasonably necessary for these aspects of the Project to be authorised by separate designations (rather than alteration of existing designations) because they will be functionally separate, and in order to better facilitate the possible transfer of those assets in the future. Having separate designations for these facilities is also consistent with the existing Northern Busway being authorised by a separate designation.

Relevant other matters (s 171(1)(d))

In terms of 'other matters' that may be considered reasonably necessary for considering the NoRs, it is relevant that a substantial portion of the proposed works will occur within the boundaries of (and would be authorised under) existing State highway purposes designations. Community expectations will be that State highway works will occur in these areas. This is a relevant contextual matter in understanding the scale and character of the effects of confirming the NoRs.

It is also relevant to consider the extent to which activities to be authorised by the designations are permitted land use activities under the AUP. For example, Rule E25.6.29 (3) relates to noise from works within a road reserve and enables works that exceed the noise limits in the AUP, provided the period exceeding the limits at any one receiver is less than 10 days and it meets the other requirements in parts of the rule, including the requirement for a CNVMP in E25.6.29 (5). Many of the activities to be authorised by the NoRs would have been permitted by the AUP in any event.

For context, it is noted that activities associated with the Project that are assessed to be permitted by the regional rules in the AUP are identified and discussed at **Section 6.2**.

12.3.1.2 Lapse period for new designations

Section 184 provides that, unless a designation specifies otherwise, it lapses on the expiry of five years from the date that it is included in the district plan. A lapse period of seven years is considered appropriate for the new designations to authorise extension to the Busway, and the proposed new shared use path.

Lapse periods are not sought for the alteration NoRs because the designations being altered have already been given effect to. The alterations will not have their own separate legal identity, but will merge with the existing designations 6750 (SH1), 6751 (SH1), 6756 (SH18) and 6758 (Constellation Bus Station).



12.3.2 Consideration of resource consents

The resource consents required as part of the Project are set out in **Section 6** (refer **Tables 17-22**). In essence, the NZ Transport Agency is seeking resource consents to authorise those aspects of the Project which cannot be authorised by way of a designation – being generally those aspects that do not comply with regional rules in the AUP. Resource consent is also required under the NES_{Soil}.

In summary, these are:

- Earthworks exceeding the specified volumes or criteria in the AUP (regional rules), including earthworks in a SEA (SEA_T_8364 and SEA_T_8365);
- Earthworks exceeding the specified area and volumes including within the SCPA;
- Installation of a new structure (waste water outfall) within an SEA (SEA_T_8365);
- Installation of a new structure (surface water intake structure) within an SEA (SEA_T_8364);
- Tree trimming, alteration and removal activities in a SEA, and in riparian margins (within the riparian margins of Lucas Creek, Oteha Stream and Alexandra Stream);
- Works on existing structures and associated bed disturbance (within the oxidation ponds, Pond 1 and Pond 2 subject to SEA at the RWWTP, and the extension of culverts for more than 30m outside of the SEA), deposition and temporary damming;
- New reclamation or drainage including filling over a piped stream (modified watercourse to the south of the RWWTP);
- Diversion of surface water;
- Diversion of groundwater caused by excavation, and associated dewatering or groundwater level control;
- Diversion and discharges of stormwater from impervious areas of the Project, including within SMAF areas and from high use roads;
- Discharges to land and water associated with the construction of network utility infrastructure;
- Discharges of water and contaminants from works over or bordering waterbodies;
- Discharges to air associated with earthworks and road construction, and with earthworks within the Rosedale Closed Landfill;
- Stormwater runoff from contaminated land; and
- Disturbance, removal and sampling of soil at a HAIL site, in terms of the NES_{Soil}.

The activity status for these resource consents is generally restricted discretionary or discretionary, although there is one activity with non-complying activity status. Non-complying activity status is only triggered because the Project will involve reclaiming a modified watercourse.

However, given the extent to which the proposed activities are interrelated or overlapping, it is considered appropriate for the resource consent applications to be ‘bundled’ together and considered jointly as a non-complying activity.

Section 104D contains gateways which non-complying activities must pass in order to qualify for further consideration. Section 104 RMA sets out the relevant matters to be considered by a consent authority in determining an application for resource consent. Sections 105 and 107 set out additional matters that must be considered with regard to discharge permits.

12.3.2.1 Section 104 considerations

The decision maker is required to have regard to specified matters in section 104, “subject to Part 2”. Consideration of the Project against the matters within Part 2 of the RMA is set out in **Section 12.3.3**.



12.3.2.2 Non-Complying activity status (s 104D)

As outlined earlier in this report, because of the reclamation work which affects a modified watercourse, non-complying activity status is triggered under Rule E3:A49 of the AUP. It is considered appropriate for the resource consent applications to be 'bundled' together and considered jointly as a non-complying activity.

