
ROTORUA DISTRICT COUNCIL

REPORT TO: David Hill, Sheena Tepania, and Greg Hill (Independent Hearing Panel)

FILE NO: 6222169

FROM: Charlotte MacDonald (Consultant Planner)

DATE: 22 September 2022

SECTION 42A – COUNCIL OFFICERS REPORT

NOTIFIED APPLICATION TO:

USE THE EXISTING SITE AND BUILDINGS FOR CONTRACTED EMERGENCY HOUSING FOR FIVE YEARS.

APPLICANT:	TE TŪĀPAPA KURA KĀINGA – MINISTRY OF HOUSING AND URBAN DEVELOPMENT
APPLICANTS AGENT:	THE PROPERTY GROUP C/-ALICE BLACKWELL
OPERATOR / CONSENT HOLDER	EMERALD SPA MOTOR INN C/- CLIFFORD DEANE
ADDRESS:	284 - 286 FENTON STREET, ROTORUA
RESOURCE CONSENT NUMBER:	RC18244
LEGAL DESCRIPTION:	LOT 8 – 9 DP 26133
APPLICATION STATUS:	NON-COMPLYING ACTIVITY
ZONE AND DISRICT PLAN OVERLAYS:	COMMERCIAL 4 – CITY ENTRANCEWAY ACCOMMODATION
REPORT:	SECTION 42A – COUNCIL OFFICERS' REPORT
NOTIFIED:	PUBLIC NOTIFICATION

SUMMARY

1. Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development (**MHUD**) is applying on behalf of the motel operator (the **Applicant**) under Section 88 of the Resource Management Act 1991 (**RMA**) through The Property Group (the **Agent**) to use the subject site (the **site**) and existing Emerald Spa Motor Inn (**Emerald Spa**) buildings for contracted emergency housing (**CEH**) accommodation for a maximum period of five years, after which the site and existing buildings will revert back to tourist accommodation.
2. The resource consent application (the **application**) was lodged with Council on 22 July 2022. The activity has been operating since 1 July 2022, so the resource consent application is both retrospective and prospective.
3. The application was publicly notified on the 6th August 2022, after the submission period had closed for the remaining 12 applications. Notice of the application was served on everyone who had made a submission on any of the 12 applications, the owners/occupiers of immediately adjacent properties and owners/occupiers of neighbouring properties, owners/occupiers of the subject site, Bay of Plenty Regional Council, Rotorua Housing Taskforce, Te Pokapū, Ngāti Whakaeue, Te Arawa Lakes Trust, Restore Rotorua Incorporated, and Rotorua Economic Development Limited.
4. Of the 3,841 submissions received on all 13 CEH applications, there were 88 submissions made on Emerald Spa. Due to Emerald Spa being notified at a separate date, it received fewer submissions than the remaining 12 applications. However, the majority of submissions covered general themes which are applicable on all 13 CEH application sites. These matters are covered in the Section 42A Overview Report (**Overview Report**).
5. The proposed activity has been assessed as a **Non-Complying Activity** pursuant to Rule COMZ-R1(1) of the Operative Rotorua District Plan (**District Plan**) as the activity is not expressly provided for.

REPORT STATUS

6. This is a report prepared under Section 42A of the RMA. It provides a site-specific assessment of the application. It should be read in conjunction with the Overview Report which addresses matters common to the 13 applications made by MHUD for CEH.
7. This report is not a decision on the application. It provides opinions and assessments, which are, in turn, incorporated into the Overview Report. The Overview Report assesses matters common to all 13 applications and records recommendations to the Independent Hearing Panel (**Panel**) on whether the applications should be granted or declined consent.
8. This report will be considered by the Panel in conjunction with all other evidence and submissions which have been received. The Panel will determine the weight to be given to this report and to any other evidence or submissions that are presented when making its decision.

REPORTING OFFICER

9. This report has been prepared by Charlotte MacDonald. I am employed as a Senior Planner at Boffa Miskell Limited. I hold a Bachelor of Urban Planning (Honours) degree from the University of Auckland. I have approximately six years planning experience. I am an Intermediate member of the New Zealand Planning Institute (**NZPI**).

10. I have read and complied with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 in preparing this report. I agree to comply with it in presenting this report. The opinions and assessment within this report are within my area of expertise, except where I have stated my reliance on other identified evidence. I have considered all material facts that are known to me which might alter or detract from the opinions I express in this evidence.
11. In preparing this report I have relied on the following evidence:
 - The Overview Report prepared by Craig Batchelar, Planner and Director of Cogito Consulting Limited;
 - Expert advice from Sarah Collins, Landscape Architect at Boffa Miskell Limited;
 - Expert advice from Rebecca Foy, Social Researcher and Director at Formative; and
 - Expert advice from Natalie Hampson, Economist and Director at M.E Consulting; and
12. This report records my assessment and recommendations along with the recommended Conditions of Consent, should the Panel determine that consent should be granted.

THE SITE AND SURROUNDING ENVIRONMENT

Site Description

13. The site was visited on the 23rd August 2022.
14. The site has frontage to Fenton Street which is a Major Urban Arterial Road. It is comprised of one Record of Title (made up of two parcels) and is entirely located within the Commercial 4 Zone (**COMZ4**) of the District Plan. These details are set out below and shown in Figure 1.

District Plan Zone	Legal Description	Area (m²)
COMZ4	LOT 8 – 9 DP 26133	2,042
Total		2,042



Figure 1 – District Plan zones with the subject site outlined in red. The purple is COMZ4 and the green is Community Assets (CAZ).

15. The applicant gives the following description of the site and motel in Section 2.1 of the application:

The property at 284-286 Fenton Street is occupied by an existing motel with its legal access from Fenton Street. A manager’s unit is on the southwestern portion of the site and accommodates both the ground and first floor. A motel kitchen and service laundry adjoin the manager’s unit on the ground floor, with a storeroom adjoining it on the first floor.

The accommodation units are in a U-shaped configuration, with the building running the full length of the southern and eastern boundaries, and half of the northern boundary of the subject site. A pool is located in the northwest corner of the site. A guest laundry and small meeting room are also located within the site.

The site has accommodated motels since at least the 1980s, but this earlier motel was demolished in approximately 2004 and replaced with the existing motel buildings on the subject site. Building consent was obtained in 2018 to reconfigure a meeting room on the second level into an additional studio unit.

