
ROTORUA DISTRICT COUNCIL

REPORT TO: David Hill, Sheena Tepania, and Greg Hill (Independent Hearing Panel) **FILE NO:** Various – See Site Specific Assessments

FROM: Craig Batchelar (Consultant Planner) **DATE:** 22 September 2022

SECTION 42A – COUNCIL OFFICERS REPORT OVERVIEW

NOTIFIED APPLICATIONS TO USE EXISTING VISITOR ACCOMMODATION SITES AND BUILDINGS FOR CONTRACTED EMERGENCY HOUSING

SUMMARY

Application Sites and Surrounding Environment

Each of the sites is an existing tourist accommodation facility (a motel). The motels have been used for CEH under contract to MHUD from July 2021, except the Emerald Spa Motel (which was previously a Covid Response Motel) that has been operating as CEH from July 2022.

11 of the 13 application sites are located in the Fenton Street corridor which has been the main tourist accommodation precinct in Rotorua for at least 50 years. This area is sometimes referred to as 'Motel Mile'. Two applications sites are located outside the Fenton Street Corridor.

Other tourist accommodation facilities in Rotorua are being used for emergency housing (EH) in Rotorua, mainly through the Ministry of Social Development's (MSD) Emergency Housing Special Needs Grant system (EHSNG).

All of the motels in Rotorua that have EH residents are currently operating without the resource consent required under the Operative Rotorua District Plan (ODP).

Proposals

MHUD is applying for 13 separate resource consents to use existing tourist accommodation facilities for Contracted Emergency Housing (CEH) accommodation.

Altogether, the CEH applications are for a total 294 EH accommodation units to be used across the 13 sites. The units are proposed to accommodate up to 1081 people in total. The applicant has recently stated an intention to reduce the maximum occupancy level across all of the application sites by about 20%.

The facilities are only to be used by MHUD clients, with no other guests able to book and stay during the period of the contract. The typical length of stay in CEH is about 3 months.

All proposals have on-site support services, described as 'wrap around care' provided under contract to MHUD by an independent agency.

Generally, no significant physical changes are proposed to the buildings and site development. In some cases, additional fencing and gates are proposed or have been installed to improve privacy, security, and traffic safety.

District Plan

The CEH facilities do not fit within the categories of 'Tourist Accommodation' or 'Community Housing' under the operative District Plan (ODP)

While the CEH facilities have many of the characteristics of 'household units', the inclusion of integrated wrap around managed care is not something expressly provided for by the ODP.

All of the applications have been assessed as Non-complying Activities.

Notification and Submissions

All of the applications were publicly notified. 3,841 submissions were received from about 350 submitters.

The five themes most frequently raised in submissions were:

- Behaviour of emergency housing tenants;
- Neighbourhood safety;
- Crime;
- Adverse effects on the tourism sector, and
- Adverse effects on the amenity/reputation of Rotorua.

Many of these submissions do not distinguish between the 13 CEH facilities that are the subject of the applications from other tourist accommodation being used for EH.

Part 2 – Purpose and Principles of the RMA

Broad consideration under Part 2 is appropriate in evaluating the resource consent applications, including consideration of several economic and social effects that were not contemplated when the ODP was drafted.

Environmental Effects

Effects have been considered under three broad headings:

- Economic Effects;
- Social Effects;
- Site Specific Effects.

Economic Effects

The assessment identifies the economic factors that underlie the shortfall in housing supply and progressive increase in demand for emergency housing over the past 5 years. Rotorua has a significant housing shortfall, estimated at 1,550 - 1,750 dwellings (2019). The escalation of the housing shortage is clearly apparent when comparing annual household growth with growth in residential dwelling consents over the past 20 years.

To eliminate the current housing shortfall over the next 10 years will require a supply rate of just under 600 dwellings per annum to cover both underlying dwelling demand and the shortfall., nearly double the current rate.

The need for EH in Rotorua will not disappear in the next few years and may never disappear entirely. However, it should decrease, slowly at first, and potentially faster in the medium term. From this perspective, the 5 year consent duration sought by the applicant for CEH is not unreasonable.

There has been a net increase in crime (particularly theft) in the Fenton St corridor over the last four years. There is evidence that EH is not driving all of the increase in crime in the local community. This means that in the absence of EH, some growth in crime may have occurred in any case, particularly during 2018 and 2019 in line with trends in other parts of the district.