In determining an application for a non-complying activity, the decision maker must first consider whether one of the two tests under section 104D of the RMA can be met. In summary these tests are:

- Whether the adverse effects of the activity on the environment will be minor (section 104D(1)(a)); or
- Whether the application for an activity will not be contrary to the objectives and policies of relevant plans and proposed plans (section 104D(1)(b)).

A discussion of the effects on the environment in **Section 9** has determined that the potential adverse effects of the Project will be minor or less than minor, with the exception of some temporary adverse noise and vibration effects of the proposal which will be more than minor. The assessment of the proposal against the objectives and policies of the relevant plans set out in **Section 11** finds the proposal to be consistent with the relevant objectives and policies. As the application passes the section 104D(1)(b) test of section 104D, all resource consents sought in this application can therefore be considered for determination by the decision maker pursuant to section 104B and s104.

Effects on the environment (s 104(1)(a))

The decision maker is required to consider "any actual and potential effects on the environment of allowing the activity".

The actual and potential effects on the environment associated with the Project as a whole (i.e. including both those aspects to be authorised by resource consent as well as by way of designations or alterations) are assessed in **Section 9** (and the associated Technical Assessments), and summarised in **Section 12.3.1.1**.

It is considered that the environmental effects associated with the activities to be authorised by resource consent (earthworks, vegetation clearance, and various discharges (both during construction and operation)) are all able to be appropriately managed through the mitigation measures set out in **Section 10**. These activities are required in order to enable the Project, and as such the effects of allowing these activities include the positive effects associated with the Project as a whole.

Relevant provisions of RMA statutory documents (s 104(1)(b))

Relevant provisions of the applicable statutory planning documents are considered in **Section 11**, and summarised above. It is considered that the activities for which resource consent is sought are not inconsistent with the relevant objectives and policies in these documents, provided the adverse effects are appropriately managed.

12.3.2.3 Matters relevant to applications for discharge permit (s 105)

Section 105 of the RMA requires that, for discharge permits that would contravene section 15, the decision maker also have regard to:

- The nature of the discharge and sensitivity of the receiving environment;
- The applicant's reasons for the proposed choice; and
- Any possible alternative methods of discharge, including discharge into any other receiving environment.



Nature of the discharge and the sensitivity of the receiving environment

Discharges will occur both during construction and in the course of the operation of the Project. The nature of the discharges and the receiving environment are described in **Sections 4 and 9** of this report respectively and in the following Technical Assessments included in **Volume 3**:

- Assessment of Air Quality Effects;
- Assessment of Construction Water Management;
- Assessment of Stormwater Management;
- Assessment of Surface Water Quality Effects;
- Assessment of Contaminated Land Effects; and
- Assessment of Freshwater Ecological Effects.

Construction discharges

During construction, the Project involves bulk earthworks which will contribute to associated discharges. In more detail, these include:

- Discharge of construction water (sediment-laden water);
- Discharge to air (dust); and
- Discharges associated with the Rosedale Closed Landfill works.

The Assessment of Land Contamination Effects (**Technical Assessment 6**) has confirmed that fill material and natural soils will be disturbed during construction of the Project. A detailed list of actions to be taken in order to manage issues associated with potentially contaminated or contaminated soil and a reporting requirement are recommended. Adherence to these mechanisms will ensure that the best practicable option is met with respect to the management of earthworks on-site (including the management of dust and odour).

There is the potential to encounter contaminated groundwater during earthworks, and the potential for stormwater to encounter sediment and contaminated material. In terms of water discharges, a series of control measures are identified and available to manage the quality of the discharge and these will be confirmed in the CESCPS. If any tested water is found to be contaminated (in excess of relevant guidelines), it will be pumped and either collected in drums or tanks for further treatment on-site or removed to a suitable facility authorised to receive wastewater for treatment and disposal. If the quality of the discharge is acceptable, it will be discharged to the receiving environment.

The potential for adverse dust effects is due to the close proximity of various land uses (some which could be considered sensitive). The Assessment of Air Quality Effects (**Technical Assessment 1**) recommends that a DMP be developed which will set out a detailed framework for the management, mitigation and monitoring measures to be implemented during construction. This will ensure that the best practicable option will be employed to ensure the potential effects of dust are managed.

Perforation of the Rosedale Closed Landfill cap is required in order to construct the SUP and associated retaining walls. Construction activity in the Rosedale Closed Landfill will release gas and odour into the atmosphere, and there are significant residential receivers, and commercial receptors nearby. Measures such as limiting the extent of area opened up, covering excavated refuse, and off-site removal and odour suppression management are considered to represent the best practicable option in respect to managing the air discharge. Leachate will continue to be discharged via the existing consented trade waste system. All ground and surface water that comes into contact with refuse will be treated as contaminated, contained and removed to an appropriate facility for treatment and discharge.