The configuration of the units is outlined in Table 1 below and shown on the Site Plan in Appendix 2. The overall occupancy levels are based on the number of beds typically accommodated within each unit. For example, a double bed can sleep two people, a single bed one person. The occupancy rate is therefore based off the nature of the unit and the beds within. It is noted that the manager’s unit is not included in the table below and it also does not include infants aged less than 18 months.

Table 1: Configuration of units at 284-286 Fenton Street including manager's accommodation

Type of unit	No. of units	Max No. of occupants
Studio unit – two occupants max	7	14
Studio unit – three occupants max	9	27
One bedroom unit – two occupants max	2	4
One bedroom unit – three occupants max	6	18
Two bedroom unit – six occupants max	5	30
Total	29	93

There are more than 30 carparks located within the property.

16. The applicant has recently stated an intention to reduce the maximum occupancy level (as originally proposed) from 99 occupants to 93 (excluding staff and children under the age of 18 months). Under the proposed new maximum, where there is more than one double bed in a room, only one bed has been counted as sleeping two people.
17. The motel has been in use as MHUD CEH since 1 July 2022. For the period from 25 March 2020 to 30 June 2022, the motel was used exclusively to operate as a Covid Response Motel. Covid Response Motels were part of the Government's response to COVID-19 and the subsequent Alert Level 4 Lockdown. These motels provided accommodation for people who did not otherwise have somewhere suitable to stay. Since initially being contracted, Covid Response Motels have extended their use, and have been used to help people self-isolate and for emergency housing placements. Those uses were not consented under the District Plan and it remains unclear whether that requirement was exempted during some or all of that period pursuant to the Epidemic Preparedness Act 2006 and/or the Health Act 1956.
18. The motel previously operated jointly with the site to the north. Since the site has stopped operating as a Covid Response Motel, the sites now operate independently and movement between the two sites has been restricted.

Surrounding Area

19. The immediate surrounding environment is a mix of residential, tourist accommodation, emergency housing and community land uses. Directly east of the site is the Arawa Park Racecourse. North of the site is a Covid Response Motel and a church. South of the site is emergency housing and tourist accommodation. On the opposite side of Fenton Street is the Shri Swaminarayan Mandir Temple. The remainder of the surrounding area is residential. North of the site is the city centre.
20. Figure 2 below shows sites that are utilised for:
 - CEH;
 - Covid Response Motel;
 - Tourist accommodation not known to be providing emergency housing (**tourist accommodation**);
 - Tourist accommodation that is operating solely as emergency housing (**EH**); and
 - Tourist accommodation that is operating as a mix of tourists and emergency housing (**EH mixed**).

Local Amenities and Social Infrastructure

21. A supermarket, chemist, butcher, and fruit and vegetable shop are located on the corner of Fenton and Ti Streets approximately 750m away.
22. The nearest schools are the Seventh-day Adventist School approximately 210m south-west of the site, St Mary's Catholic School approximately 800m north-west of the site and Glenholme Primary School approximately 750m to the west. The Tree House on Ranolf Childcare Centre is also 750m away.
23. There is a church just north of the site on Fenton Street, as well as the Seventh-Day Adventist Church just south of the site on the opposite side of Fenton Street. The Shri Swaminarayan Mandir Temple is just across the road (although currently closed).
24. The nearest reserves are Murray Linton Rose Gardens (730m to the south) and Marist Saint Michaels Reserve (990m to the north). The racecourse adjacent to the site is also accessible by the public.
25. Overall, due to the site being located at the southern end of Fenton Street, the majority of local amenities and reserves are further than a 10-minute walking distance (aside from the racecourse).



Figure 2 – Activities within the immediate surrounding environment (red – subject site, yellow – EH, pink – EH mixed, orange – other CEH site, green - tourist accommodation, purple – Covid Response Motel). Data source: Rotorua NZ/Rotorua Lakes Council, 13 September 2022

RECORD OF TITLE REVIEW

26. The interests contained on the Records of Title are set out below. There are no interests that would restrict the CEH proposal from proceeding.

Record of Title	Legal Description	Interests
212080 and 326014	LOT 8 – 9 DP 26133	<ul style="list-style-type: none">• Certificate pursuant to Section 37(2) Building Act 1991¹• Lease agreements²
SA284/813 (underlying title)		

CONSENT HISTORY

27. The following resource consents are listed on the property file. These consents do not specifically provide for the proposed CEH activity.
28. After expiry of the CEH consent, if granted, the motel activity (tourist accommodation) would recommence. There is no intention, nor need, to surrender these consents in the interim.

Reference number	Date of issue	Details
RC7022	May 2005	Land use – construction and operation of a 28 unit tourist accommodation

PROPOSAL DESCRIPTION

29. The applicant is seeking resource consent to use the subject site and existing buildings for CEH for a maximum period of five years, after which the site and buildings will revert to tourist accommodation.
30. The site will be used primarily for families and whānau with children, young people and people with disabilities. In some instances, this will include other vulnerable individuals such as kaumātua and kuia (i.e. elderly), however, these will be the exception only, and so the vast majority of occupants will be families and whānau with children.
31. The applicant has recently stated an intention to reduce the maximum occupancy level (as originally proposed) from 99 occupants to 93 (excluding staff and children under the age of 18 months)³.
32. The applicant proposes no modifications or change to the layout of the buildings within the site.
33. On-site support services will be provided by “Visions of a Helping Hand”, who will implement a Site Management Plan (**SMP**) (attached as Appendix 4 of the application). The SMP is offered as

¹ The buildings have been constructed over two allotments. This requires that the allotments must be held together

² A copy of the lease agreement was not provided through the resource consent application process. Notwithstanding, this is seen as a private property matter, and any implication in terms of the CEH proposal sits with the landowner and the leaseholder.

³ Email from Alice Blackwell titled Occupancy Numbers 9 September 2022

an "Augier"⁴ condition by the applicant. The SMP details maximum occupancy, on-site security, authorised personnel and visitors, and noise management. On-site support services include:

- 24/7 on site security presence and an on-call senior security officer;
- Registers and trained social and support workers available on-site Monday through Friday 8.30am to 5.00pm;
- 24/7 on-call social and support worker (via phone);
- Facilitated groups run by a programme facilitator. Group topics include budgeting, employment, parenting, education, cooking on a budget, and men's and women's empowerment groups; and
- Afterschool and holiday programmes for children.