There is no definitive evidence that CEH (in aggregate and relative to the total EH activities occurring in the catchment) is having a net positive or net negative effect on the social conditions at a local community scale. In theory, a marginal improvement would be expected from CEH, compared to an uncoordinated and less supported service.

Likely property value impacts attributed to the CEH sites are expected to be temporary effects limited to the duration of the CEH contracts. Property value effects may be mitigated by consent conditions that help ensure that the appearance of the sites is maintained at a high standard and that any anti-social behaviour of clients is controlled where practicable.

Relative to the permitted baseline, the effect of consenting up to 13 motels as CEH is expected to have a less than minor effect on tourist accommodation capacity. EH collectively has had a more than minor impact on Rotorua's tourism reputation in the last 12 months and if this continues over several more years, the economic effects could be significant. In the absence of all other EH activity, the actual adverse effects on social conditions (crime, police presence, sense of safety etc) of CEH are assessed as likely to have been minor, and not significant at the local community level.

CEH has some minor positive effects on employment and household spending. EH may have softened the total loss of employment in the Fenton Corridor catchment between 2020 and 2021. The employment loss could have been even greater had all establishments still been operating as tourist accommodation just prior to Covid.

Recommendations include removing signage, websites and any presence on online booking platforms to avoid tourists being able to associate any actual or perceived adverse environmental effects of those sites with Rotorua's tourism industry and risking further damage to its tourism reputation

if MHUD are in a position to reduce the number of CEH contracts before the end of the 5 year consent period, then where practicable, priority should be given to releasing CEH that is in close proximity to tourist attractions

If demand for CEH does reduce over the course of the consent period, to avoid incremental reductions in occupancy across all CEH contracts and instead, instead retaining fewer sites at the approved maximum occupancy.

Social Effects

The assessment confirms there is a significant shortage of housing in Rotorua, as documented in the HBA, and a significant homelessness issue. EH has an important and necessary role in addressing these issues.

The social wellbeing effects for CEH clients are identified as positive, especially in comparison to the alternative living arrangements. The improved level of access to social and health support services and onsite security should provide positive effects.

There are also likely to be negative effects for some CEH Clients related to factors such as crowding, long lengths of stay, and being exposed to intimidating behaviour, violence and substance abuse. Better options are needed to move clients through CEH faster, which means providing more housing supply

The social wellbeing effects for immediate neighbours and the surrounding community are assessed as more likely to be negative. The assessment identifies that adverse social effects are being caused by significant concentrations of EH activity along Fenton Street. The assessment identifies that social effects on immediate neighbours and the surrounding community of CEH could be 'diluted' by providing EH in more dispersed locations.

A range of conditions are recommended including on site improvements, an independent communication hub for CEH clients, a community forum to enable local residents to gather regularly (in person or online) to provide and receive feedback on operational and long term issues, and ongoing social impact assessment.

Site Specific Effects

For external character and amenity effects, the general conclusion is that effects will be less than minor as a result of existing buildings and site development remaining largely unchanged. Maintenance of buildings and landscaping, and keeping sites and street berms clear of rubbish, and removal of motel signage are recommended as conditions, expanding on the proposals included in the Site Management Plans (SMP) submitted with the applications.

For internal effects, the general conclusion is that facilities do not provide a level of amenity equivalent to typical residential units due to small size and the lack of private or shared outdoor living space. Mitigating factors for this across the sites include the temporary nature of the activity, and that in most cases the surrounding area is well served with local amenities and social infrastructure.

A detailed assessment has been made of each of the sites of their suitability for children's play space, with children seen as a vulnerable group within EH. Conditions are recommended to restrict certain age groups from staying in the CEH facilities where play space is unacceptable. For one site (Pohutu Lodge) further information is needed to be able to consider its acceptability.

The proposed occupancy levels have been assessed against an international benchmark for crowding. The recommendation is that occupancy be reduced by about 30% below that applied for. With these reduced occupancy levels, effects from overcrowding and potential for spill over effects are assessed as acceptable.

Two of the CEH applications are for sites near to the Whakarewarewa Village (Pohutu Lodge and Apollo Hotel). The Village is recognised in the ODP as an exceptional and unique cultural and historic place within the district. The assessment concludes that a better understanding of cultural effects of CEH on the Village is needed for a recommendation to be made on acceptability.

