

# Annexure 10 – RC 17889: 249-251 Fenton Street / 14-16 Toko Street, and 8A, 8B and 10B Toko Street (RotoVegas Motel) – RC17889



**Figure 1: 249-251 Fenton Street/14-16 Toko Street (as viewed from Fenton Street)**

## **1 Introduction**

1.1 Resource consent to use 249-251 Fenton Street / 14-16 Toko Street and 8A, 8B and 10B Toko Street for Contracted Emergency Housing (CEH) was lodged with Rotorua Lakes Council (RLC) on 20 December 2021. CEH is described in detail in the Application and in my Primary Evidence. To summarise, the Proposal is to:

- (a) Use all 26<sup>1</sup> existing motel units for CEH, primarily for whānau with children and vulnerable individuals (such as elderly);
- (b) Provide on-site support services for CEH occupants by a dedicated Service Provider. The Service Provider is currently WERA Aotearoa Charitable Trust, but the Applicant would like to retain flexibility so that an alternative Service Provider could provide the necessary Support Services if required.
- (c) 24/7 security on-site, with roaming security between 9am – 5pm and on call as required;
- (d) Operate CEH from the site for a maximum of five years (from the date of the decision of the consent);

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<sup>1</sup> RotoVegas has four offsite units. One of these units (22C Toko Street) is considered to be a permitted activity as it falls within the definition of 'community housing'. As such the number of contracted units for the purposes of this application is 26.

- (e) Revert back to a motel activity once the site is no longer being used for CEH.

## 2 Changes to the Application since lodgement

### *Maximum Occupancy*

- 2.1 Since the notification of the Application, having considered the concerns raised by submitters and issues raised in the s42A report the Applicant proposes to reduce the total maximum occupancy onsite from 108 occupants to **80 occupants**.
- 2.2 CEH has been operating from the 249-251 Fenton Street/14-16 Toko Street and 8A, 8B and 10B Toko Street since 1 July 2021. On 11 May 2022, Ministry of Housing and Urban Development (MHUD) provided to RLC (in response to a s92 request) updated information about the actual number of occupants on the site. This information demonstrated that the number of occupants is far lower than the theoretical capacity (of 108 people) if every bed in every unit was occupied. Updated actual occupancy is provided in Table 1 below.

**Table 1:** 249-251 Fenton Street/14-16 Toko Street and 8A, 8B and 10B Toko Street – Actual Occupancy Units (U) and People (P) December 2021 – August 2022

Date	15/12/21		7/02/22		30/03/22		27/04/22		23/05/22		30/06/22		1/08/22		30/08/22	
	U	P	U	P	U	P	U	P	U	P	U	P	U	P	U	P
No.	27	66	23	64	23	52	25	54	23	50	25	57	21	47	21	47

NB: All 27<sup>2</sup> units are contracted for CEH and 249-251 Fenton Street/14-16 Toko Street and 8A, 8B and 10B Toko Street has a maximum theoretical capacity of 108 CEH occupants.

- 2.3 The reality of CEH is that units are allocated to whānau based on their specific needs, and this does not necessarily mean every bed in every unit is occupied. As demonstrated in Table 1 above, the actual number of people onsite has varied between 47 and 66 people<sup>3</sup>. While these levels are notably lower than the maximum occupancy of 108 persons that is now being sought by the Applicant, it is my understanding that reasons for low levels of occupation can vary – for example, on occasion, rooms are

<sup>2</sup> Occupancy numbers include the unit at 22C Toko Street, which falls within the definition of community housing (see footnote 1).

<sup>3</sup> However, the more recent numbers may not represent likely future occupancy as there was a fire in one of the units which has meant 5 units are not currently able to be occupied.

decommissioned for maintenance and repairs between whānau stays, and some rooms are set aside for emergency placements.

- 2.4 It is accepted that those staying in CEH are generally onsite longer than typical motel guests. As such, in terms of the potential intensity of use I consider that a reduced maximum occupancy is appropriate and helps to mitigate the potential effects that could result from overcrowding.

#### *Site Fencing*

- 2.5 Aluminium pool style fencing has been installed along the Fenton Street frontage of the subject site. There is no longer any use of cones of temporary structures controlling entry and exit to or from the site.

#### *Signage*

- 2.6 I understand the Operator has recently removed the majority of physical signage associated with the subject site being operated as the RotoVegas Motel.

