

Annexure 2: 284-286 Fenton Street (Emerald Spa) – RC18244



Figure 1: 284-286 Fenton Street (as viewed from Fenton Street)

1 Introduction

1.1 Resource consent to use 284-286 Fenton Street for Contracted Emergency Housing (CEH) was lodged with Rotorua Lakes Council (RLC) on 22 July 2022. CEH is described in detail in the Application and in my Primary Evidence. To summarise, the Proposal is to:

- (a) Use all 30 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 Visions of a Helping Hand 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 and an on-call Senior Security Officer;
- (d) Operate CEH from the site for a maximum of five years (from the date of the decision of the consent);
- (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, the Applicant has revised the total maximum occupancy onsite to **93 occupants**.
- 2.2 CEH has been operating from the subject site at 284-286 Fenton Street since 1 July 2022.
- 2.3 The Application outlines the room types and maximum number of occupants per room type. In total, the site can accommodate 99 occupants across 29 accommodation units. For clarity, the Ministry of Housing and Urban Development (MHUD) contracts an additional room (not serviced) within the motel for use by the Service Provider as a meeting room. This space was identified in pink on the original site plan, with the label “Meeting room”. The Manager’s Unit is not contracted by MHUD and is used by onsite management.
- 2.4 Occupancy numbers are provided in Table 1 below. This information demonstrates that the number of occupants is far than the theoretical capacity (of 99 people) if every bed in every unit was occupied.

Table 1: 284-286 Fenton Street - Actual Occupancy 1 August 2022 and 30 August 2022 (Units (U) and People (P))

Date	1/08/22		30/08/22	
	U	P	U	P
No.	27	48	28	51

NB: 30 units are contracted by MHUD with 29 for CEH accommodation. 284-286 Fenton Street has a maximum theoretical capacity of 99 CEH occupants.

- 2.5 Accommodating 99 CEH occupants onsite is possible, however, 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 varied in August between 48 and 51 people.
- 2.6 The Motel Operator advised that prior to the COVID-19 pandemic and its use for CEH, the site operated during summer months and over weekends at near 100% occupancy (in terms of units occupied). As such, the typical occupancy of the site as CEH is slightly lower than that as motel accommodation.

- 2.7 MHUD, on behalf of the applicant, accepts 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 provide assurances in relation to overcrowding and spill over effects.

3 Activity Status

Operative Rotorua District Plan

- 3.1 The subject site is located entirely within the Commercial 4 zone, as are the properties to the north, south and west. Adjoining the site to the east is land in the Reserve 3 zone.
- 3.2 As discussed in my Primary Evidence, the activity has been assessed as a Non-Complying Activity pursuant to Rule COMZ-R1.

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 There were 88 submissions in relation to the resource consent at 284-286 Fenton Street for CEH (including 16 submissions that were provided to the Independent Hearing Panel prior to notification of the Application). Eight submissions are not considered blanket submissions and were more specific to 284-286 Fenton Street. One submitter is the owner of the underlying subject site, five live in the surrounding area, one is a business, and one provided no address.
- 4.3 The issues raised by the eight non-blanket submissions are reasonably generic, and can be broadly categorised as follows:
- (a) Social Effects
 - (b) Tourism Effects
 - (c) Cumulative Effects

- (d) Internal Amenity Effects
- (e) Property Matters
- (f) Business Effects
- (g) Regulatory processes

- 4.4 Submissions relating to social effects and tourism effects have been addressed in my Primary Evidence and that of Ms Healy, Ms Foy, Ms Hampson and Mr Equb. No further discussion will be undertaken regarding these issues here. Further, changes to the Application since lodgement together with the conditions of consent have responded directly to many of the submitters' concerns.
- 4.5 Cumulative effects have also been discussed in my Primary Evidence; however, I provide additional comments specific to the site at 284-286 Fenton Street in my effects assessment below.
- 4.6 Internal effects are not addressed in my Primary Evidence and is discussed in my effects assessment below.
- 4.7 The matters raised relating to property matters include the property lease agreement between the property owner and lessee. This is a civil matter and is addressed in MHUD's legal submission.
- 4.8 Where a submitter discusses business effects, and this is in relation to wider issue of crime, this has been addressed in my Primary Evidence, and no further discussion will be undertaken here.
- 4.9 One submitter has questioned why consent has not been sought for a different site. This site does not form part of the application site and therefore outside the scope of this Application. However, I do note site selection processes and consideration of alternatives is covered in the evidence of Mr McNabb.
- 4.10 Another submitter comments that the effects are more than minor and that the Proposal is contrary to the District Plan and zone provisions. This is addressed in detail in my Primary Evidence, and the effects and objectives and policies assessments below.