Permitted Baseline

At an aggregate level, the existing environment is not currently a reflection of permitted or consented activity, with many EH activities not having the required resource consents. This adds complexity in assessing the relevant social and economic effects of the proposed CEH on neighbours and the community.

The residential use of tourist accommodation is not a permitted activity. In general, the motel units do not meet permitted activity standards for density and outdoor living space. They were not designed for long term residential use by families, and do not have the same level of on-site amenity.

Conditions

Recommended draft conditions that address matters arising from the assessment of environmental effects provide a starting point for consideration should the panel determine that consent should be granted to some or all of the applications.

These include:

- 'Site Conditions' that apply to individual CEH application sites including standard conditions, tailored conditions for site occupancy, and any other site specific considerations. Compliance is solely the responsibility of the facility operator.
- 'Strategic Conditions' that apply collectively across all CEH application sites, where compliance would be the responsibility of both the site operator and MHUD.

Recommended conditions include a reduction in the level of occupancy sought by the Applicant and restrictions on some age groups of children living on sites that have been assessed as having unacceptable play spaces.

Other conditions seek to ensure that the sites are well managed to minimise effects on the surrounding area.

Policies and Plans

The CEH applications have been assessed against National Policy Statement for Urban Development, Regional Policy Statement and District Plan Objectives and Policies.

In broad terms, provision of EH is a necessary component of meeting housing needs in Rotorua in the present and foreseeable future, but this must be implemented in a manner that is not detrimental to other people and communities being able to provide for their social, economic, and cultural wellbeing.

Notwithstanding the current over-concentration effects of EH, the Fenton Street corridor and its adjacency to the Central City does provide a location that has many of the qualities of a well-functioning urban environment with good accessibility for people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport. This level of accessibility is a mitigating factor for some of site constraints.

District Plan Objectives and policies have a very strong focus on the environmental outcomes deriving from the physical properties of built form and do not identify the social and economic issues of concern current for EH and CEH. These types of issue were simply not contemplated when the ODP was drafted. However, these issues can be considered under Part 2 of the Act.

Particular restrictions for non-complying activities

A consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either:

- the adverse effects of the activity on the environment will be minor; or
- the application is for an activity that will not be contrary to the objectives and policies of the relevant plan

The conclusion on environmental effects is that adverse effects of the CEH activities on the environment will be minor if the recommended conditions of consent are imposed and are fully complied with. The particular challenge in this case is to be able to isolate the effects of the proposed CEH activities from the wider EH activities that are currently operating without consent.

The conclusion on objectives and policies is that CEH activities are not contrary to the ODP

On this basis, the tests of Section 104D are met and the Panel is able to consider whether or not to grant or to refuse consent.

Recommendation

The recommendation is that resource consent be granted to the following applications for CEH, subject to the conditions set out in Appendix 3:

- Alpin Motel
- Ann's Volcanic Motel
- Ascot on Fenton
- Emerald Spa Motel
- Geneva Motor Lodge
- Lake Rotorua Hotel
- Malones Motel
- Midway Motel
- New Castle Motor Lodge
- RotoVegas Motel
- Union Victoria Motel

For two of the applications further information is needed for a recommendation to be made:

- Apollo Hotel Rotorua: information on cultural effects
- Pohutu Lodge Motel: information on cultural effects, outdoor space and children's play space.

REPORT STATUS

1. This is a report prepared under Section 42A of the Resource Management Act 1991 (**RMA**).
2. This report provides an overview of the applications made by Te Tūāpapa Kura Kāinga Ministry of Housing and Urban Development (**MHUD**) for Contracted Emergency Housing (**CEH**) and addresses matters common to the 13 applications.
3. This report should be read in conjunction with the Site Specific Assessment reports prepared for each of the application sites and the statements of evidence on social effects, economic effects and the suitability of the CEH application sites for play.
4. This report is not a decision on the application. It provides opinions and assessments and recommendations to the Independent Hearing Panel (**Panel**) on whether the applications should be granted or declined consent.
5. This report will be considered by the Panel in conjunction with all other evidence and submissions which have been received. The Panel will determine the weight to be given to this report and to any other evidence or submissions that are presented when making its decision.