#### *Berm parking and shopping trolleys*

- 2.7 The Motel Operator advises that security guards ensure vehicles do not park on the berm in front of the site and shopping trolley are returned to the shops across the road. I understand from the Operator (Mr Smart) that Shopping Trolleys have littered Fenton Street for all of the 12 years that he has managed the motel.

### **3 Activity Status**

#### *Operative Rotorua District Plan*

- 3.1 The subject site has a split zoning, where the eastern half of the site is located in the Commercial 4 zone and the western half of the site is located in the Residential 2 zone of the ODP.
- 3.2 As discussed in my Primary Evidence, the activity status has been assessed as a Non-Complying Activity pursuant to Rules COMZ-R1 and RESZ-R2.

#### **4 Site Specific Matters Raised in Submissions**

- 4.1 The site specific s42A report by Ms MacDonald provides an overview of the notification process and submissions raised. I note that many submitters made 'blanket' submissions which related to all Applications. As such, where the issues raised in submissions are relevant to all Applications, I have considered these issues in my Primary Evidence.
- 4.2 The site specific s42A report by Ms MacDonald provides an overview of the notification process and submissions raised. I note that many submitters made 'blanket' submissions which related to all Applications. As such, where the issues raised in submissions are relevant to all Applications, I have considered these issues in my Primary Evidence.
- 4.3 There were 320 submissions in relation to the resource consent at the subject site (including 16 submissions that were provided to the Independent Hearing Panel prior to notification of the application). Five submissions are not considered blanket submissions and were more specific to 249-251 Fenton Street and 14-16 Toko St. All five submitters either reside or own property on Toko Street.
- 4.4 The issues raised by the non-blanket submissions are reasonably generic, and can be broadly categorised as follows:
- (a) Social Effects
  - (b) Tourism Effects
  - (c) Infrastructure Effects
  - (d) Cumulative Effects
  - (e) External Amenity Effects
  - (f) Internal Amenity Effects
- 4.5 Submissions relating to social effects, tourism effects, and infrastructure have been addressed in my Primary Evidence and that of MHUD's experts. No further discussion will be undertaken regarding these issues here. Further, changes to the application since lodgement (discussed in Section 2 above) together with conditions of consent will effectively mitigate many submitter's concerns at the site-based level.

- 4.6 Cumulative effects have been discussed in my Primary Evidence; however, I provide additional comments specific to the subject site (RotoVegas Motel) in my effects assessment below.
- 4.7 External and internal effects are not addressed in my Primary Evidence. These are discussed in my effects assessment below.
- 4.8 Overall, I agree with the analysis and conclusions within Ms MacDonald's s42A report with regard to submissions received on this property.

## **5 Assessment of Effects**

5.1 My Primary Evidence discusses effects as they relate to all Applications. The following discusses effects specifically relevant to this site:

- (a) Positive effects
- (b) Character and amenity effects
  - (i) External amenity
  - (ii) Internal amenity
- (c) Transportation Effects
  - (i) Parking and access
  - (ii) Traffic generation
- (d) Noise Effects
- (e) Infrastructure effects
- (f) Financial contributions

### ***Positive effects***

5.2 The positive effects of the Proposal are outlined in the Application and in my Primary Evidence. At a site specific level, the layout of the main site (249-251 Fenton Street and 14-16 Toko Street) is such that there is a generous shared playground area. There is also a games room and separate fenced swimming pool. The site has good opportunities for play space.

- 5.3 There are also three separate units also managed by the motel (located at 8A, 8B and 10B Toko Street). These units are physically separate from the motel (located to the north of the subject site, adjoining the 247 Fenton Street and 12 Toko Street<sup>4</sup>) and are essentially residential units. These Toko Street units each have private open space areas.
- 5.4 The buildings within the Residential 2 zone are less intensive and more residential in character, while the buildings in the Commercial 4 zone contain a greater number of CEH units.

