
ROTORUA DISTRICT COUNCIL

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

FILE NO: 6221322

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	MIDWAY MOTEL C/- ERIC ZHANG
ADDRESS:	293 FENTON STREET, ROTORUA
RESOURCE CONSENT NUMBER:	RC17890
LEGAL DESCRIPTION:	LOT 55 DP 15716 and LOT 56 DP 15716
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**) are 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 Midway Motel 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 20 December 2021. The activity has been operating since 1 July 2021, so the resource consent application is both retrospective and prospective.
3. A request for further information (**RFI**) was issued to the applicant on 3rd February 2021 and therefore the application was placed on hold in accordance with section 92(1) of the RMA. A RFI response was received from the applicant's Agent on the 11th May 2022.
4. The applicant requested that the application be publicly notified on the 11th May 2022. The application was publicly notified on 11th June 2022 along with 11 other CEH applications¹. Notice of the application was also served on 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.
5. Of the 3,841 submissions received on all 13 CEH applications, there were no submitters that only submitted on Midway Motel. However, there were six people who submitted on Midway Motel and one or two of the surrounding Motels (Geneva Motor Lodge, Emerald Spa and/or Apollo). The majority of submissions covered general matters across all 13 CEH application sites. These matters are covered in the Section 42A Overview Report (**Overview Report**).
6. The proposed activity has been assessed as a **Non-Complying Activity** pursuant to Rule COMZ-R1 of the Operative Rotorua District Plan (**District Plan**) as the activity is not expressly provided for.

REPORT STATUS

7. 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.
8. 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.
9. 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.

¹ The 13th application was notified on 6 August 2022.

REPORTING OFFICER

10. 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**).
11. 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.
12. 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.
13. 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

14. The site was initially visited by Bethany Bennie on 19th January 2022 and I also visited the site on the 23rd August 2022.
15. The site is made up of two Records of Title, and each are located within the Commercial 4 Zone (**COMZ4**) of the District Plan. This is shown in Figure 1 and in the table below.

District Plan Zone	Legal Description	Area (m ²)
COMZ4	LOT 55 DP 15716	1,012
COMZ4	LOT 56 DP 15716	1,007
Total		2,019



Figure 1 – District Plan zones with the subject site outlined in red. The yellow is Residential 2 (RESZ2), the purple is COMZ4 and the green is CAZ (Community Assets).

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

The site is currently occupied by an existing motel, with the main entrance off Fenton Street and a second entrance off Robertson Street (which will be closed for the purposes of site management). The manager’s unit is located in the south-eastern corner. A building accommodating six units is located along the site’s northern boundary, and a row of nine units is located close to the site’s western boundary. There is a play area and utility/amenity area in the north-western corner between these buildings. All accommodation buildings on the site are two storeys and the utility building in the northwest corner of the site (accommodating a kitchen area, heat exchange utilities, laundry, and games area) is single storey.

The site is surrounded by commercial accommodation to the north, east and south, with residential properties to the west/south-west.

The existing buildings within the site are dedicated to the motel operation, which has been in operation since the 1980s. 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, nor are infants aged less than 18 months.

Table 1: Configuration of units at 293 Fenton Street excluding manager's accommodation

Type of unit	No. of units	Max No. of occupants
Family apartments	15	90
Total	15	90

There are adequate carparks located within the property for each unit to have a parking space. There is a shared laundry facility, play area and games room on site, which can be used by the site occupants.

17. The applicant has recently stated an intention to reduce the maximum occupancy level (as originally proposed) from 90 occupants to 70 (excluding staff and children under the age of 18 months). Under the proposed maximum, where there is more than one double bed in a room, only one bed has been counted as sleeping two people.
18. The motel has been in use as MHUD CEH since 1 July 2021.