REPORTING OFFICER

6. My name is Craig Batchelar.
7. My planning qualification is Bachelor of Regional Planning (1st Class Hons) obtained from Massey University in 1984. I have been a full member of the New Zealand Planning Institute since 1988. I am currently a member of the Institute's governing board.
8. I have worked in the planning profession for 35 years in central and local government and the private sector.
9. I am a Director of Cogito Consulting Limited, a planning consultancy which I established in April 2021.
10. From 1989 to 2000, I was employed by Tauranga City Council as a planner in a variety of roles including leadership and management of its Environmental Services Group from 1995 to 2000. From 2000 to 2004 I was self-employed as a planning consultant. I was a planner and partner at Boffa Miskell from 2004 to 2021 and, during that time, was national Technical Leader of both the Planning and Te Hihiri (Māori cultural advisory) disciplines.
11. I have provided independent planning consultant services to Rotorua District Council (**Council**), which also goes by the name 'Rotorua Lakes Council', in several capacities since 2017.
12. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 in preparing this report. I agree to comply with it in presenting this report. The opinions and assessment within this report are within my area of expertise, except where I have stated my reliance on other identified evidence. I have considered all material facts that are known to me which might alter or detract from the opinions I express in this evidence.

APPLICATION SITES AND SURROUNDING ENVIRONMENT

13. A detailed description of each of the application sites and surrounding environment is provided in the Site Specific Assessment reports. These reports also include property information and the consent history for each site.

14. Each of the sites is an existing tourist accommodation facility (a motel). The motels have been used for CEH under contract to MHUD from July 2021. Some of the motels were used for EH prior to this. The Emerald Spa Motel (which was previously a Covid Response Motel) that has been operating as CEH from July 2022.