### ***Character and amenity effects***

#### *External Amenity - Streetscape / neighbourhood character*

- 5.5 No changes are proposed in relation to the buildings and the AEE in the Application for 249-251 Fenton Street / 14-16 Toko Street / 8A, 8B and 10B Toko Street remains valid in this regard.
- 5.6 Quality permanent fencing was identified in the Social Impact Assessment (SIA) as a mitigation measure to assist with maintaining the surrounding character. As identified above a new fence with sliding gate has been constructed along Fenton Street. I understand that the majority of the motel signage has now been removed. This was recommended in the SIA and is identified in the evidence of both Ms Hampson and Ms MacDonald. I agree that signage should be removed for the duration of the consent.
- 5.7 In addition to the above, a number of experts of the Council and MHUD have recommended that all online advertising and websites that promote tourist accommodation and other services should be removed. I agree that such measures are generally appropriate.
- 5.8 Ms MacDonald has recommended a condition of consent that existing landscaping be maintained and replaced where necessary. I consider this will aid in mitigating external amenity effects and consider it appropriate to be imposed as a condition of consent.
- 5.9 Overall, it is my opinion that the external amenity effects arising from the use of the site for CEH purposes are acceptable.

#### *External Amenity – Cumulative effects*

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<sup>4</sup> Ascot on Fenton – also CEH (see Annexure 9).

- 5.10 Cumulative effects of 13 resource consents being considered concurrently is discussed in my Primary Evidence. This was also addressed in the s92 response, the SIA, and in the Evidence of Ms Healy and Mr Eaquab
- 5.11 The subject site is one of the six CEH sites with frontage on Fenton Street. In this regard, I note that the property between the two properties of the application site also accommodates a CEH<sup>5</sup> activity. As identified in Figure 2 of the site specific s42A report, there is a tourist accommodation provider to the north of site which is not known to provide emergency housing of any description. To the east of 8A, 8B and 10B Toko Street, is a motel that is understood to provide EH-SNG accommodation.
- 5.12 The addition of new fencing and removal of motel signage will help to reduce the prominence of the site in the Fenton Street streetscape.
- 5.13 My conclusion in relation to cumulative effects in my Primary Evidence are equally applicable here. Cumulative effects of the Proposal are considered to be acceptable and with the proposed management and mitigation are considered to be no more than minor.

*Internal amenity*

- 5.14 Internal amenity relates to the quality of the onsite living environment for those staying in CEH, including access to onsite amenities typically associated with domestic living, open space and onsite services.
- 5.15 My Primary Evidence discusses how individuals are allocated to particular units, which among other matters, includes consideration of a unit's size, location, and onsite amenities to suit the requirements of the whānau or individual being homed.
- 5.16 Residents within CEH are accommodated on a relatively short-term basis (when compared with more permanent housing), with the length of stay varying between whānau groups. It is acknowledged, however, that the duration of stay is for a longer period than individuals who previously utilised the accommodation as motel guests. The provision of a quality and safe living environment is an important objective of CEH.
- 5.17 In undertaking this effects assessment, I also draw on the guiding principles within the relevant planning provisions applicable to the Commercial 4 Zone

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<sup>5</sup> Ascot Motel

and RES2 Zone. The COMZ4 zone requires a minimum of 10m<sup>2</sup> (with a minimum depth of 2m) of outdoor open space to be provided per household unit<sup>6</sup>. The RES2 zone requires a minimum 10% net site area for outdoor recreation and amenity, and this space may include decks. This provides a helpful starting point in which to consider adequacy of open space; however, this must also be considered in the context that this standard is particularly applicable to site development resulting in permanent places of residence, as opposed to repurposed accommodation that instead serves as a temporary place of residence to the occupants. I also note that there are no guiding provisions regarding outdoor living space in this zone.

*Internal Amenity – Outdoor living space*

- 5.18 Access to onsite open space is one element that can contribute to a high-quality living environment. In my opinion, the extent and quality of the onsite amenity (including provision of open space) must be considered within the context of CEH providing a short-term place of residence for members of the community who otherwise have no tenable or better alternative accommodation.
- 5.19 I agree with the site specific s42A report, which identifies that not all units have access to private outdoor living space, however there is shared open space available to occupants. Ultimately Ms MacDonald concludes that the temporary nature of the accommodation is a mitigating factor. I agree with Ms MacDonald's conclusion in this regard.

*Suitability for children*

- 5.20 The subject site contains a dedicated BBQ area with play equipment suitable for children. I note that the Service Provider provides off-site activities for tamariki and the site is well located within walking distance to local recreation grounds, which provide considerable amenity and space for children to play, albeit off the site. In my opinion this nearby public space can readily mitigate any onsite deficiencies.
- 5.21 The s42A report, informed by Ms Collins's assessment, recommends putting no restrictions on the use of units to accommodate whānau with children or certain age-groups from particular units.