34. The existing motel operator will continue to manage the day-to-day running of the facility. This includes:

- Regular maintenance checks of all units;
- Outdoor maintenance;
- Waste management;
- Any repairs;
- Routine inspections of units; and
- Full cleaning of units once tenants have left.

35. Regarding the length of time occupants will stay in CEH, the applicant has stated the following:

...Across all emergency housing, the average length of stay in (sic) is 22 weeks, the typical length of stay is 2-3 months and the maximum length of stay is 19 months.

Across all CEH motels, there are 16 whānau and five individuals that have been in CEH since 1 July 2021 (i.e. from when motels were first contracted by HUD). The shortest length of stay in CEH is three days.

36. The site plan is shown in Figure 3 below, and further details of the proposal are outlined in Section 3 of the application.

⁴ Where an applicant gives a clear and unequivocal undertaking and, relying on that undertaking, the local authority grants consent subject to a condition in terms broad enough to embrace the undertaking, the applicant cannot say later that there is no power to require compliance with the undertaking. This is called an "Augier" condition.



Figure 3 – Site plan showing number of units, carparking, managers unit/office and children's play area.

ACTIVITY STATUS

37. The activity status for each application is discussed in detail in the Overview Report.
38. In summary, the proposed activity has been assessed as a **Non-Complying Activity** pursuant to Rule COMZ-R1(1) of the District Plan as the activity is not expressly provided for.

NOTIFICATION AND SUBMISSIONS

Notification Process

39. The application was publicly notified on the 6th August 2022 (after the submission period had closed for the remaining 12 CEH applications). Notice of the application was served on everyone who had made a submission on any of the 12 CEH applications, the owners/occupiers of immediately adjacent properties and owners/occupiers of neighbouring properties, owners/occupiers of the subject site, Bay of Plenty Regional Council, Rotorua Housing Taskforce, Te Pokapū, Ngāti Whakaue, Te Arawa Lakes Trust, Restore Rotorua Incorporated, and Rotorua Economic Development Limited.

Submitters

40. Following the close of submissions, 3,841 submissions were received across all 13 notified CEH applications. The majority of submissions applied to all 13 applications and focussed on general matters relating to emergency housing (for example, social and economic effects). These matters are addressed within the Overview Report and within the evidence prepared by Ms Foy and Ms Hampson.

41. There were 88 submissions received on Emerald Spa. The majority of these were individuals that had submitted on the previous 12 CEH applications and stated that they would like that submission to apply to the application for Emerald Spa as well.

42. Those submissions that were more specific to Emerald Spa are summarised below.

Submitter Name/no.	Oppose / Support	Wish to be Heard	Submitted on other applications	Submission Summary
Rotorua Racing Club (227)	Oppose	Yes	<ul style="list-style-type: none"> Submitted on all 13 applications 	<u>Owner of the Emerald Spa site</u> <ul style="list-style-type: none"> The submitter is the landowner of the site and the lessor of the registered ground lease. The submitter argues that the proposed use of the site for emergency housing goes against the lease agreement Out of town occupants Increase in crime Impacts on the Rotorua Racing Club, including: <ul style="list-style-type: none"> Lower attendance at race meetings Increase in vandalism and crime Incidents of people drinking and taking drugs on the property
Peter and Damian Robertson (316)	Oppose	No	<ul style="list-style-type: none"> RC17891 RC17890 	<u>Resident on Robertson Street</u> <ul style="list-style-type: none"> Degradation of the area with litter and anti-social behaviour
Trevor Newbrook (373)	Oppose	Yes	<ul style="list-style-type: none"> Submitted on all 13 applications 	<u>Resident on Sumner Street</u> <ul style="list-style-type: none"> Queries why resource consent has not been obtained for Tuscany Villas as the sites had been operating together Concerns over cumulative effect of all emergency housing motels (particularly on Fenton Street) Effects on the temple across the road SIA is inadequate Emerald Spa is not suitable as there is no outside area for kids to play
Walter Povey (155)	Oppose	Yes	<ul style="list-style-type: none"> Submitted on all 13 applications 	<u>Resident on Thelma Place</u> <ul style="list-style-type: none"> The motel is 4/5 star accommodation which is limited in Rotorua. This will have impacts on tourism

Kimberly Ward (375) ⁵	Oppose	No	<ul style="list-style-type: none"> Submitted on all 13 applications 	<u>Resident on Sophia Street</u> <ul style="list-style-type: none"> Impacts on Fenton Street Impacts on tourism as there is a lack of accommodation options Motels are not suitable (particularly for children)
Rotorua Business Chamber (69)	Oppose	Yes	<ul style="list-style-type: none"> Made a submission in support on the previous 12 applications 	<ul style="list-style-type: none"> Made a submission on the previous applications saying they supported the applications (subject to conditions being implemented, such as a reduced consent duration) Concerns over the service providers
Kane Alexander (304)	Oppose	Yes	<ul style="list-style-type: none"> Made a submission in support on the previous 12 applications 	<u>Resident of Rotovegas Motel</u> <ul style="list-style-type: none"> The submitter made a submission in support on the initial 12 applications but opposes Emerald Spa (it is noted that he is a resident of Rotovegas Motel and this submission primarily relates to Rotovegas) Concerns regarding his and his son's health as the units are not ventilated Concerns regarding the management by WERA (eg. No visitors, which is causing mental illness) Was told that if he made a submission he could get kicked out
Keith Williams (378) ⁶	Oppose	Yes	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> Effects are more than minor and contrary to the District Plan objectives and policies Goes against what the District Plan envisaged for the city entranceway Does not meet the density limits of the District Plan The activity is fundamentally different to the tourist accommodation activity Cumulative effects

⁵ This was a late submission. It appears that the submitter is making a submission on all 13 applications (through the Emerald Spa notification process). The Panel will need to consider whether this submission is accepted.

⁶ This was a late submission.

SECTION 104 ASSESSMENT

Section 104(1)(a) – Assessment of Actual and Potential Effects on the Environment

43. Having reviewed the application and submissions, I consider it appropriate to address the actual and potential effects of the proposal under the following topics:
- Character and amenity effects
 - External amenity
 - Internal amenity
 - Outdoor living space
 - Suitability for children
 - Occupancy rate
 - Transportation effects
 - Parking and access
 - Traffic generation
 - Noise effects
 - Reverse sensitivity effects
 - Noise from emergency housing
 - Effects on infrastructure
 - Financial contributions
44. It is noted that many of the site-specific submitters also raise concerns over crime, CEH occupants' behaviour, and the effects of CEH on business and tourism. These matters are not covered in this report. An assessment of the social, and economic effects of all applications is addressed in the Overview Report and statements of evidence.