- 4.11 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. Based upon my review of the s42A site specific report by Ms MacDonald, evidence and submissions, I consider the key actual and potential effects unique to the operation of CEH at 284-286 Fenton Street can be grouped into the following topics:

- (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
- (f) Financial contributions

Positive effects

5.2 The positive effects of the Proposal are outlined in the Application and in my Primary Evidence. This particular site at 284-286 Fenton Street provides a modern living environment when compared to other CEH sites due to its more recent construction. Ms MacDonald makes a similar statement in paragraph 52 of the site specific s42A report where she remarks that the building appears very well maintained.

Character and amenity effects

External Amenity – Streetscape and neighbouring properties

- 5.3 No changes are proposed in relation to the physical structures and buildings and the AEE in the Application for 284-286 Fenton Street remains valid in relation to potential streetscape and neighbourhood character effects.
- 5.4 Quality permanent fencing was identified in the Social Impact Assessment (SIA) as a mitigation measure to assist with maintaining the surrounding character. The site has permanent fencing with all boundaries except the internal boundary with the adjoining site to the north. I consider this external boundary fencing is of an acceptable standard and the internal fence should be upgraded to a permanent fence.
- 5.5 Ms MacDonald has recommended a condition of consent requiring the Site Management Plan (SMP) be updated to require site maintenance be undertaken to address concerns with adverse external amenity effects. I consider this will aid in mitigating external amenity effects and that it is appropriate to be imposed as a condition of consent.
- 5.6 It is stated in the evidence of a number of experts that signage identifying the site as a motel should be removed to mitigate external amenity effects. I consider this an appropriate mitigation measure which can be imposed as a condition of consent.
- 5.7 Similarly, a number of experts recommend that all online advertising and websites that promote tourist accommodation and other services be removed. My understanding is that this is to mitigate potential tourism reputation effects. Fully removing an online presence may be difficult due to the nature of the internet, however the operator has 'parked' their website so it is not publicly accessible and secondary booking sites show no room availability. I consider that this is sufficient.

External amenity – Cumulative Effects

- 5.8 Cumulative effects of 13 resource consents being considered concurrently is discussed in my Primary Evidence. This was also addressed in the SIA and subsequent memo from Ms Healy, the Evidence of MHUD's experts Ms Healy, Mr Equab, Council experts Ms Foy and Ms Hampton.

- 5.9 Specific to the 284-286 Fenton Street Proposal, I acknowledge that this is one of the six sites located on Fenton Street, although it is the only CEH site on the eastern side of Fenton Street.
- 5.10 The subject site does not adjoin any residential properties. The property has permanent fencing around all boundaries (with the exception of the adjoining site to the north as addressed above).
- 5.11 The closest other CEH activity¹ is located approximately 50 metres to the northwest and on the other side of the four-laned Fenton Street.
- 5.12 As identified in Figure 2 of the site specific s42A report, adjoining properties accommodate tourist accommodation, various forms of emergency housing (not CEH) and tourist accommodation.
- 5.13 The improvement of fencing and proposed removal of motel signage will help to reduce the prominence of the site in the surrounding environment, with signage no longer designed to draw attention to the site. This will help the site appear more like apartment style accommodation.
- 5.14 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

- 5.15 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.
- 5.16 My Primary Evidence discusses how individuals are allocated to particular units. This is also applicable to the allocation of people to units within the subject site.
- 5.17 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

¹ Site 3 at 299 Fenton Street.

the accommodation as motel guests. The provision of a quality and safe living environment is an important objective of CEH.