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<sup>6</sup> COMZ-S5



5.22 Overall, it is my opinion that the site is adequately suited to accommodating children. I agree with and accept the s42A analysis with regard to suitability for children.

*Occupancy rate*

5.23 Ms MacDonald recommends that the proposed maximum occupancy rate for the site be restricted to 63 occupants. Maximum occupancy rates per unit type (excluding children under the age of six months) are also recommended. These recommendations are carried through to conditions 7-11 of the s42A report. The proposed limits on occupancy rates attempt to mitigate concerns of overcrowding and is based on the Canadian National Occupancy Standard (CNOS) used by Statistics New Zealand.

5.24 My Primary Evidence discusses why the CNOS is not appropriate as applied to CEH. In my opinion, the service provider is best placed to determine which rooms are most suitable for occupants, and they consider a multitude of factors including family dynamics.

5.25 Considering first the occupancy levels of the wider site, as noted in the s42A report, the Applicant has offered a reduction in the maximum occupancy numbers to a **maximum of 80 occupants**, which is an additional 17 people above that recommended by the Council's s42A report. Informed by the advice of the Service Providers and Mr Wilson from MHUD, I support the maximum level of 80 persons, and consider that it is appropriate to enable additional flexibility over and above what is proposed by the Council. In recognition that on occasion, the placement of whānau groups may require some occasional exceedance to the more restrictive operating limit proposed in the Council's conditions.

5.26 As noted above, I do not agree that it is necessary to limit the individual occupancy levels of specific units, or apply restrictions to accommodate young children. In my opinion, while such restrictions are well-intended, I do not consider that these are necessary to achieve the worthy objective of avoiding overcrowding. The Service Providers are skilled at ensuring the wellbeing of whānau and tamariki are at the forefront of determining appropriate allocation of accommodation.

5.27 Ms MacDonald identifies that should the Panel be of the mind to grant consent and impose the occupancy conditions stated in the s42A report, some families may currently be accommodated in units that would no

longer meet the recommended occupancy rates. If this is the case, it is requested that the options presented in paragraph 84 of the s42A report also be imposed. This will ensure that those currently occupying the site are able to retain their place of accommodation until a suitable long-term option is found.

#### *CPTED principles*

- 5.28 The overview s42A report briefly notes that it would be helpful to better understand the application of the National Guidelines for Crime Prevention through Environmental Design (CPTED) in the context of each site. Such an assessment has not yet been undertaken; however, a condition of consent requiring a CPTED audit be undertaken based on the principles of CPTED could be imposed in the decision of this consent if the Panel considered this was necessary. In my opinion, any recommendations of a subsequent CPTED audit could then inform a site-specific action and implementation plan that can be incorporated into the Site Management Plan (SMP).

#### ***Transportation Effects***

- 5.29 I agree with and accept the s42A analysis with regard to transportation effects and the inclusion of suitable conditions.

#### ***Noise Effects***

- 5.30 I agree with and accept the s42A analysis with regard to noise effects, including reverse sensitivity and noise from emergency housing. As outlined in my Primary Evidence, I do not agree with including permitted activity standards as conditions (i.e. s42A report site specific Condition 31 to 33).
- 5.31 Condition 34 in relation to requiring CEH sites to meet “internal road-traffic design sound level of 40dB LAeq inside all habitable rooms” is unnecessary. No changes are proposed in relation to the physical buildings on the site, including in relation to noise insulation. Condition 34 reflects an ODP standard relating to noise sensitive activities close to State Highways. I note that Ms MacDonald’s s42A report does not identify reverse sensitivity effects from being located close to a State Highway as a problem. Fenton Street is not a State Highway.

### ***Effects on Infrastructure***

- 5.32 I agree with and accept the s42A analysis with regard to effects on infrastructure.

### ***Financial contributions***

- 5.33 I agree with and accept the s42A analysis with regard to financial contributions.

## **6 Relevant Planning Framework**

- 6.1 The higher order planning framework is discussed in my Primary Evidence, below I will discuss the ODP in the context of 299 Fenton where there are particular matters that are distinct from my assessment in my Primary Evidence.

### *Operative District Plan (ODP) Zone and CEH*

- 6.2 The site is located within the Commercial 4 Zone (COMZ4 Zone) and Residential 2 Zone (RESZ2 Zone).