15. The location of the application sites is shown in red on the map below:

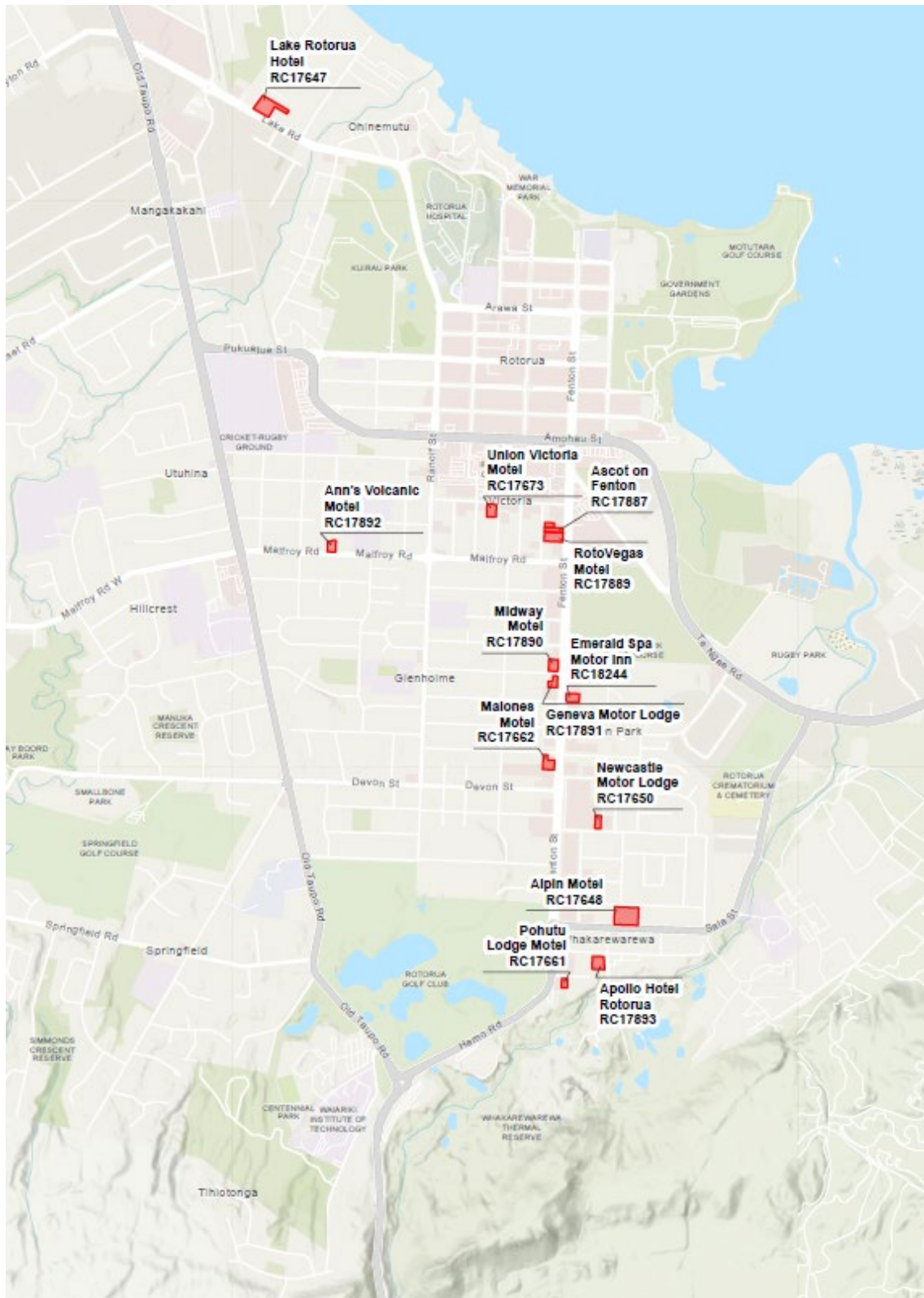


Figure 1: Location of Application Sites

16. 11 of the 13 application sites are located in the Fenton Street corridor which has been the main tourist accommodation precinct in Rotorua for at least 50 years. This area is sometimes referred to as 'Motel Mile'. Two applications sites are located outside the Fenton Street Corridor.
17. Other tourist accommodation facilities in Rotorua are being used for emergency housing (EH) in Rotorua, mainly through the Ministry of Social Development's (MSD) Emergency Housing Special Needs Grant system (EHSNG).
18. The figure below shows the site location of the motels that have EH occupants (green and blue symbols) and tourist accommodation that does not have EH occupants (black symbols) in the vicinity of the CEH application sites (red symbols).