Operational discharges

During operation the Project involves the discharge of stormwater.



The Assessment of Stormwater Management (**Technical Assessment 11**) has thoroughly considered the BPO in respect of stormwater quality matters (locations, devices and sizing and taking account of available space). In addition, the effects on downstream hydrology (including flows and flooding) are considered to be appropriately managed through the application of the BPO.

Subject to ensuring the ongoing adoption of best practice approaches (as identified above), it is considered that the proposed control and mitigation of potential discharges to local waterways from the construction and operation of the Project represents the best practicable option.

Reasons for the proposed choice and possible alternative methods of discharge

In terms of the discharges, the available choice of locations or methods is constrained by the Project for which the authorisations are sought. There are no practicable alternatives available with respect to the discharges into the respective receiving environments, given the constrained or 'tight' nature of the corridor and the measures available. As noted, air discharges will be actively managed while all discharges of construction water will be treated (prior to discharge) and all points of discharge will be designed to ensure that potential (ongoing) sedimentation of any watercourse is managed appropriately.

A range of best practice management techniques have been identified in the various Technical Assessments and these will ensure that the loss of sediment into water courses is minimised while stormwater quality, flow and volume discharges are managed (during operation). All discharges from the Rosedale Closed Landfill are able to be actively managed through a range of measures. Given the nature of construction and operational discharges and the fact it is not practical to discharge to an alternative receiving environment, there are considered to be no appropriate alternative discharge methods, subject to the 'control' or 'treatment' methods used to minimise discharges and their effects, which are discussed in **Section 11**.

Overall, it is considered appropriate for the applications for discharge permits to be granted, having regard to the matters in section 105.

12.3.2.4 Restrictions on granting certain discharge permits (s 107)

Section 107 of the RMA prevents discharge permits to authorise the discharge of water or contaminants into water (or onto land in circumstances that may result in it entering water) being granted in certain circumstances.

The assessment of effects associated with the discharges (identified at 12.3.2.3) concludes that their effects will be minor. In particular, in terms of the s107 considerations, the discharges will not (after reasonable mixing) give rise to:

- The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials;
- Any conspicuous change in the colour or visual clarity;
- Any emission of objectionable odour;
- The rendering of fresh water unsuitable for consumption by farm animals; or
- Any significant adverse effects on aquatic life.

The Project is considered to meet the s107 test, such that the applications for discharge permits are able to be granted for the following reasons:

- The potential for significant adverse effects from sediment discharges is low. Any adverse effects experienced will be temporary and minor in nature, as earthworks will be limited in extent and well contained given the constrained nature of the site and through the application of a range of BPO measures (as discussed in the Assessment of Construction Water Management);
- The potential for effects on receiving waters associated with conspicuous oil or grease films, scums or foams, or floatable or suspended materials or odour both through construction and operation is



considered to be limited, based on the Assessment of Construction Water Management, Assessment of Stormwater Management, Assessment of Effects – Encroachment on Rosedale Landfill (**Technical Assessment 7**), and Assessment of Surface Water Quality Effects (**Technical Assessment 12**);

- The Assessment of Construction Water Management (**Technical Assessment 4**) concludes that downstream effects on water quality will be negligible after reasonable mixing;
- The Assessment of Freshwater Ecological Effects (**Technical Assessment 5**) has confirmed that the aquatic ecological values within the Project area is generally low. Consistent with this, only a limited range of species have been found. Significant adverse effects on aquatic life are therefore not anticipated; and
- Once completed, the Project will treat all stormwater runoff from the motorway to the BPO standard, prior to discharging to surrounding watercourses, while water quality will be substantially enhanced (noting there is no existing treatment along some parts of the Project corridor i.e. SH18).

Overall, it is considered that the requested discharge permits can be granted.

12.3.2.5 Conditions of resource consent (s 108)

In accordance with s108, proposed resource consent conditions are provided in **Appendix A**. The assessment of effects of the Project should be on the basis of the mitigation provided by these conditions, as proposed by the NZ Transport Agency.

12.3.2.6 Consent durations and lapse periods (s 123 and 125)

Section 123 of the RMA defines the period for which consents may be granted. Under section 123(b) the period for which any land use consent is granted is unlimited unless otherwise specified in the consent.

Section 123 goes on to set an upper limit of 35 years for discharge and water permits but section 123(d) limits discharge and water permits to five years unless an alternative duration is specified in the consent.

Under section 125, a resource consent lapses on the date specified in the consent, or (for discharge permits, water permits and land use consents) five years after the consent commences if no date is specified.

It is requested under section 123(b) that the duration of the resource consents related to land use 'construction' activities is seven years. Similarly, it is requested that the duration of resource consents related to the 'operational' aspects (i.e. discharge and water permits) is 35 years, as provided by section 123(d) of the RMA.