- 6.3 The Commercial 4 zone is described in the ODP as:

*“Tourism accommodation concentrated along city entranceways and arterial routes such as Fenton Street and Lake Road. Activities within the Commercial 4 zone consist 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.”*

- 6.4 The Residential 2 zone is described in the ODP as:

*“Medium density residential areas located close to the city centre. There is a mix of single storey and two-storey apartment style living, with limited outdoor space. The built environment is dominant and much of the space around buildings is taken up by hard surfacing for car parking and turning. There are few trees and shrubs that make an impact on the wider area and the zone is more reliant on the street trees to soften the built environment.”*

- 6.5 In my opinion, the Proposal aligns with these zone descriptions. CEH is very similar to the operation of a motel or to medium density residential household units. There are no modifications proposed to the buildings or

structures themselves, except the removal of motel signage. Without motel signage, the existing buildings present as attached terrace style residential units, or standard residential units.

- 6.6 As discussed elsewhere, the Proposal includes the reversion back to traditional ‘tourist accommodation<sup>7</sup>’ in the future (which will likely include reinstatement of motel signage).
- 6.7 I note that the ODP provides for ‘community housing<sup>8</sup>’ as a permitted activity in both the Commercial 4 and all residential zones of the ODP<sup>9</sup>. The only reference to emergency housing in the ODP is in the definition of ‘community housing’ and emergency housing is not otherwise mentioned anywhere in the ODP. I note the evidence of Mr Batchelar is that if the Proposal did not include wrap around support services, it could be considered as a conversion of motel units to residential units<sup>10</sup>.

#### *Commercial Zone Objectives and Policies*

- 6.8 **COMZ-01** aims to keep commercial centres compact and have commercial and tourism centres that effectively service and support the needs of the surrounding community. While the CEH activity does not provide a commercial service to the community, the Proposal provides an alternative form of service to the community – by providing temporary supported accommodation for members of the community during a period in which there is an acute need for housing. The tourism and housing context has clearly changed in the last 5-10 years and as a result “housing is one of the biggest issues facing the Rotorua community<sup>11</sup>”. Coupled with an acute housing need, Rotorua’s tourism sector is recovering from the impact of COVID-19.
- 6.9 Experts, including Ms Healy, advise that the mixing of tourism accommodation and emergency accommodation has the potential to

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<sup>7</sup> ODP definition of ‘Tourist accommodation’ (page 35 Part 1 of ODP).

<sup>8</sup> Community housing is defined as (page 8 ODP): “a place of residence for a maximum of eight persons (i.e. all residents including resident staff) where some element of care or support is provided for residents. The definition includes emergency housing (including temporary overnight accommodation) and rehabilitation centres, but excludes facilities where the movement of residents is legally restricted”.

<sup>9</sup> Community housing is permitted activity in the Commercial 4 zone, all residential zones, all Rural zones and the City Centre 1 zone (above the first floor).

<sup>10</sup> Noting that this is in the context of the District Plan definition of ‘household units’

<sup>11</sup> See RLC Submission on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill, page 2.

adversely affect Rotorua's reputation as a desirable place to visit. In my opinion, the exclusive contracting nature of the CEH model for emergency housing (rather than mixing tourist accommodation guests with emergency housing occupants) minimises situations where those utilising accommodation for living purposes erode a visitors experience of a tourist accommodation facility. In my opinion, CEH strikes an appropriate balance between providing for tourism needs and the needs of the surrounding community.

- 6.10 Furthermore, the Motel Operator has advised me that they would have struggled to survive in the current tourism market. CEH has enabled a tourism business to survive in the unique and challenge context of operating under the impact of COVID-19.
- 6.11 Relevant to this site is supporting Policy **COMZ-P4**, which provides direction to sites located in the Entranceway Accommodation and Tourism area. I note that the Proposal does not prevent the development of other tourism enterprises or Māori cultural experience in this area, or the amenity and vibrancy that they bring. In addition, the SMP is adaptive to situations and allows Service Providers to respond to any issues that could affect amenity or vibrancy accordingly.
- 6.12 In my opinion, while the Proposal cannot be said to clearly support the 'nationally significant tourism sector', it does nevertheless support the needs of the community by providing a supported living environment to vulnerable individuals and whānau. In my opinion, any conflict with **COMZ-O1** and **COMZ-P4** can be reconciled with the positive impacts the Proposal has in terms of meeting the needs of the surrounding community by providing a short-term housing solution to those without suitable alternative accommodation, in a manner whereby effects of the activity are largely contained.
- 6.13 **Objectives COMZ-O2** and **COMZ-O3** address design and appearance of buildings. Relevant supporting policies are **COMZ-P6** and **COMZ-P7**. I generally agree with the assessment undertaken by Ms MacDonald in regard to these objectives and policies.
- 6.14 In particular, I agree with Ms MacDonald that maintaining the existing landscaping and fencing together with the removal of motel signage and site upkeep will contribute to an attractive streetscape.