Surrounding Area

19. The immediate surrounding environment is a mix of residential, tourist accommodation, emergency housing, community and commercial land uses. On the opposite side of Fenton Street is the Arawa Park Racecourse, a church and tourist accommodation. On the opposite side of Robertson Street is another CEH provider, one of the 13 applications by MHUD to be considered and decided by the Panel². To the north of the site is tourist accommodation, a café and a clothing store. The remainder of the surrounding area is residential. North of the site is the city centre.
20. Figure 2 below shows surrounding emergency housing and tourist accommodation providers within close proximity to the site.

Local Amenities and Social Infrastructure

21. A supermarket, chemist, butcher, and fruit and vegetable shop are located opposite the site on the corner of Fenton Street and Ti Streets approximately 650m away.
22. The nearest schools are the Seventh-day Adventist School approximately 350m south of the site, St Mary's Catholic School approximately 600m west of the site and Glenholme Primary School approximately 660m to the west. The Tree House on Ranolf Childcare Centre is also 650m away.
23. There is a church on the opposite side of Fenton Street, as well as the Seventh-Day Adventist Church approximately 260m to the south of the site. The Shri Swaminarayan Mandir Temple is just south of the site on Fenton Street (although currently closed).
24. The nearest reserves are Marist Saint Michaels Reserve (900m to the north) and Murray Linton Rose Gardens (900m to the south).
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.

² Geneva Motor Lodge



Figure 2 – Activities within the immediate surrounding environment (red – subject site, orange – another CEH site, green – tourist accommodation not known to be providing emergency housing). 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
SA429/267	LOT 55 DP 15716	<ul style="list-style-type: none"> • Subject to Section 15 of the Rotorua Town Lands Act 1920³ • Certificate pursuant to Section 643(2) Local Government Act 1974⁴ • Lease agreements⁵
SA1247/70	LOT 56 DP 15716	<ul style="list-style-type: none"> • Subject to Section 15 Rotorua Town Lands Act 1920 • Subject to Section 8 Coal Mines Amendment Act 1950 • Lease agreements

³ This relates to the Crown reservation of rights to minerals and other resources.

⁴ This relates to a repealed statute regarding the construction of a building on two or more allotments.

⁵ 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.

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
SP3225	April 1983	Signage
SP3211	January 1983	Signage

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 90 occupants to 70 (excluding staff and children under the age of 18 months)⁶.
32. The applicant proposes no modifications or change to the layout of the buildings within the site. However, it is noted that permanent fencing at the Fenton Street frontage and Robertson Street frontage has been installed since the application was lodged.
33. On-site support services will be provided by “Emerge Aotearoa”, who will implement a Site Management Plan (**SMP**) (attached as Appendix 4 of the application). The SMP is offered as an “Augier”⁷ 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; and
 - Support Service staff on-site 9am – 5pm Monday to Friday.
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;

⁶ Email from Alice Blackwell titled Occupancy Numbers 9 September 2022

⁷ 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.

- 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.



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 11th June 2022 (along with 11 of the other 12 CEH applications)⁸. Notice of the application was served on the owners/occupiers of immediately adjacent properties and 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 no submitters that only submitted on Midway Motel. However, there were six people who submitted on Midway Motel and one or two of the surrounding motels (Geneva Motor Lodge, Emerald Spa and/or Apollo). These submissions are summarised below⁹.
42. Including those summarised below, there were 23 surrounding residents in total who made a submission with their address listed as Robertson Street.

Submitter Name/no.	Oppose / Support	Wish to be Heard	Submitted on other applications	Submission Summary
John Lloyd (326)	Oppose	No	<ul style="list-style-type: none"> RC17891 	<u>Resident on Robertson Street</u> <ul style="list-style-type: none"> Submitter incorrectly states that the application is for 50 units (as opposed to 15) Increase in crime and anti-social behaviour Motels have become unkept Increase in rubbish, graffiti and supermarket trolleys Exposure of tourists to anti-social behaviour as the Arawa Park Hotel is opposite the road
Shuqin Li (317)	Oppose	No	<ul style="list-style-type: none"> RC17891 	<u>Resident on Robertson Street</u> <ul style="list-style-type: none"> Will degrade the quality of the community

⁸ The 13th application (Emerald Spa) was notified on the 6th August 2022.