Character and Amenity Effects

45. The RMA defines amenity values as *“those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.”*
46. The site is located in COMZ4. The District Plan describes COMZ4 as predominantly consisting of *“motels or large apartment style buildings commonly two storeys in height, with signage that maintains surrounding amenity. The buildings are designed to cover the majority of the land area and have minimal yards that are landscaped where they adjoin the road.”*
47. Generally, the District Plan refers to amenity in the context of the *“design and appearance of buildings”*.
48. These elements generally define the character of each of the zones. The following sections assess the external amenity effects of the site, as well as the internal amenity effects.

External amenity effects

Fenton Street

49. The Fenton Street frontage is characterised by the existing motel buildings, motel signage, and a concrete brick wall along the front boundary. The vehicle entrance is located at the centre of the site which leads to the carparking area in front of the units. There is limited planting on the site that is visible from the Fenton Street frontage.

50. These aspects form part of the existing environment and there are no physical changes proposed by the applicant. The buildings were constructed for tourist accommodation activities and the design, appearance and scale are consistent with the character anticipated by COMZ4.
51. Several submitters have described adverse external amenity effects in relation to Fenton Street. Typically, this related to an increase in rubbish, graffiti, shopping trolleys, temporary security fencing and road cones. A number of submitters also described how motels have fallen into a state of disrepair since they have changed in use to emergency housing. This could be due to the motel operator no longer needing to advertise and compete for tourists, or it could be related to increased intensity of use on the site causing wear and tear to the buildings.
52. The site was visited on the 23rd August 2022. The site appeared very tidy and there was no sign of rubbish, or graffiti. The building was constructed in 2005 (later than all other motels) and appeared very well maintained. Temporary fencing and road cones were established at the boundary of the neighbouring site to the north, however this was not visible from the road frontage. There were some shopping trolleys on the berm and these were being removed at the time of the site visit.
53. To ensure the site is maintained going forward, the applicant has provided a SMP which outlines requirements for site maintenance. It is recommended that the SMP is updated to provide further detail addressing submitter concerns as stated above⁷. Specifically, this includes the removal of rubbish and graffiti, daily removal of shopping trolleys, daily tidying of the property and street berms, and maintenance of all buildings.
54. It is also recommended that the signage associated with the motel is removed⁸. This would assist in reducing visual clutter along Fenton Street.
55. Adoption of the above recommendations would maintain the attractiveness of the streetscape.

Boundaries with neighbouring properties

56. The site adjoins another emergency housing site to the south (located within COMZ4), a Covid Response Motel to the north (located within COMZ4) and the racecourse to the east (located within CAZ). The racecourse owner submitted on all 13 CEH applications.
57. It is understood that the site to the north and the subject site previously operated jointly. There is now temporary fencing between these two sites to separate the activities. It is recommended that permanent fencing is established along this boundary to restrict access between the properties.
58. There is a 1.8m high wooden fence on the southern boundary and CEH occupants are not able to access the area between the building and the site boundary (due to a locked gate). There is also a 1.8m high wooden fence at the eastern boundary. It is recommended that these boundary treatments are retained.

Conclusion

59. With the implementation of the above recommendations and the retention of the existing boundary treatments, character and amenity effects of the proposal on the environment are

⁷ Refer recommended condition 35 in Appendix 1

⁸ Refer recommended condition 19 in Appendix 1

assessed as acceptable, and consistent with the character and amenity outcomes anticipated by the District Plan.

Internal amenity effects

Outdoor living space

60. The applicant provides the following statement with regard to outdoor living space:

Onsite outdoor open space is not a strong feature of the site's existing built environment, and physical changes are not proposed in this regard. The site itself is in proximity to several local parks including Fenton Park (approximately 11 minutes' walk), the Rotorua Lake main park (approximately 30 minutes' walk), and the Redwoods walking paths (approximately 15 minutes' walk). In the absence of green space and play areas, the Housing Service Provider provides tamariki with regular activity opportunities.

61. In COMZ4, household units are required to provide a private outdoor living space with a minimum area of 10m² and a minimum depth of 2m⁹. However, this only applies to new buildings. There are no objectives and policies within COMZ4 that address outdoor living space.

62. A number of submitters have stated that the lack of outdoor space within some motels¹⁰ is contributing to the "spill-over" of people onto surrounding streets (and in particular Fenton Street). The provision of outdoor space on site needs to be balanced with the length of stay, as the motel units are a temporary accommodation solution for families and individuals who do not have alternative accommodation options. Occupants who stay within the units for shorter durations may be more accepting of a lack of outdoor space.

63. Regarding the length of stay, the applicant has stated that:

...Across all emergency housing, the average length of stay in (sic) is 22 weeks, the typical length of stay is 2-3 months and the maximum length of stay is 19 months.

Across all CEH motels, there are 16 whānau and five individuals that have been in CEH since 1 July 2021 (i.e. from when motels were first contracted by HUD). The shortest length of stay in CEH is three days.

64. Updated information on lengths of stay has not yet been provided by the applicant, but is expected to be provided in the course of the hearing.

65. Overall, the site does not provide a high level of amenity due to the lack of private or shared open space. The mitigating factor is the temporary nature of the activity (subject to the applicant's updated information on lengths of stay at this facility).

Suitability for Children

66. Ms Collins has assessed the site as unacceptable for children between the age of six months and seven years as the units at ground level open directly onto the carpark and the units above are accessed up a stairway.

⁹ COMZ-S5

¹⁰ As well as overcrowding, which is addressed below.