- 6.15 Objective **COMZ-O5** and supporting policy **COMZ-P10** address reverse sensitivity. I generally agree with the assessment undertaken by Ms MacDonald in regard to this objective and policy.

*Residential Zone Objectives and Policies*

- 6.16 **RESZ-O1** outlines the anticipated design and onsite amenity outcomes, including site design and unit orientation, placement of open space areas, design of parking and vehicle manoeuvring areas, and ability to achieve a safe street through passive surveillance. Relevant supporting policies are **RESZ-P1 to RESZ-P5**.
- 6.17 I agree with Ms MacDonald's assessment that the consideration against these provisions is best framed in the context of considering the amenity outcomes through a change in onsite activities, as there are no physical changes to the existing buildings or revisions in the site design and placement of open space areas.
- 6.18 The units at 8A, 8B and 10B Toko Street present as traditional residential dwellings with their own private outdoor space. The main site comprises a combination of private and shared outdoor space which is adequate for the intended activities within the site. A children's play area and games room are available for occupant use.
- 6.19 Onsite parking and manoeuvring areas are sufficient. Overall, I find that the Proposal is consistent with the outcomes sought by this objective and related policies.
- 6.20 Objective **RESZ-O2** requires character and amenity values of the zone to be maintained and enhanced. This objective is supported by **RESZ-P8**, which articulates the character and amenity outcomes anticipated in the zone. No changes are proposed to the existing buildings.
- 6.21 I understand that the Motel Operator has removed all of their freestanding signage, with only the building signage remaining.
- 6.22 Overall, it is my opinion that the site reflects the character outcomes anticipated in the RESZ2 Zone and the onsite activities do not diminish this.
- 6.23 Objective **RESZ-O3** requires non-residential activities to be of a scale and character that can be readily absorbed into the residential environment, while also ensuring the vitality of the primary commercial centres is

maintained. This objective is supported by Polices **RESZ-P12**, **RESZ-P13**, **RESZ-P14**, and **RESZ-16**.

- 6.24 The CEH activities are largely akin to residential activities, noting that the onsite support services offered by the Service Provider are ancillary to this and could be constituted to be a non-residential activity. The onsite support services are not an obvious feature of the activities from an external perspective, being largely operated out the reception area.
- 6.25 The support-services are an integral component of CEH and enhance the onsite operation and wellbeing of residents within the site. Moreover, the support-services provide the framework and social scaffolding to enable residents to live in a supported and safe environment. The onsite support services contribute positively to both the residents, and the wider site operations, and assist in minimising the effects on the surrounding environment. In my opinion, the Proposal is consistent with this objective and related policies.
- 6.26 Objective **RESZ-O6** relates to the design, layout, and appearance of residential sites. The outcome sought is the promotion and maintenance of the character of the zone, onsite residential amenity, and community safety. This objective is supported by **RESZ-P20**, which guides development and site design to achieve positive onsite amenity outcomes and **RESZ-P21**, which seeks to ensure the interface between the site and the street is well considered to enable passive surveillance. As discussed elsewhere, the site reflects the anticipated character of the zone. It is acknowledged that not all units have access to.
- 6.27 The site's interface on Toko Street (in the Residential 2 zone) is unchanged. I note the CEH building at the western end of the site was once a typical residential dwelling and continues to present this way when viewed from Toko Street.
- 6.28 I consider the Proposal is consistent with RESZO6 and the relevant related policies.

*District Wide Objectives and Policies*

- 6.29 Ms MacDonald addresses the following objectives and policies in her site specific s42A report:

- (a) Noise: NOISE-O1, NOISE-P4 and NOISE-P9
- (b) Infrastructure: EIT-O3 and EIT-P14
- (c) Transport: EIT-O7, EIT-P18 and EIT-P22

6.30 I agree with the assessment undertaken by Ms MacDonald in regard to the district wide matters and have no identified any areas of conflict.