- 5.18 In undertaking this effects assessment, I also draw on the guiding principles within the relevant planning provisions applicable to the Commercial 4 Zone (COMZ4). The COMZ4 zone requires a minimum of 10m² (with a minimum depth of 2m) of outdoor open space to be provided per household unit². 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

- 5.19 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.
- 5.20 It is acknowledged that there is minimal outdoor living space on the site at 284-286 Fenton Street. This has also been identified by Ms MacDonald in her s42A report, however it is concluded that the temporary nature of the activity is a mitigating factor. I agree with Ms MacDonald's conclusion in this regard.
- 5.21 Other mitigating factors include off-site activities facilitated by the service provider and public open space in the surrounding environment. Ms Collins' evidence identifies four park spaces within 1.5km of the site.

Internal Amenity – Suitability for children

- 5.22 The subject site does not provide a dedicated area for children's play. 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 and schools, which provide considerable amenity and space for children to play,

² COMZ-S5.

albeit off the site. In my experience, it is commonplace for local residents to use school grounds for informal recreation and play purposes, and in my opinion this nearby public space can readily mitigate any onsite deficiencies.

- 5.23 Ms Collins assesses the site as being unacceptable for children aged six months to seven years on the basis that units being at ground level adjoining a carpark and otherwise accessed by stairs. Her assessment finds it as having low suitability for children between eight and eighteen years due to limited outdoor living space.
- 5.24 I disagree with Ms Collins' assessment that the site is unacceptable for children aged six months to seven. It is not uncommon for children to be living in residential environments that are adjacent to parking areas or in second storey buildings, such as when living in apartments, units, or terrace housing. In any living environment and including CEH, caregivers are still required to provide a level of care and supervision for their children.
- 5.25 The s42A report, informed by Ms Collins' assessment, recommends restrictions on the use of units to accommodate whānau with children, or certain age-groups from particular units. In my opinion, such restrictions, while well intended, are misplaced in the context of a community experiencing a significant housing crisis. I acknowledge the evidence that access to play space and more extensive physical living environments are contributors to a child's wellbeing and can aid in a child's developmental process. However, I consider access to a warm, safe, and stable accommodation are overriding factors to achieving the same essential outcomes. In my opinion, restricting whānau with children from occupying studio units, or limiting children of certain age groups from particular units, is likely to result in perverse outcomes, which ultimately would translate to whānau being unable to access CEH accommodation. In forming this conclusion, I note that the wellbeing of tamariki (through the process of undertaking an individual needs based assessment of each whānau) is at the forefront in any decision making around placement into suitable living environments.
- 5.26 Beyond recommending restrictions on accommodating children, Ms Collins also recommends an area of carpark is fenced off adjacent to the swimming pool to be used as a basketball area to make the site more suitable for children aged eight to eighteen. Ms MacDonald further provides an option

of dedicating one or more of the units as a common playroom³. I agree that the establishment of an onsite play area or common playroom is appropriate, with the Service Provider best placed to determine where this should be positioned on the site.

- 5.27 Overall, it is my opinion that the site is adequately suited to accommodating children. I do not support conditions 8-10 recommended in the s42A report.

Occupancy rate

- 5.28 Ms MacDonald recommends that the proposed maximum occupancy rate for the site be 68 occupants. Maximum occupancy rates per unit are two for a one bedroom or studio unit, and four for a two bedroom unit (excluding children under the age of six months). These recommendations are carried through to conditions 7-11 of the s42A report. The proposed occupancy rate attempts to mitigate concerns of overcrowding and is based on the Canadian National Occupancy Standard (CNOS) used by Statistics New Zealand.
- 5.29 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 variety of factors including family dynamics.
- 5.30 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 93 occupants**, which is an additional 25 people above that recommended by the Council's s42A report. Informed by the advice of the service providers and Mr Wilson, I support the maximum level of 93 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.
- 5.31 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

³ Site specific s42A para 67.

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.

- 5.32 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 81 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

- 5.33 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 SMP.

Transportation Effects

- 5.34 I agree with and accept the s42A analysis with regard to transportation effects and the inclusion of suitable conditions. No further discussion is required.

Noise Effects

- 5.35 I agree with and accept the s42A analysis with regard to noise effects, including reverse sensitivity and noise from emergency housing. No further discussion is required.

Effects on Infrastructure

- 5.36 I agree with and accept the s42A analysis with regard to effects on infrastructure. No further discussion is required.

Financial contributions

- 5.37 I agree with and accept the s42A analysis with regard to financial contributions. No further discussion is required.