⁹ It is recognised that the majority of people submitted on all applications and whilst these general submissions were not directed specifically to Midway Motel, they are still applicable to this application. Therefore, the Section 104 assessment addresses comments both specific to Midway Motel, but also general themes across all sites.

Shybu Antony (352)	Oppose	No	<ul style="list-style-type: none"> • RC18244 	<u>Resident on Robertson Street</u> <ul style="list-style-type: none"> • Increase in crime and anti-social behaviour
Peter and Damian Robertson (316)	Oppose	No	<ul style="list-style-type: none"> • RC17891 • RC18244 	<u>Resident on Robertson Street</u> <ul style="list-style-type: none"> • Degradation of the area with litter and anti-social behaviour
Ira Te Kani and Andrew Taylor (346)	Oppose	No	<ul style="list-style-type: none"> • RC17891 • RC18244 	<u>Owns a rental property on Robertson Street</u> <ul style="list-style-type: none"> • The motels are not fit for purpose. With limited space in the units, it is causing the occupants to wander around the neighbourhood • Motels were not designed for such high occupancy rates • Effects on the wastewater and stormwater systems with increase in people • Security is provided on site, but that is not where the problems are occurring • Recommend that the consent duration is reduced to 6 months and to stop bringing in people from out of Rotorua • Emergency housing needs to be spread throughout the district and not concentrated in one area
Taurua Grant (358)	Oppose	Yes	<ul style="list-style-type: none"> • RC17891 • RC18244 	<u>Resident on Robertson Street</u> <ul style="list-style-type: none"> • Concentration of motels in one area – particularly with Geneva Motel on the adjacent side of the road • Should only have one motel within a 350m radius
Maureen Gray (360)	Oppose	No	<ul style="list-style-type: none"> • RC17891 • RC17893 	<u>Resident on Robertson Street</u> <ul style="list-style-type: none"> • Site and buildings are not designed for long term use • Facilities are inadequate (kitchen, laundry, play areas) • Negative impact on tourism and surrounding businesses

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 within 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 subject site has frontage to Fenton Street and Robertson Street. The Fenton Street frontage is characterised by the existing motel buildings, motel signage (both freestanding and attached to the building) and some landscaping (including hedging, trees and gardens). 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.

50. 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.
51. The site was initially visited by Ms Bennie on the 19th January, and I also visited the site on the 23rd August 2022. I have relied on both my site visit, and the site photographs taken by Ms Bennie to assess the visual effects of the site at two separate points in time.
52. The site appeared tidy and there was no sign of temporary fencing, rubbish, or graffiti. There were some road cones within the site and there was one shopping trolley outside the site on the berm. The applicant has recently installed permanent pool fencing (with a gate) at the entrance to the property which has replaced the low-level wooden fencing.
53. To ensure the site is well maintained, 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 above¹⁰. 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. Although landscaping is not specifically required under the District Plan at the Fenton Street frontage, a condition of consent is recommended that the existing landscaping (including trees, gardens and hedging) be maintained and replaced where necessary¹¹. Furthermore, it is recommended that the signage associated with the motel is removed¹². This would assist in reducing visual clutter along Fenton Street.
55. Adoption of the above recommendations would maintain the attractiveness of the streetscape.

Robertson Street

56. The Robertson Street frontage is located within COMZ4, however the remainder of Robertson Street to the west is located within the Residential 2 Zone (**RESZ2**). This frontage consists of a black wooden fence along the boundary, and a permanent gate has recently been installed at the entrance. The buildings at this frontage are two storey and the character of the site is consistent with surrounding properties.
57. A condition of consent is recommended that this boundary fencing is retained and that the site is well maintained in accordance with the SMP.