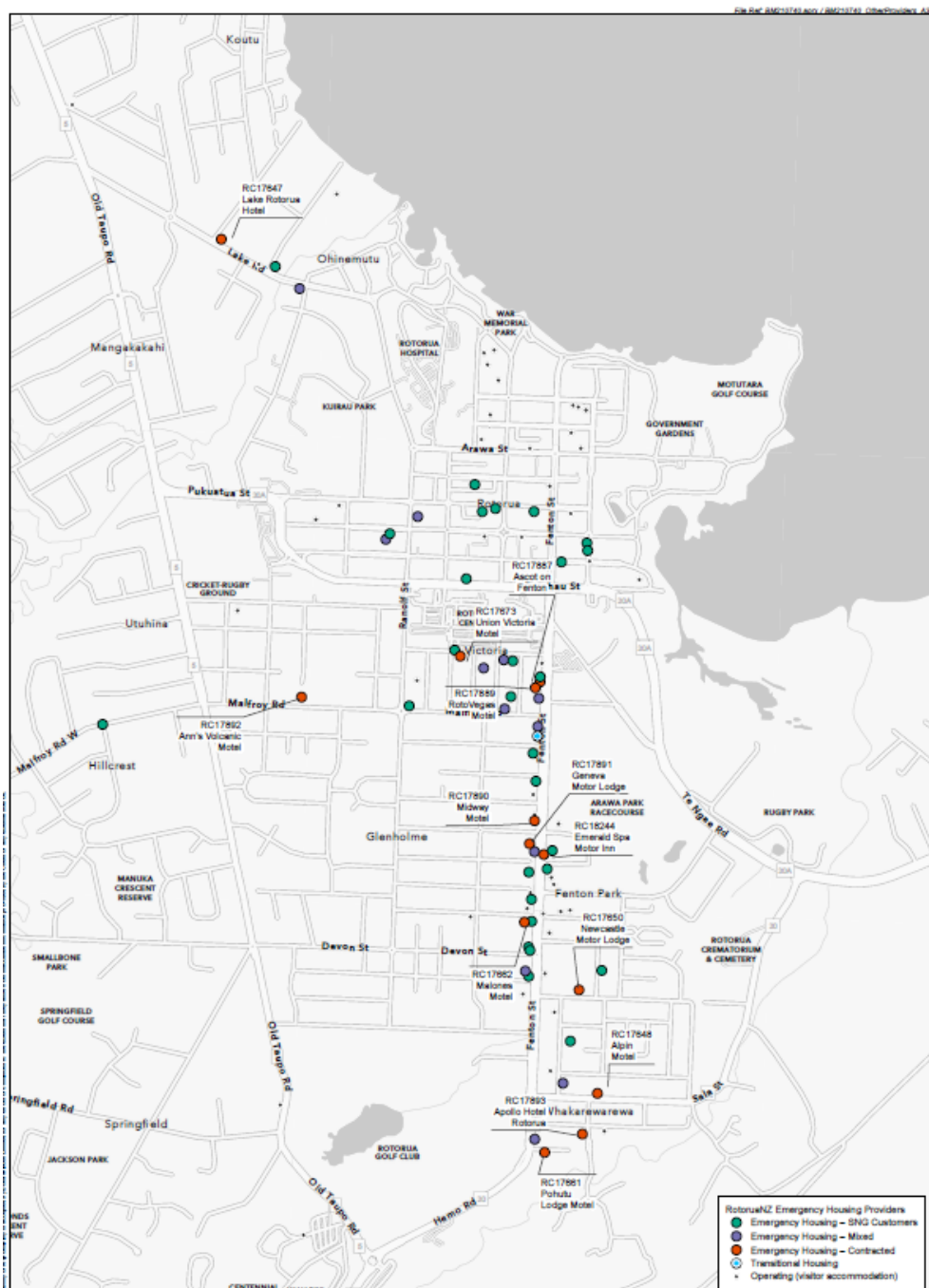


Figure 2: Location of Application Sites and Other Emergency Housing Sites

19. Most of the EH facilities are located in the Fenton Street corridor.
20. All of the motels in Rotorua that have EH residents are currently operating without the resource consent required under the Operative Rotorua District Plan (**ODP**).
21. I am advised¹ that from about mid-2020 Council became aware that the EH response to Covid-19 using visitor accommodation was likely to continue as a response to a wider housing need. A phased response was initiated to ensure Council fulfilled its obligations under the RMA to monitor and enforce the ODP.
22. Council has taken a phased approach to enforcing its ODP due to:
 - The unprecedented nature and scale of the EH activity;
 - The evolving nature of site/accommodation usage data;
 - The continuing evolution of wider District Plan outcome considerations;
 - A limited RMA compliance staff resource and the need to attend to other RMA community expectations.
 - Consideration of managing possible flow-on effects to other Council teams e.g. consenting staff.
23. Council's initial investigation involved a small number of EH providers located primarily around the central city fringe. This investigation was then expanded into Fenton Street with nine EH premises selected based on observations from Council's Safe City Guardian Staff and response intelligence from the NZ Police. This allowed Council to purposefully focus on sites found to have a disproportionate level of negative effects on the surrounding community. These nine sites were subsequently the focus of an Enforcement Order application which was later withdrawn after a suitable level of engagement and agreement was reached with owners and operators on becoming compliant with the ODP.
24. The owners and operators of a further 41 EH premises have been sent letters setting out RMA/Building Act requirements. These premises are currently subject to ongoing monitoring between planning and enforcement teams to ensure that they continue to progress towards becoming compliant with the ODP.

PROPOSAL DESCRIPTION

25. Detailed descriptions of each proposal are provided in the applications and Site Specific Assessments.
26. MHUD is applying for 13 separate resource consents to use existing tourist accommodation facilities for CEH accommodation.
27. The method used for selecting motels for CEH is set out in the applications², including the shortlisting process and the criteria for assessing suitability.
28. In each case, the CEH activity is already operating, so the resource consent application is both retrospective and prospective.