67. Ms Collins has assessed the site as low suitability for children between the age of eight and eighteen. Children within these age groups need more outdoor space and this is not highly accessible. Whilst the “low” rating indicates that the outdoor living space is not ideal for children in these age brackets, it is nonetheless acceptable in terms of Ms Collins’ rating system. It is recommended that an area of the carpark is securely fenced off adjacent to the swimming pool, which could be used as a basketball area for the older age groups.
68. Ms Collins states that play is important for the development, health and well-being of children. The impacts on children when they do not have access to ‘play’ is discussed in detail within her evidence.
69. Taking this into consideration, a condition of consent is recommended that children between the ages of six months and seven years cannot reside on the site¹¹. Families with children in this age group will need to be placed in a CEH motel that provides outdoor space suitable for children.
70. It is recognised that in adverse weather conditions, children would have no play space other than the limited space available within the individual units. A solution to this would be to dedicate one or more of the units for use as a common playroom. Whilst this has not been recommended by any of the technical experts, the Panel may wish to consider this as an option to further mitigate internal amenity effects for young occupants of the site.

Occupancy rate

71. The applicant has recently stated an intention to reduce the maximum occupancy level across the site from 99 occupants to 93 (excluding staff and children under the age of 18 months). Where there is more than one double bed in a room, only one bed has been counted as sleeping two people.
72. The applicant has also provided details of actual occupancy rates for the CEH activity on the site over a two-month period (noting this site has only been in operation since July 2022). This data¹² shows that the average occupancy level of the CEH activity on site is 50 occupants. The maximum occupancy rate over the same period was 51 occupants in August 2022.
73. A number of submitters have raised concerns of overcrowding within the units. Some of these submitters referenced Statistics NZ, whereby “*there should be no more than two people to a bedroom but that couples and children of certain ages can share a bedroom*”¹³.
74. The measure used by Statistics NZ is the Canadian National Occupancy Standard (**CNOS**) and is regarded as a “*best fit for the New Zealand context*”¹⁴. The New Zealand Deprivation Index uses CNOS as an indicator of crowding¹⁵. Applied to the subject site, the proposed occupancy rates

¹¹ Refer recommended condition 8 in Appendix 1

¹² Further information received from the applicant, dated September 2022

¹³ Stats NZ (2018) *Living in a crowded house: exploring the ethnicity and well-being of people in crowded households*. Retrieved from www.stats.govt.nz

¹⁴ Stats NZ (2012) *Finding the crowding index that works best for New Zealand*. Retrieved from www.stats.govt.nz

¹⁵ Stats NZ (2012) *Finding the crowding index that works best for New Zealand*. Retrieved from www.stats.govt.nz

would result in crowding¹⁶. To avoid crowding, there would generally need to be a limit of two people per bedroom.

75. The site visit did not involve the entering of any units. There is limited information on the types and size of families that have typically stayed within Emerald Spa, the size of the units (in m²), or the number of beds within each room. It is also not clear as to what criteria is applied for the allocation of units to families.
76. The following information has been provided on the types of units:

Table 1: Configuration of units at 284-286 Fenton Street including manager's accommodation

Type of unit	No. of units	Max No. of occupants
Studio unit – two occupants max	7	14
Studio unit – three occupants max	9	27
One bedroom unit – two occupants max	2	4
One bedroom unit – three occupants max	6	18
Two bedroom unit – six occupants max	5	30
Total	29	93

77. As the site does not provide a high level of amenity in the form of outdoor living space, the following occupancy rates are recommended in line with the CNOS standards:
- One-bedroom and studio units shall accommodate a maximum of two people (excluding children under the age of six months); and
 - Two-bedroom units shall accommodate a maximum of four people (excluding children under the age of six months).
78. The maximum occupancy levels proposed by the applicant also exclude children under the age of 18 months. It is recommended that only children under the age of six months are excluded from the occupancy levels. At this age, typically children are unable to crawl or walk and therefore less space is required.
79. This would result in a maximum occupancy of 68 occupants across the whole site which is more than the average occupancy (at 50) and more than the maximum occupancy levels (at 51) over the last two months. It is recommended that a record is maintained for Council to monitor these conditions¹⁷.
80. It is noted that some existing families may be established in units that no longer meet the recommended occupancy rate, or the recommended conditions regarding children on the site. Requiring them to move immediately, if consent is granted, could be an unnecessary disruption. There are options that could be considered by the Panel, including:
- A transition period of say three months; or
 - Allowing the family to stay (if they wish) until they no longer need CEH, but ensuring any incoming occupants meet the proposed occupancy rates and age restrictions.
81. The applicant may be able to provide information in the course of the hearing that identifies how many families this would apply to.

¹⁶ As defined by Statistics NZ

¹⁷ Refer recommended condition 12 in Appendix 1

Conclusion

82. Overall, it is recognised that the motel units are a temporary accommodation solution for families and individuals who do not have alternative accommodation options. Whilst they may not provide a level of amenity equivalent to more typical permanent residential units, the conditions recommended above will avoid overcrowding and will reduce long-term negative impacts on children (in relation to play). Overall, with the adoption of the above recommendations, internal amenity effects are considered acceptable.

Transportation Effects

Parking and access

83. The site has an existing vehicle crossing onto Fenton Street. There are 30 carparks on site, as well as one accessible park. However, with the recommendations outline above, some carparks could be removed to create a children's play area on the site. The benefits the shared play area would provide for children would outweigh the loss of these carparks.
84. Several submitters stated that due to a lack of off-street parking, residents within emergency housing units were parking on the berms¹⁸. Parking on berms is managed through Council Bylaws¹⁹. Overall, this appears to be a wider parking issue in the area. Furthermore, it is noted that Council is not able to set minimum parking requirements under the District Plan as required by the National Policy Statement on Urban Development 2020²⁰. Parking allocation will be managed on site by the motel operator.
85. Notwithstanding the above, the existing carparks are required to comply with the District Plan standards. The application was circulated to the development engineering team within Council and no issues were raised in regard to the existing carparks or vehicle crossings.

Traffic generation

86. The maximum occupancy of the motel is 99 occupants (based on the number of beds available). As outlined above, it is recommended that the occupancy rate is reduced to 68 occupants across 30 units.
87. It is acknowledged that there may be security and support services coming and going from the site in addition to the CEH occupants. Overall, any potential increase in traffic in the immediate transport network from support services is anticipated to be negligible considering the high traffic volumes currently on Fenton Street.
88. Having regard to the existing environment, transportation effects associated with the proposal are assessed as acceptable.

Noise Effects

Reverse sensitivity effects

89. The District Plan requires acoustic insulation of new sensitive activities within the Commercial Zone to mitigate potential reverse sensitivity effects of new sensitive activities on existing

¹⁸ These submissions were not specifically directed at Emerald Spa

¹⁹ Traffic Bylaw 2008

²⁰ Policy 11

commercial activities. As the buildings are existing, it is unclear whether these have been designed to meet the acoustic insulation requirements of the District Plan.