Boundaries with neighbouring properties

58. The site adjoins tourist accommodation to the north (located in COMZ4) and a residential property to the west (located in RESZ2). Neither of these properties have made a submission on the application.

¹⁰ Refer recommended condition 34 in Appendix 1

¹¹ Refer recommended conditions 12 - 14 in Appendix 1

¹² Refer recommended condition 18 in Appendix 1

59. Under the District Plan, where a commercial zoned site adjoins a residential zone, the boundary must have a 1.8m high close-boarded fence, or a 2m planting strip which is able to achieve a visual screen of at least 1.8m high¹³. The existing boundary consists of a 1.8m high wooden fence, which is compliant with this standard.

Conclusion

60. Provided the existing external boundary treatments and landscaping features along the boundaries of the site (established vegetation, hedging, and fencing) are maintained, character and amenity effects of the proposal on the environment are assessed as acceptable, and consistent with the character and amenity outcomes anticipated by the District Plan in each zone. Adherence to the SMP will also manage any amenity effects relating to the upkeep of the property.

Internal amenity effects

Outdoor living space

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

Each unit has access to a private courtyard / outdoor space accessed from the rear of the unit. Additionally, there is a shared amenity space and games room, and shared play area (approximately 75m²) that occupants can utilise within the site.

62. In COMZ4, household units are required to provide a private outdoor living space with a minimum area of 10m² and a minimum depth of 2m¹⁴. However, this only applies to new buildings. There are no objectives and policies within COMZ4 that address outdoor living space.
63. A number of submitters have stated that the lack of outdoor space within some motels¹⁵ 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. CEH occupants who stay within the units for shorter durations may be more accepting of a lack of outdoor space.
64. At the time of the RFI (dated May 2022), the applicant 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.*
65. 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.
66. Overall, as all units have access to private outdoor living space and shared open space, this provides a suitable level of amenity for the occupants.

¹³ Rule COMZ-S9.1.a

¹⁴ COMZ-S5

¹⁵ As well as overcrowding, which is addressed below.

Suitability for Children

67. Ms Collins has rated the site as highly suitable for children between the age of six months and seven years due to the private outdoor courtyard and the shared play area and games room. The site has been assessed as moderate for children between the age of eight and eighteen years. There are shared play areas on site, however the nearest park / reserve is around 900m away.
68. Ms Collins concludes that this site is one of the most suitable across all 13 motels for children in the younger age groups (six months to seven years). Although the site has been assessed as moderate for the older age groups (eight to eighteen years), the Panel may choose to recommend that this site is used only for families with young children, if there are limited motels that are suitable.
69. Overall, the site is considered suitable for children of all ages and there is good access to local reserves. The shared games room is also available for children to use in adverse weather conditions. A condition of consent is recommended that this is retained¹⁶.

Occupancy rate

70. The applicant has recently stated an intention to reduce the maximum occupancy level across the site from 90 occupants to 70 (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.
71. The applicant has provided details of actual occupancy rates for the CEH activity on the site over an eight-month period¹⁷. This data¹⁸ shows that the average occupancy level of the CEH activity on site is 40 occupants. The maximum occupancy rate over the same period was 52 occupants in August 2022.
72. 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”*¹⁹.
73. 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”*²⁰. The New Zealand Deprivation Index uses CNOS as an indicator of crowding²¹. Applied to the subject site, the proposed occupancy rates would result in crowding²². To avoid crowding, there would generally need to be a limit of two people per bedroom.
74. 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 Midway Motel, the size of the units (in m²),

¹⁶ Refer recommended condition 17 in Appendix 1

¹⁷ December 2021 to August 2022

¹⁸ Further information received from the applicant, dated September 2022

¹⁹ 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

²⁰ Stats NZ (2012) *Finding the crowding index that works best for New Zealand*. Retrieved from www.stats.govt.nz

²¹ Stats NZ (2012) *Finding the crowding index that works best for New Zealand*. Retrieved from www.stats.govt.nz

