

Annexure 9: RC17887 - 247 Fenton Street & 12 Toko Street (Ascot on Fenton) – RC17887



Figure 1: 274 Fenton Street & 12 Toko Street (as viewed from Fenton Street)

1 Introduction

1.1 Resource consent to use 247 Fenton Street and 12 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 14 existing motel units for CEH, primarily for whānau with children and vulnerable individuals (such as elderly);
- (b) Provide onsite 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);
- (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 54 occupants to **43 occupants**.
- 2.2 CEH has been operating from the site at 247 Fenton Street and 12 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 lower than the theoretical capacity (of 54 people) if every bed in every unit was occupied. Updated actual occupancy is provided in Table 1 below.

Table 1: 247 Fenton Street & 12 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.	14	33	13	34	13	34	14	36	13	32	13	37	13	38	14	40

NB: All 14 units are contracted for CEH and 247 Fenton Street and 12 Toko Street has a maximum theoretical capacity of 54 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 32 and 40 people. While these levels are notably lower than the maximum occupancy of 43 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 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 A pool style fence and gate has been installed on the Fenton Street frontage of the subject site. These are permanent structures.

Play Space

- 2.6 A trampoline has been installed between the two main buildings on the site to provide play space for children.

Motel signage

- 2.7 All signage identifying the subject site as a motel has been covered over or removed.

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.
- 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 247 Fenton Street and 12 Toko Street (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 247 Fenton Street and 12 Toko Street. Four of the submitters reside or own property on Toko Street, and one submitter owns a retail business

- 4.4 I note that there were 23 submissions in support were from people recorded their address as 247 Fenton Street.
- 4.5 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
- 4.6 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.
- 4.7 Cumulative effects have also been discussed in my Primary Evidence; however I provide additional comments specific to the site at 247 Fenton Street and 12 Toko Street in my effects assessment below.
- 4.8 External and internal effects are not addressed in my Primary Evidence. These are discussed in my effects assessment below.
- 4.9 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

The positive effects of the Proposal are outlined in the Application and in my Primary Evidence. At a site specific level, the layout of building is such that the building at the eastern end of the site (in the Commercial 4 zone) is two storied and the building at the western end of the site is single storied. The orientation of the buildings is such that every unit has sliding doors with northerly outlook towards the dedicated carpark for that unit. Each unit has its own cooking facilities.

Character and amenity effects

External amenity – streetscape / neighbourhood character

5.2 No changes are proposed in relation to the buildings and the AEE in the Application for 247 Fenton Street and 12 Toko Street remains valid in this regard.

5.3 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 and the motel signage has either been removed or blanked out. 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.

- 5.4 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.
- 5.5 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.
- 5.6 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

- 5.7 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 Eaqub.
- 5.8 Specific to the 274 Fenton Street and 12 Toko proposal I acknowledge that this is one of the six sites located on Fenton Street. In this regard, I note that the motel to the south accommodates a CEH¹ activity. As identified in Figure 2 of the site specific s42A report, there is motel adjoining the site to the north that is understood to provide EH-SNG accommodation. A tourist accommodation provider is slightly further north of the site, which is not known to provide emergency housing of any description.
- 5.9 The addition of new fencing and covering/removal of motel signage assist in reducing any ambiguity around the nature of onsite activities and will help the site integrate more into the environment in which it is located
- 5.10 My conclusion in relation to cumulative effects in my Primary Evidence are equally applicable here. Cumulative effects of the Proposal are considered

¹ Rotovegas Motel (site 10)

to be acceptable and with the proposed management and mitigation are considered to be no more than minor.

Internal amenity

- 5.11 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.
- 5.12 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.
- 5.13 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.
- 5.14 In undertaking this effects assessment, I also draw on the guiding principles within the relevant planning provisions applicable to the Commercial 4 Zone and RES2 Zone. The COMZ4 zone requires a minimum of 10m² (with a minimum depth of 2m) of outdoor open space to be provided per household unit². 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
- 5.15 I note that the design of the buildings and structures on the subject site are such that all buildings have sliding doors with a northerly outlook towards the carpark. Each unit is provided with a carpark.

Internal Amenity – Outdoor living space

² COMZ-S5

- 5.16 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.
- 5.17 The site specific s42A report identifies that the subject site does not provide a high level of amenity with respect to open space. Ultimately Ms MacDonald concludes that the temporary nature of the accommodation together with the local amenities and social infrastructure are mitigating factors. I agree with Ms MacDonald's conclusion in this regard.

Suitability for children

- 5.18 Since the Application was lodged, a trampoline has been installed between the two main buildings on the subject site. Due to the configuration of the buildings and vehicle manoeuvring spaces onsite, there is little opportunity to further improve the site in terms of play space. 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.
- 5.19 The assessment by Ms Collins considers that the subject site is 'unacceptable' for children between 6 months and 7 years due to the lack of onsite play space. Ms Collins considers the site has low suitability for children between eight and eighteen years.
- 5.20 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.