90. COMZ4 predominantly consists of existing tourist accommodation activities and apartments. Directly adjoining Emerald Spa is another emergency housing provider to the south and a Covid Response Motel to the north. On the opposite side of Fenton Street is other emergency housing accommodation and residential properties. Due to the nature of these activities not being significant sources of noise, it is unlikely that noise at the subject site will be experienced that is higher than what is typically anticipated within a residential environment.
91. The activities in the immediate surrounding environment that may be noisy include the racecourse directly east of the site. The racecourse is likely to be noisy when there are events on.
92. Based on the information on the website, there may be one to two events per month. As the emergency housing activity is replacing another sensitive activity (tourist accommodation), reverse sensitivity effects are not expected to increase. Furthermore, on review of the consent conditions for the existing motel, it appears the wooden fence at the boundary may have been acoustically designed.

Noise from emergency housing

93. The applicant has not applied to breach the noise standards within the District Plan.
94. Potential noise effects from the proposed activity may arise due to a higher number of people being on-site during the day (compared to tourists who are more likely to be out during the day), as well as an increase in children playing outside.
95. Several submitters also raised concerns regarding an increase in police sirens, motor vehicles, and noise from CEH occupants (yelling, late night parties, etc.). Noise that is generated off-site (such as police sirens and motor vehicles) cannot be directly linked to Emerald Spa. However, noise that is generated on-site (such as noise from CEH occupants) can be managed through consent conditions.
96. The applicant proposes the implementation of the SMP to manage potential noise effects. Noise measures referred to in the SMP include not disturbing the “quiet and peaceful enjoyment” of neighbours, and compliance with the noise limits of the District Plan. Furthermore, the SMP states that visitors are only allowed on site between certain hours of the day. CEH occupants must agree to these rules and sign a Rules of Stay Agreement before moving into a CEH housing unit.
97. Adherence to the SMP will reduce the potential for noise generation at the site and ensure compliance with the District Plan noise limits. However, it is recognised that isolated incidents may occur that may cause nuisance to the neighbours. In this case, conditions of consent have been recommended to provide an 0800-telephone line for the community to address any noise complaints²¹.
98. With the above management measures in place, any potential noise effects from the proposed activity will be acceptable.

²¹ Refer recommended strategic conditions attached to the Overview Report

Effects on Infrastructure

99. Regarding infrastructure, the applicant has stated:

No changes are proposed to the onsite reticulated servicing arrangement and there is no subdivision of land or units proposed as part of this proposal. Overall, there will be no change in the intensity of use, such as 3 waters infrastructure, traffic, parking and noise. Any potential adverse effects arising from this proposal in relation to intensity of use will be negligible.

100. The application was circulated to the development engineering team within Council, and they had no comments on the proposal. Considering the occupancy rates will be reduced, and no physical works are being undertaken on site, any effects on infrastructure will be acceptable.

Financial Contributions

101. Rule FC-R1(6) (financial contributions for reserves) states:

A financial contribution shall be levied on household units that are in addition to any existing household units on site. The contribution shall be 2.5% of the value of the household unit as assessed by an independent valuer. Where there is an existing building council will consider 2.5% of the value of the whole building.

102. Under this rule a financial contribution of 2.5% of the value of the whole building would need to be paid to Council for the new household units.

103. Rule FC-R2 (financial contributions for infrastructure) requires financial contributions to be taken where additional impacts on public infrastructure will result from an activity. This can be taken in cash to mitigate the effects on infrastructure.

104. As this is a short-term activity for a five-year term, and no reserve land acquisition or capital works will be undertaken, it would be unreasonable to impose a financial contribution.

Conclusion

105. Overall, any actual and potential effects on the environment of a site-specific nature can be mitigated to a level that is acceptable subject to conditions of consent.

Section 104(1)(b) – Objectives and Policies of the District Plan

106. An assessment against the broad objectives and policies of the District Plan, as well as Plan Change 9, is provided in the Overview Report. The following sections address objectives and policies for matters of a site-specific nature.

Commercial 4 Zone

107. The following objectives and policies are applicable to the site in COMZ4:

Design and appearance of buildings

- *COMZ-O2 Commercial activities that do not adversely affect the character, safety and efficiency of commercial areas.*
- *COMZ-P6: Manage the design of activities within commercial centres to maintain or enhance the character, public safety and efficient functioning of the transport network.*

- *COMZ-03: Commercial buildings and activities designed and operated in a manner that avoids adverse effects on the amenity of residential zones.*
 - *COMZ-P7: Manage the effects and design of activities to ensure that the amenity of adjoining residential properties is not adversely affected.*
108. The applicant does not propose any changes to the existing buildings at the site. These buildings were constructed for tourist accommodation activities and are consistent with the character anticipated within COMZ4. Removal of the motel signage, and regular upkeep of the site (as required under the SMP) will also contribute to an attractive streetscape.
109. There are no immediately adjoining residential properties.
110. The site provides safe access onto the transportation network, and whilst there is no scope to require on-site carparking (due to the requirements of the National Policy Statement on Urban Development), there appears to be adequate parking available for staff and occupants. The application was circulated to the development engineering team within Council and no issues were raised in regard to the existing carparks or vehicle crossings.

Reverse sensitivity

- *COMZ-05: Subdivision, use and development that enables the continued efficient operation of existing development and activities.*
 - *COMZ-P10: Manage the location and design of new subdivision, use and development within each zone to avoid adverse reverse sensitivity effects on existing activities.*
111. The only activity in the immediate surrounding environment that may be noisy is the racecourse directly east of the site. The racecourse is likely to be noisy when there are events on.
112. Based on the information on the website, there may be one to two events per month. As the emergency housing activity is replacing another sensitive activity (tourist accommodation), reverse sensitivity effects are not expected to increase. Furthermore, on review of the consent conditions for the existing motel, it appears the wooden fence at the boundary may have been acoustically designed.
113. Effects on businesses and properties related to anti-social behaviour, crime and tourism are discussed within the Overview Report and the evidence statements of Ms Hampson and Ms Foy.