²² As defined by Statistics NZ

or the number of beds within each room. The following information has been provided on the types of units:

Table 1: Configuration of units at 293 Fenton Street excluding manager's accommodation

Type of unit	No. of units	Max No. of occupants
Family apartments	15	90
Total	15	90

75. Based on the images provided online of Midway Motel, the family apartments consist of two bedrooms (one queen bed downstairs within the living area, as well as two single beds and 1 double bed in the bedroom upstairs). The occupancy rate proposed by the applicant would allow five people per unit.
76. The site has been assessed as highly suitable for children, and there is both private and shared outdoor space across the site, as well as a shared games room for periods of wet weather. Because of the quality of outdoor space, a slightly higher occupancy rate is recommended compared to sites with less suitable outdoor space. The proposed maximum occupancy rates are as follows:
 - A maximum of 60 occupants (excluding children under the age of six months) shall be permitted to reside within the 15 CEH units.
 - A maximum of four people per unit (excluding children under the age of six months) shall be permitted.
77. 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. This is consistent within the age groups provided by Ms Collins.
78. Overall, this would result in a maximum occupancy of 60 occupants across the whole site which is more than the average occupancy (at 40 occupants) and more than the maximum occupancy (at 52 occupants) over the last eight months. It is recommended that a record is maintained for Council to monitor these conditions²³.
79. 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.
80. The applicant may be able to provide information in the course of the hearing that identifies how many families this would apply to.

²³ Refer recommended condition 10 in Appendix 1

Conclusion

81. Overall, the site is suitable for children and provides amenity for occupants through both private outdoor space and shared outdoor space. The conditions recommended will reduce overcrowding within the units, acknowledging that a slightly higher occupancy rate is recommended (in comparison to other motels) due to the outdoor space provided on site. Overall, internal amenity effects are considered as acceptable.

Transportation Effects

Parking and access

82. The site has an existing vehicle crossing onto Fenton Street and a separate vehicle access onto Robertson Street which is currently closed off by the gate. There are 15 carparks provided on site (one per unit), as well as one accessible park.
83. Several submitters stated that due to a lack of off-street parking, CEH occupants were parking on the berms. Parking on berms is managed through Council Bylaws²⁴. Overall, this appears to be a wider parking issue. Furthermore, it is recognised that Council is not able to set minimum parking requirements under the District Plan as required by the National Policy Statement on Urban Development 2020²⁵. Parking allocation will be managed on site by the motel operator.
84. 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

85. The maximum occupancy of the motel is 90 occupants (based on the number of beds available). As outlined above, it is recommended that the occupancy rate is reduced to 60 occupants across 14 units.
86. It is acknowledged that there may be security and support services coming and going. 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.
87. Having regard to the existing environment, transportation effects associated with the proposal are assessed as acceptable.

Noise Effects

Reverse sensitivity effects

88. 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 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.
89. COMZ4 predominantly consists of existing tourist accommodation activities and apartments. Directly adjoining Midway Motel is tourist accommodation to the north and a residential property to the west. On the opposite side of Fenton Street is another tourist accommodation

²⁴ Traffic Bylaw 2008

²⁵ Policy 11

provider and on the opposite site of Robertson Street is Geneva Motel (currently also used for CEH). Due to the nature of these activities being residential and not being significant sources of noise, it is unlikely that noise experienced at the subject site will be higher than what is typically anticipated within a residential environment.

90. The activities in the immediate surrounding environment that may be noisy include the church and the racecourse located on the adjacent side of Fenton Street. The church is located approximately 85m from the motel units and over a four-lane major arterial road. At this distance, it is expected that noise would be consistent with residential noise limits.
91. The racecourse is likely to be noisy when there are events on. 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.

