

IN THE MATTER OF the Resource Management Act 1991
AND
IN THE MATTER OF Various applications by Te Tūāpapa
Kura Kāinga – the Ministry of Housing
and Urban Development (MHUD) to
the Rotorua Lakes Council (Council).

RESOURCE MANAGEMENT ACT 1991
MINUTE #7 – PUBLIC NOTIFICATION
INDEPENDENT HEARING PANEL

1. On 27 May 2022 the Panel received recommendations on behalf of Council regarding public notification (as requested by MHUD) of twelve of the lodged applications for consented emergency housing, being:
 - RC17648 - 16 Sala Street, Rotorua;
 - RC17892 - 107 Malfroy Road, Rotorua;
 - RC17893 - 7 Tryon Street, Rotorua;
 - RC17887 - 247 Fenton Street & 12 Toko Street, Rotorua;
 - RC17891 - 299 Fenton Street, Rotorua;
 - RC17647 - 131 Lake Road, Rotorua;
 - RC17662 - 321 Fenton Street, Rotorua;
 - RC17890 - 293 Fenton Street, Rotorua;
 - RC17650 - 18 Ward Avenue, Rotorua;
 - RC17661 - 3 Meade Street, Rotorua;
 - RC17889 - 249-251 Fenton Street & 14-16 Toko Street, Rotorua; and
 - RC17673 - 26/28 Victoria Street, Rotorua.
2. Application RC17894 – Rotorua International Motor Inn at 2 & 6 Monokia Street, 1 & 1B Salisbury Road, Fairy Springs remains to be determined.
3. Council recommends that all twelve applications be publicly notified (as requested by MHUD) and identifies further properties adjacent to each that it considers should be directly notified in addition to the public notice(s). The recommendation considers that direct notification of affected persons is required under clause 10(2)(a) of the Resource Management (Forms, Fees and Procedure) Regulations 2003.
4. The Panel is not entirely persuaded that so-called direct notification of “affected persons” is required.
5. Clause 10(2)(a) of the Regulations is founded upon section 2AA(2) of the RMA, which requires the serving of notice “on every prescribed person”. Under the mandatory public notification step 1 of s.95A RMA no persons are prescribed but such are in clause 10(2)(b). Furthermore, clause 10(2)(a) refers to affected persons under the limited notification provision of s.95B RMA, which is not engaged due to public notification being required under s.95A RMA – as explicitly stated in s.95B(1) RMA.
6. If direct notification under public notification was intended by the Regulation it would have been simpler to state that without referring to s.95B RMA – in fact, reference to s.95E would have been more appropriate. We therefore consider that clause 10(2)(a) more likely refers to those affected persons who, but for public notification, might otherwise be limited notified and therefore be required to be served.

7. However, the Panel notes that such direct notification is certainly not precluded by the RMA and has no objection to Council following through on that proposal. We simply note that we question whether it is a statutory requirement.
8. Accordingly, we direct the following:
 - (a) The applications listed in paragraph 1 above are to be publicly notified;
 - (b) Notices are to be served on the following:
 - (i) The owner(s) and occupier(s) of the above properties;
 - (ii) Rotorua Lakes District Council and the Bay of Plenty Regional Council;
 - (iii) Rotorua Housing Taskforce;
 - (iv) Te Pokapū;
 - (v) Ngāti Whakaue;
 - (vi) Te Arawa Lakes Trust;
 - (vii) Restore Rotorua Inc; and
 - (viii) Rotorua Economic Development Ltd.
 - (c) Council may, at its discretion, notify the adjacent owner(s) and occupier(s) identified in its 27 May 2022 Memorandum - Appendix 1: Section 95E Assessment for the 12 Contracted Emergency Housing Applications.
9. For the record the Panel notes that, as directed by Minute 6, it has been advised by Counsel for those persons that the unsolicited notification submissions should be accepted as submissions. We accept them accordingly, recognising that they were submitted in order to seek public notification and therefore their relevance to the substantive s.104 RMA decision is yet to be determined.
10. Any queries or correspondence related to this Minute should be sent through to the Panel Secretary, Susan Taylor at susan.taylor@tompkinswake.co.nz .



David Hill (Chairperson)
Independent Hearing Panel

31 May 2022