Noise

114. The following objectives and policies are applicable in regard to noise:
- *NOISE-01: A noise environment consistent with the character and amenity expected for the zone.*
 - *NOISE-P4: Minimise, where practicable, noise at its source or on the site from which it is generated to mitigate adverse effects on adjacent sites.*
 - *NOISE-P9: Mitigate adverse effects generated by central city and infrastructural activities through the requirement that new noise sensitive activities that locate within the Central City or close to major infrastructure are appropriately insulated.*
115. Noise levels generated from the proposed activity will be managed through the proposed conditions of consent and through the SMP.

Infrastructure

116. The following objectives and policies are applicable in regard to infrastructure:

- *EIT-O3: Land use, subdivision and development that do not adversely affect the operation, maintenance, upgrading of and access to existing infrastructure.*
- *EIT-P14: Avoid, remedy or mitigate adverse effects of new land use and development on the efficient operation, maintenance and access to existing infrastructure.*

117. The application was circulated to the development engineering team within Council, and they had no comments on the proposal. Considering the occupancy rates will be reduced, and no physical works are being undertaken on site, any effects on infrastructure will be acceptable.

Transport

118. The following objectives and policies are applicable in regard to transport:

- *EIT-O7: Subdivision, use and development that enables the continued efficient operation of existing development and activities.*
- *EIT-P18: Protect the safety, efficiency, sustainability and capacity of the transport network through avoiding, remedying or mitigating the adverse effects of land use, development and subdivision.*
- *EIT-P22: Ensure that subdivision, use and development located in the vicinity of the district's transport network is appropriately designed to avoid, remedy or mitigate any reverse sensitivity effects such as noise and vibration.*

119. The site has existing vehicle crossings and parking areas that allow for on-site manoeuvring. Any potential increase in traffic in the immediate transport network from support services is anticipated to be negligible considering the high traffic volumes currently on Fenton Street.

120. Overall, the proposed activity will enable the continued operation, efficiency and sustainability of the transport network.

Conclusion

121. Overall, the proposal is generally consistent with the objectives and policies contained in the Commercial Zones Chapter, the Noise Chapter and the Infrastructure Chapter of the District Plan.

CONCLUSION

122. A conclusion on the assessment of effects is provided at paragraph 105. This determines that the adverse effects of the activity on the environment will be acceptable, with the adoption of the recommended conditions.

123. A conclusion against the objectives and policies of the District Plan is provided at paragraph 121. Overall, the proposal is generally consistent with the relevant objectives and policies of the District Plan.

CONDITIONS AND ADVICE NOTES

124. Recommended conditions of a site-specific nature and advice notes are attached as Appendix 1 and Appendix 2, respectively.

APPENDIX 1: RECOMMENDED CONDITIONS

Please note these are the recommended conditions prior to hearing expert evidence from Submitters' and the Applicant. These will be subject to change through the course of the hearing.

General

- 1 The activity shall be in general accordance with the information and plans submitted with the Application for Resource Consent, dated 22 July 2021.
- 2 The consent holder shall be Clifford Deane (the Operator) and Te Tūāpapa Kura Kāinga Ministry of Housing and Urban Development (MHUD).
- 3 The consent is issued personal to the Operator and MHUD. The consent cannot be transferred to and held by any other person.
- 4 The consent holder shall appoint a representative(s) within two weeks following the commencement of this resource consent, who will be the Rotorua District Council's principal contact person in regard to matters relating to this consent. The consent holder shall inform the Rotorua District Council of the representative's name and how they can be contacted. Should that person change during the term of this resource consent, the consent holder shall immediately inform the Rotorua District Council.

Consent Expiry

- 5 This resource consent shall expire on the earlier date of either:
 - a) 5 years from the date the consent commenced; or
 - b) The date of termination or expiry of MHUD's contract for emergency housing applying to the site; or
 - c) The date imposed by a Council review under section 128 of the Resource Management Act 1991 pursuant to Condition 41 of the consent.
- 6 No later than 6 months prior to the consent expiry, the consent holder shall submit to the Manager Planning & Development Solutions at Council, or their delegate, for certification an exit programme to end the use of the site and buildings for contracted emergency housing within the timeframe granted under this consent.

Scale and Intensity

- 7 A maximum of 68 occupants (excluding children under six months of age) shall be permitted to reside within the 30 contracted emergency housing units.
- 8 No children between the ages of six months and seven years may reside on the site.
- 9 Studio and one-bedroom units shall accommodate a maximum of two people per unit (excluding children under six months of age).
- 10 Two-bedroom units shall accommodate a maximum of four people per unit (excluding children under six months of age).
- 11 To avoid doubt, this resource consent does not:

- a) Restrict the length of stay for residents in the contracted emergency housing units (see Advice Note 1 referring to Building Act requirements); or
- b) Limit the number of people residing in the Manager's Accommodation.

Record Keeping

- 12 A record shall be maintained at all times that states:
 - a) The total occupancy numbers across the whole site;
 - b) The length of stay of occupants;
 - c) The number of people within each unit;
 - d) Ages of children; and
 - e) The details of any complaints received and any incidents where security staff intervention has been required.
- 13 The information listed in Condition 12 shall be provided to the Manager, Planning & Development of Council at six monthly intervals from the date of commencement of consent, and made available at any other time upon request. This will be a matter considered under Condition 41.

Landscaping and Planting

- 14 The existing pot plants around the site shall be retained and maintained for the duration of the consent.
- 15 The landscaping and planting baseline referred to in Condition 14 shall be marked on the Site Layout Plan, and photographed and supplied to Council within one month of the commencement of the consent.
- 16 If any of the landscaping dies and/or becomes diseased, the dead and/or diseased plants shall be replaced in the same or similar location within the next planting season (generally between May and October) by a same or similar species of plants capable of reaching the same height within the next planting season.

Play Area

- 17 A dedicated children's play area shall be established on the site and shown on the Site Layout Plan.
- 18 The play area as required by Condition 14 shall be securely fenced and entirely separate from vehicle access and manoeuvring.

Motel Signage

- 19 The consent holder shall remove all physical motel signage for the duration of the consent. This includes, but is not limited to, the following:
 - a) Any sign that identifies the site as a motel.
 - b) Any vacancy / no vacancy sign.

- 20 The consent holder shall remove all online advertising and websites that promote tourist accommodation and other services at the site for the duration of the consent.
- 21 For the avoidance of doubt, this consent does not authorise any signage on the site, other than as required for health and safety reasons.