- 5.21 The lack of on-site play space is additionally mitigated by off site activities provided by the service provider. This is in addition to the school drop off and collection service that runs during school terms.
- 5.22 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

- 5.23 Ms MacDonald recommends in the s42A site specific report that the proposed maximum occupancy for the site is 40 occupants. Ms Macdonald also recommends conditions that no children between 6 months and 7 years reside onsite³, one bedroom units have a maximum of two people and two bedroom units have a maximum of four people. Ms MacDonald identifies that these occupancy restrictions are based on the Canadian National Occupancy Standard (CNOS) used by Statistics New Zealand in relation to overcrowding.
- 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 43 occupants**, which is an additional 3 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 43 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

³ Discussed above in relation to play space

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 85 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 28 to 30).

- 5.31 Condition 31 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 31 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 247 Fenton Street and 12 Toko Street where there are particular matters that are distinct from my assessment in Appendix E of my Primary Evidence.

Operative District Plan (ODP) Zone and CEH

- 6.2 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 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.”

- 6.4 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 establishment of the new fencing and removal of motel signage. Without motel signage, the existing buildings present as attached terrace style residential units. The site is fully fenced both road frontages and has concrete block walls along the northern and southern boundaries of the subject site.
- 6.5 As discussed elsewhere, the Proposal includes the reversion back to traditional ‘tourist accommodation⁴’ in the future (which will likely include reinstatement of motel signage).
- 6.6 The ODP provides for ‘community housing⁵’ as a permitted activity in both the Commercial 4 and Residential 2 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 that Mr Batchelar outlines in his s42A overview report, that if the Proposal did not include wrap around support services, it could be considered as a conversion of motel units to residential units⁷ (as a Restricted Discretionary Activity).

Commercial Zone Objectives and Policies

- 6.7 **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

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

⁵ ODP definition of Community housing see Appendix B of my Primary Evidence

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’ and not

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 community⁸”. Coupled with an acute housing need, Rotorua’s tourism sector is recovering from the impact of COVID-19.

- 6.8 Furthermore, from an individual Motel Operator’s point of view, the CEH contract has provided business continuity though the challenges associated with COVID-19 and the decline in tourists to Rotorua.
- 6.9 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.
- 6.10 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.
- 6.11 **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.
- 6.12 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.

⁸ See RLC Submission on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill, page 2.

- 6.13 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

- 6.14 **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**.
- 6.15 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.
- 6.16 Due to the design of the motel buildings and vehicle circulation, all motel units have northerly outlook and will achieve adequate sunlight based on their orientation and placement within the site. CEH units do not have private open space, but a children's play area / trampoline has been set up between the two main motel buildings.
- 6.17 I note that the Commercial 4 zoned part of the site contains two storied CEH units, while the Residential 2 zoned half of the site contains a single storied building.
- 6.18 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.
- 6.19 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 and since the establishment of CEH on the site, additional planting (via planter boxes along the northern boundary wall) have been established on the site.
- 6.20 The Motel Operator has recently blanked out all motel signage and as such the site no longer presents to the street as a motel.

- 6.21 Overall, it is my opinion that the site reflects the character outcomes anticipated in the RESZ 2 Zone and the onsite activities do not diminish this.
- 6.22 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 Policies **RESZ-P12, RESZ-P13, RESZ-P14, and RESZ-16**.
- 6.23 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.
- 6.24 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.
- 6.25 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. With regard to amenity, based on orientation and location within the site, each unit receives adequate sunlight.
- 6.26 The sites interface on Toko Street (in the Residential 2 zone) is unchanged. I note the CEH building at the western end of the site is a blank single storey building that is of a residential scale when viewed from Toko Street. There is an existing residential style aluminium gate and this is to be retained.

6.27 I consider the Proposal is consistent with RESZO6 and the relevant related policies.

District Wide Objectives and Policies

6.28 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**

6.29 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

6.30 Overall, I consider the Proposal is broadly consistent with the 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 247 Fenton Street and 12 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 60 persons (excluding children under six months of age). For the reasons outlined in 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
- 7.5 **Conditions 8-10** specify maximum occupancy levels (excluding children under six months of age) and in the case of Condition 8, restrict the accommodation of children between 6 months and 7 years from staying onsite. 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 8). 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 85 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 17 and 23** relate to retention/enhancement of landscaping and provision of a play area. I agree with the placement of these conditions.
- 7.8 **Condition 18** requires the physical motel signage be removed for the duration of the consent. It is my understanding that signage has been blanked out, however, the support structures remain onsite. I support the continued placement of the condition to ensure the signage remains absent for the duration of the consent.
- 7.9 **Condition 19** 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 28 to 30 and 32** 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 31** requires that the site shall be capable of meeting an internal road-traffic design sound level of 40dB LAeq inside all habitable rooms. 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. This condition is considered unnecessary and should be deleted. Reverse sensitivity was not raised as an issue in the s42A report by Ms MacDonald.
- 7.12 **Conditions 35 to 39** 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