*Objectives and policies conclusion*

6.31 Overall, I consider the Proposal is broadly consistent with the relevant objectives and policies of the District Plan.

**7 Response to s42A Report's Recommended Draft Conditions of Consent**

7.1 Appendix 1 of the site specific s42A Report for 249-251 Fenton Street / 14-16 Toko Street and 8A, 8B and 10B Toko Street contains draft conditions of consent recommended by Ms MacDonald. There is broad agreement around the majority of proposed conditions. The discussion below focuses more specifically upon conditions where I suggest changes or explicitly disagree with those recommended in the s42A report. The Strategic Conditions in the overview s42A report have been discussed in my Primary Evidence.

7.2 An updated set of proposed consent conditions will be provided at the commencement of the hearing, and it is anticipated that these will develop over the course of the hearing. In the meantime, I provide the following overall comments on the recommended consent conditions attached to the Council's s42A site specific report.

7.3 **Conditions 2 and 3** identify the consent holder as the Operator and MHUD and restrict the consent from being transferred to and held by any other person. I do not agree with this restriction and have addressed this in my Primary Evidence.

7.4 **Condition 7** restricts site occupancy to a maximum of 63 persons (excluding children under six months of age). Section 5 (above) outlines my view that the Service Provider is best placed to determine which rooms are most suitable for occupants, and they consider a variety of factors. In addition I consider that a maximum occupancy of 80 people is appropriate.



- 7.5 **Conditions 8-11** specify the maximum occupancy levels (excluding children under six months of age). I do not support the placement of these conditions and recommend their deletion. This is addressed in my Primary Evidence.
- 7.6 **Condition 12** provides clarification that the occupancy levels do not limit the length of stay for residents accommodated in the units, and also does not limit the number of people residing in Manager's Accommodation. I recommend that this is instead reframed as an Advice Note under the condition controlling the maximum site occupancy (condition 7). Further to this, if the panel is of the mind to grant consent and impose the maximum number of occupants as stated in the s42A report, it is requested that the options presented in paragraph 84 of the s42A report also be imposed. This will ensure that those currently occupying the site are able to retain their place of accommodation until a suitable long-term option is found.
- 7.7 **Conditions 15 to 20** relate to retention/enhancement of landscaping and shared space throughout the site. I agree with the placement of these conditions.
- 7.8 **Condition 21** requires that physical motel signage be removed for the duration of the consent. I agree that this is reasonable.
- 7.9 **Condition 22** requires that all online advertising and websites that promote tourist accommodation and other services be removed. The implementation of this condition is difficult due to the nature of online advertising. Notwithstanding this, it is reasonable to require the Motel Operator to amend their website and booking websites to show no room availability and on this basis, I agree that a condition to this effect is reasonable.
- 7.10 **Conditions 31 to 33 and 35** require compliance with the permitted activity performance standards for noise and light emissions from the site. I do not consider placement of conditions, that simply replicate permitted activity standards, to be in accordance with good practice, and nor do I consider their placement necessary. I recommend deletion of these conditions.
- 7.11 **Condition 34** requires that the site shall be capable of meeting an internal road-traffic design sound level of 40dB LAeq inside all habitable rooms. As outlined in the Application, no physical work is proposed. It is not known whether the subject sits already meets these requirements or not. It

appears this requirement is from the performance standards as they relate to reverse sensitivity effects from being adjacent to a State Highway. The subject site is not located adjacent to a State Highway. Conditions in relation to noise insulation inside habitable rooms are considered unnecessary and should be deleted. Reverse sensitivity was not raised as an issue in the s42A report by Ms MacDonald.

7.12 **Conditions 38 to 42** relate to the taking of a bond. This matter has been discussed within my Primary Evidence, where I dispute the need for a bond, and also the value of the individual bond. I recommend deletion of these conditions.

## **8 Section 104D Gateway Test and Part 2 Analysis**

8.1 As discussed in my Primary Evidence, it is my opinion that the effects of the Proposal are no more than minor and the Proposal is not contrary to the objectives and policies of the Rotorua District Plan or Plan Change 9.

8.2 As detailed in my Primary Evidence, the Proposal aligns with Part 2 of the Act.

**Date:** 5 October 2022



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Alice Blackwell