Noise from emergency housing

92. The applicant has not applied to breach the noise standards within the District Plan.
93. 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.
94. Several submitters also raised concerns regarding an increase in police sirens, motor vehicles, and noise from occupants (yelling, late night parties, etc.). Noise that is generated off-site (such as police sirens and motor vehicles) cannot be directly linked to Midway Motel. However, noise that is generated on-site (such as noise from occupants) can be managed through consent conditions.
95. 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.
96. 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 complaints²⁶.
97. With the above management measures in place, any potential noise effects from the proposed activity will be acceptable.

Effects on Infrastructure

98. 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,

²⁶ Refer recommended strategic conditions attached to the Overview Report

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.

99. 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

100. 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.

101. 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.
102. 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.
103. 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

104. 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

105. 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

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

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-O3: 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.*

107. 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.
108. Conditions of consent have been recommended to maintain the existing landscaping and the existing fencing at the boundaries. Removal of the motel signage, and regular upkeep of the site (as required under the SMP) will also contribute to an attractive streetscape.
109. As described throughout this report, the amenity of surrounding residential zones (in relation to visual amenity and noise) will be retained through the implementation of conditions. Further amenity effects (such as anti-social behaviour) are addressed within the Overview Report and the statement of evidence by Ms Foy.
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-O5: 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 activities in the immediate surrounding environment that may be noisy are the church and the racecourse which are located on the adjacent side of Fenton Street. The church is located approximately 85m from the motel units and over a four-lane major arterial road. At this distance, it is expected that noise would be consistent with residential noise limits.
 112. The racecourse is likely to be noisy when there are events on. 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.
 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-O1: 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 104. This determines that the adverse effects of the activity on the environment of a site-specific nature 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. On balance, 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 20 December 2021 and the following additional information provided by the applicant:
 - a) Response to request for further information, dated 11 May 2022 and titled "*Response to request for further information – RC 17890 – 293 Fenton Street*"
- 2 The consent holder shall be Eric Zhang (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 40 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, Rotorua District 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 60 occupants (excluding children under six months of age) shall be permitted to reside within the 15 contracted emergency housing units.
- 8 Each unit may accommodate a maximum of five people (excluding children under six months of age).
- 9 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

- 10 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.
- 11 The information listed in Condition 10 shall be provided to the Manager, Planning & Development Solutions, Rotorua District Council, or their delegate, 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 40.

Landscaping and Planting

- 12 The existing landscaping and planting on the site shall be retained and maintained for the duration of the consent. This includes the following:
- a) The hedging and vegetation at the Fenton Street frontage.
- 13 The landscaping and planting baseline referred to in Condition 12 shall be marked on the Site Layout Plan, and photographed and supplied to Council within one month of the commencement of the consent.
- 14 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.

Shared Open Space

- 15 Shared open space shown on the approved Site Layout Plan shall be maintained to ensure the spaces are suitable for recreational use by residents.
- 16 Shared open space shown on the approved Site Layout Plan shall not be used for vehicle parking, storage, or occupied by any buildings or structures other than for the purpose of recreational use such as shade structures, seating, and play equipment.
- 17 The games room shall be made available for the use of children for recreation.

Motel Signage

- 18 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.
- 19 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.
- 20 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

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

External Boundary Fencing

- 22 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

- 23 Waste storage areas shall not be visible from the road frontage or residential properties.

Traffic Management

- 24 A minimum of one accessible carpark shall be provided on the site which shall be sealed and marked.
- 25 Parking and manoeuvring shall be in accordance with the New Zealand Standard, Parking facilities: Off street car parking, NZS2890.1.
- 26 Surface marking and signage shall be sufficient to ensure the safe and efficient operation of parking and access, including pedestrian safety.
- 27 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

- 28 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}

- 29 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

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

Glare and Light

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

On-site Management

- 33 An on-site staffing presence shall be maintained on the site at all times for the duration of the consent.
- 34 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

- 35 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.
- 36 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.
- 37 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.
- 38 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.
- 39 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

- 40 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 10; 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 (RMACCompliance@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.