As outlined in **Section 5** of this report, the construction of the Project is accelerated and is estimated to take 3.5 years. The Project is expected to commence in June 2018 and finish in September 2021. Consequently, a lapse period of seven years is requested for all resource consents.

12.3.3 Part 2 Purpose and Principles (ss 5 – 8)

The assessments under section 171 and section 104 (or aspects of those assessments) are subject to Part 2.

12.3.3.1 Section 5 Purpose

The Project and its associated works and structures will enable the people of the Auckland Region, and the communities on the North Shore of Auckland to provide for their wellbeing, health and safety. In particular, the Project will provide for their social and economic wellbeing by upgrading the connection between SH1 and SH18, extending the Busway to the Albany Bus Station, and providing walking and cycling facilities. There are also health and safety benefits associated with the Project due to reductions in crashes.



The Project forms a key component of the WRR, which creates an additional north-south State highway link through the Auckland Region which is necessary for the residential and commercial growth that is projected for the North Auckland region. The WRR is also an important freight route to Northland.

Through the realisation of the objectives set out in **Section 1**, the Project will sustain the potential for the State highway system (as a physical resource) to meet the foreseeable local and regional needs for road transport.

The life supporting capacity of the ecosystems within and adjoining the Project area will be safeguarded by the proposed mitigation measures outlined in **Sections 9 and 10**. Moreover, this capacity will be improved by the treatment of stormwater runoff from both the existing and new State highway impervious areas.

For the reasons set out in **Section 9**, any potential or actual adverse effects of the proposal on the environment can be appropriately avoided, remedied, or mitigated and accordingly section 5(2)(c) of the RMA will be satisfied.

Accordingly, the Project will promote the sustainable management of natural and physical resources, consistent with the purpose of the RMA.

12.3.3.2 Section 6 Matters of National Importance

For the reasons detailed in **Section 9**, the Project recognises and provides for the relevant matters in section 6 of the RMA. In particular, the Project:

- Does not affect the coast, or any outstanding natural features and landscapes;
- Will preserve the existing character of the freshwater environment and its margins;
- Will enhance public access throughout the Project area, with the provision of a SUP along the lengths of SH1 and SH18, connecting various open spaces and freshwater bodies;
- Will protect the ecological values of identified areas of significant indigenous vegetation and significant habitats of indigenous fauna within the Project area; and
- Will not adversely affect historic heritage, or the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu or other taonga.

Overall, it is considered that the Project appropriately recognises and provides for the applicable Matters of National Importance in section 6 of the RMA.

12.3.3.3 Section 7 Other Matters

Particular regard has been given to Other Matters set out in section 7 of the RMA in the development of the Project. In terms of the relevant “other matters” listed in that section:

- Consultation with mana whenua has been undertaken in order to recognise their status as kaitiaki;
- The Project will increase efficiency and improve travel times for those utilising this area of the State highway network and the wider local road network, including public transport users. In this respect it will contribute to the efficient use and development of the State highway network as a physical resource in terms of section 7(b). The SUP is to be constructed, providing pedestrian and cycling connections across the Project area, which will enhance access and improve safety for active modes of transport in and around the State highway corridor; and
- Amenity values are likely to be affected by construction of the Project, most notably for those within close proximity to the construction works. The Technical Assessments appended to this AEE and the proposed mitigation will manage the impact of the Project on amenity values. Acoustic attenuation will be erected to minimise adverse noise effects on those properties adjacent to the Project. The management plans proposed will ensure dust, odour and other construction effects are appropriately mitigated and managed. During the construction phase, clear communication will



assist to manage the expectations of residents and commuters who are likely to be affected by the works, such as traffic management, construction noise and construction vibration.

12.3.3.4 Section 8 Treaty of Waitangi

The Project has addressed the requirements of section 8 of the RMA through engagement with iwi who have identified themselves as mana whenua with an interest in the Project corridor. Where possible, the matters raised by mana whenua through hui and cultural values assessments have been addressed in the Project design to date. It is anticipated that mana whenua will continue to be involved in the detailed design of the Project.

12.4 Other Legislation

Other legislation that is broadly relevant to the Project or the functions of the NZ Transport Agency is described in **Section 3**.

In terms of these:

- Aspects of the Project will occur within parks and reserve land, held under the RA. The reserve status for some of this land may need to be revoked and processes undertaken where a Reserve Management Plan is in existence (i.e. Rosedale Reserve Management Plan);
- If required, a separate application will be made under the WA to relocate any protected species prior to construction commencing;
- The approval of the Director-General of Conservation will be sought for culverts as required under the FA; and
- Authorities may separately be required under the Heritage New Zealand Pouhere Taonga Act 2014.