6 Relevant Planning Framework

- 6.1 The higher order planning framework is discussed in my Primary Evidence, below I will discuss the Operative District Plan (ODP) in the context of 284-286 Fenton Street 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 entirely within the Commercial 4 Zone (COMZ4 Zone). 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.”

- 6.3 The Proposal aligns with this zone description. 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 removal of motel signage. Without motel signage, the existing buildings present as attached terrace style residential units. The site is fully fenced (noting the recommended conditions in the effects assessment above).
- 6.4 As discussed elsewhere, the Proposal includes the reversion back to traditional ‘tourist accommodation⁴’ in the future (which will likely include reinstatement of motel signage).

⁴ ODP definition of ‘Tourist accommodation’ (page 35 Part 1 of ODP).

6.5 I note that the ODP provides for ‘community housing’⁵ as a permitted activity in both the Commercial 4 and all residential zones of the ODP⁶. 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 units⁷.

6.6 The Spatial Plan for Rotorua outlines that the CBD has more commercial space than the current and future population requires and many visitors to Fenton Street have no reason to visit the CBD or lakefront. This is reinforced by the high vacancy rate in the CBD⁸. The Spatial Plan proposes that future plan changes should be implemented to provide for tourist accommodation to be moved into the CBD, rather than along Fenton Street. While I accept that the Spatial Plan is not an RMA statutory document, it does indicate that the ODP provisions are out of date and that the accommodation strip (i.e. city entranceway accommodation) in the Commercial 4 zone may transition to residential accommodation, rather than having a sole focus on ‘tourist accommodation’. This is reinforced by, and discussed further, in relation to Plan Change 9 in my Primary Evidence.

Commercial Zone Objectives and Policies

6.7 **COMZ-O1** 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

⁵ 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”.

⁶ 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).

⁷ Noting that this is in the context of the District Plan definition of ‘household units’

⁸ Rotorua Housing and Business Development Capacity Assessment 2021, dated 3 February 2022, Page 6.

biggest issues facing the Rotorua community⁹. Coupled with an acute housing need, Rotorua's tourism sector is recovering from the impact of COVID-19.

- 6.8 Experts, including Ms Healy, advise that the mixing of tourism accommodation and emergency accommodation has the potential to 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 visitor's 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.
- 6.9 Furthermore, the Motel Operator advises that in order to survive in the current tourism market, the business would have had to otherwise accept both traditional motel guests and Ministry of Social Development clients. CEH has enabled a tourism business to survive in the unique and challenge context of operating under the impact of COVID-19.
- 6.10 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.
- 6.11 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.

⁹ See RLC Submission on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill, page 2.

- 6.12 **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.
- 6.13 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.
- 6.14 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.

District Wide Objectives and Policies

- 6.15 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
- 6.16 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

- 6.17 Overall, I consider the Proposal is consistent with the objectives and policies of the District Plan.

7 Response to s42A Report's Recommended Conditions of Consent

- 7.1 Appendix 1 of the site specific s42A Report for 284-286 Fenton 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 68 persons (excluding children under six months of age). For the reasons outlined in Section 5 above it is my opinion that the maximum occupancy sought by the Applicant (93 persons) is acceptable. Ultimately, I consider that the Service Provider is best placed to determine which rooms are most suitable for occupants, and they consider a variety of factors including family dynamics.
- 7.5 **Conditions 8-10** limit the placement of children (in the case of Condition 8, restrict the accommodation of young children under the age of 7 in entirety) and specify maximum occupancy levels (excluding children under six months of age). I do not support the placement of these conditions and recommend their deletion.
- 7.6 **Condition 11** 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 80 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 14 to 16** relate to retention/enhancement of landscaping throughout the site. I agree with the placement of these conditions.
- 7.8 **Condition 17 to 18** require the establishment of a dedicated children's play area. I agree with the placement of these conditions.

- 7.9 **Condition 19** requires that physical motel signage be removed for the duration of the consent. I agree that this is reasonable.
- 7.10 **Condition 20** 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.
- 7.11 **Conditions 29 to 30 and 33** 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.
- 7.12 **Condition 32** 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 site 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.
- 7.13 **Conditions 36 to 40** 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

AJ Blackwell

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Alice Blackwell