Storage

- 22 Any storage of household effects of contracted emergency housing occupants shall be provided inside existing buildings on the site.

External Boundary Fencing

- 23 All external boundary fencing shall be maintained in the same or similar form to the existing fencing to provide privacy and security for contracted emergency housing occupants and adjoining neighbours.

Waste Storage

- 24 Waste storage areas shall not be visible from the road frontage.

Traffic Management

- 25 A minimum of one accessible carpark shall be provided on the site which shall be sealed and marked.
- 26 Parking and manoeuvring shall be in accordance with the New Zealand Standard, Parking facilities: Off street car parking, NZS2890.1.
- 27 Surface marking and signage shall be sufficient to ensure the safe and efficient operation of parking and access, including pedestrian safety.
- 28 Parking and access in accordance with these conditions shall be implemented within one month following the grant of consent and shall be maintained for the duration of the consent.

Noise

- 29 Noise levels from the activity shall not exceed the following limits when measured at a point within the boundary of a neighbouring residentially zoned site:

Daytime	7am to 7pm, any day except public holidays	50 dB LAeq (15 min)
Evening	7pm to 10pm any day except public holidays	45 dB LAeq (15 min)
Night-time and public holidays	At all other times	40 dB LAeq (15 min) 70 dB L _{Amax}

- 30 Noise levels from the activity shall not exceed the following limits when measured at any point within the boundary of a neighbouring commercially zoned site:

Daytime	7pm to 10pm any day except public holidays	65 dB LAeq (15 min)
---------	--	---------------------

Night-time and public holidays	At all other times	60 dB LAeq (15 min) 75 dB LAmax
--------------------------------	--------------------	------------------------------------

- 31 Noise shall be measured and assessed in accordance with NZS 6801:2008 and NZS 6802:2008.
- 32 The site shall be capable of meeting an internal road-traffic design sound level of 40dB LAeq inside all habitable rooms.

Glare and Light

- 33 Activities shall be managed so that direct or indirect illumination measures not more than 10 lux on any residential site boundary.

On-site Management

- 34 An on-site staffing presence shall be maintained on the site at all times for the duration of the consent.
- 35 A final Site Management Plan (SMP) shall be submitted to the Manager, Planning & Development Solutions, Rotorua District Council, or their delegate for certification within one month following the commencement of consent. The SMP shall be based on the Plan provided as part of the application and must include:
 - a) Details of on-site managers responsible for implementation of the SMP and the implementation of this resource consent.
 - b) Details of the on-site support services to be provided, including the number of staff, location for training and office work within the site and hours of operation.
 - c) Site management details including:
 - i. Number of occupants and ages
 - ii. Visitor numbers including visiting hours
 - iii. Staffing and security
 - iv. Carparking allocation (including for visitors) and balancing carparks and open space to play
 - v. Meeting / training operation (including hours of use)
 - vi. Use of communal areas and facilities
 - d) Details of site maintenance including:
 - i. Daily tidying of the property and street berms to ensure the site contributes to an attractive streetscape
 - ii. Daily removal of rubbish and graffiti from the property and street berms
 - iii. Daily removal of shopping trolleys from the property and street berms
 - iv. Maintenance of landscaping and planting
 - v. Programmed maintenance of all buildings

- e) Effective noise management measures to avoid, remedy or mitigate potential noise nuisance
- f) The process for dealing with complaints

Bond

- 36 The Operator must, within one month of the commencement of this consent, enter into an enforceable written agreement acceptable to Rotorua District Council that provides for a bond in favour of Rotorua District Council pursuant to sections 108(2)(b) and 108A of the Resource Management Act 1991.
- 37 The purpose of the bond is to secure the performance of any one or more of the conditions of this consent in the event of a failure by the Operator to achieve that performance to Council's satisfaction.
- 38 The bond must be a cash bond or bank bond provided by a registered trading bank of New Zealand acceptable to Rotorua District Council. The bond amount must be \$100,000.
- 39 If the Operator and Rotorua District Council cannot agree on the terms of the bond, the dispute must be resolved through an agreed disputes resolution process.
- 40 The costs of, and incidental to, the preparation of all bond documentation, including the costs of Rotorua District Council, must be met by the Operator.

Review Condition

- 41 At any time, Rotorua District Council may initiate a review of the consent conditions in accordance with section 128 of the Resource Management Act 1991 to:
 - a) Assess the record keeping of occupancy, complaints and incidents recorded under Condition 12; and/or
 - b) Change conditions where necessary to address any adverse effect, including, but not limited to responding to findings and recommendations of social impact assessments, setting limits on the number of occupants, requiring amendments to the Site Management Plan, and reducing the term of consent.

APPENDIX 2: ADVICE NOTES

Building Act

- 1 This is not a Building Consent. The Building Act 2004 contains provisions relating to the construction, alteration, and demolition of buildings. The Act requires building consents to be obtained where relevant, and for all such work to comply with the building code.

Waste Management

- 2 Waste management is addressed under the Council's Solid Waste Bylaw 2016. The bylaw has a general requirement for a waste management and minimisation plan to be prepared for multi-unit developments: 'Collection from Multi Unit Developments' (See Subpart 6 – Clause 20).

Right of Objection

- 3 If you are dissatisfied with any aspect of the decision, you have a right of objection to Council under section 357A of the Resource Management Act 1991. Please advise Council in writing stating the reasons for the objection and the preferred outcome within 15 working days of receiving this decision. If no objection is received it will be assumed that the applicant accepts this decision. In addition, there is a right of appeal to the Environment Court under section 120 of the Resource Management Act 1991.

Monitoring of Conditions

- 4 Fulfilment of the conditions of this consent within the timeframe specified in the consent is necessary to carry out the proposal for which this consent relates. Your progress towards satisfying the conditions of consent will be monitored by Council's Monitoring and Compliance Officer.
- 5 Please contact Council's Compliance & Regulatory Team (RMACompliance@rotorualc.nz) in relation to the completion and monitoring of the conditions of this consent. The consent holder will be charged for the administration, monitoring and supervision of this resource consent. Notwithstanding the above, where there is good and reasonable cause for unprogrammed monitoring and additional site inspections, the costs of that will be a charge on the consent holder. Such costs are recovered on an actual and reasonable basis as defined in the General Conditions and Notes of the Fees and Charges Schedule as approved by the Council in terms of Section 36 of the Resource Management Act 1991.