¹ Kurt Williams, Manager, Community & Regulatory Services

² Contracted Emergency Housing Factsheet

29. The CEH applications have been made by MHUD on behalf of each facility operator (usually the lessee of the facility), each of whom will become the consent holder for any granted consent.
30. MHUD have entered a contract with each facility operator to provide the CEH exclusively to MHUD clients. The motels have been contracted by HUD for an initial one-year period. The ongoing need for each site will be reviewed at least annually.
31. The facilities are only to be used by MHUD clients, with no other guests able to book and stay during the period of the contract.
32. Altogether, the CEH applications are for a total 294 EH accommodation units to be used across the 13 sites. The units are proposed to accommodate up to 1081 people in total. The maximum occupancy for CEH is the maximum occupancy of the motel facility based on every bed in every unit being occupied .
33. The applicant has recently stated an intention to reduce the maximum occupancy level across all of the application sites³. Under the new proposed maximum, where there is more than one double bed in a room, only one bed has been counted as sleeping two people. All other beds are counted as one person per bed. This is shown in the following table in the column “New CEH Occupancy (Max)”. This approach will reduce total occupancy by about 20%. See Appendix 1.

Name	CEH Occupancy (Max)	New CEH Occupancy (Max)
Alpin Motel	142	120
Ann’s Volcanic Motel	39	31
Apollo Hotel Rotorua	117	98
Ascot on Fenton	54	43
Emerald Spa Motel	93	93
Geneva Motor Lodge	52	41
Lake Rotorua Hotel	140	105
Malones Motel	66	42
Midway Motel	90	70
New Castle Motor Lodge	64	47
Pohutu Lodge Motel	58	42
RotoVegas Motel	108	80
Union Victoria Motel	58	56
Total	1081	868

34. The applications are for resource consent for a maximum duration of five years commencing from the date of commencement of the resource consent. The land use will revert to tourist accommodation after the consent period expires. The intention is that the CEH activities will be wound down within the five year term of each consent as more suitable long-term accommodation options come on stream in and beyond the Rotorua district.
35. The MHUD clients using CEH are described in each of the applications as “*families and whānau with children, Rangatahi/young people, and disabled people*”. Some of the CEH applications also refer to vulnerable individuals such as kaumatua and kuia (i.e., elderly people).

³ Email from Alice Blackwell Occupancy Numbers 9 September 2022

36. The duration of stay is described in the following terms by the applicant:

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

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

37. The applicant should update this information through their evidence. It is understood that the average stay in other EH is closer to 6 months.

38. Generally, no significant physical changes are proposed to the buildings and site development. In some cases, additional fencing and gates are proposed or have been installed to improve privacy, security, and traffic safety.

39. Any ancillary restaurant and conference facilities on the sites are to be closed to the public and used as communal spaces only accessible by MHUD clients and support staff for the duration of the site’s CEH use.

40. All proposals have manager’s accommodation provided on the site.

41. All proposals have on-site support services, described as ‘wrap around care’ provided under contract to MHUD by an independent agency. Three support services entities are referred to in the applications:

- Visions of a Helping Hand;
- Emerge Aotearoa; and
- WERA Aotearoa.

42. A Site Management Plan (**SMP**) is offered by the applicant as a condition by the applicant for each site. The SMP is offered as an “Augier” condition by the applicant⁴.

43. The SMP sets out provisions for occupancy, on-site security, authorised personnel and visitors, site maintenance, and noise management. The SMP also refers to the availability of registered and trained social and support workers, facilitation of groups run by a programme facilitator on topics such as budgeting, employment, parenting, education, and men’s and women’s empowerment, and, in several cases, afterschool and holiday programmes for children.

44. The Beca Social Impact Assessment⁵ (**Beca SIA**) provided for all of the applications includes recommendations to “improve the integration of the sites to the surrounding area” and to “further minimise identified social impacts being experienced” through the following initiatives:

- *Quality permanent fencing and gates (removal of cones and other temporary blockades) that is in keeping with the character of tourist accommodation environment*

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

⁵ Contracted Emergency Housing Social Impact Assessment 9 May 2022, 7 Potential measures and opportunities to remedy adverse effects

- *Enhancement of landscaping to soften any security provisions (as per above) and to provide further privacy screening where practicable.*
- *Improved management of on-site and offsite parking to prevent staff parking out the front of the site on the driveway or berm/footpath.*
- *On-site dedicated play areas for children on-site or alternatively residents being orientated to local parks within close proximity and supported to access these.*
- *A 24/7 0800 number to be provided to neighbours to contact the service operators/security on-site where concerns arise and a complaints/queries response process to be put in place.*
- *A forum for the community to ask questions and share information for the overall service.*
- *Scheduled visits (where visitors allowed) and a maximum number of visitors on-site at any one time.*

45. Details on how these recommendations will be implemented for individual sites have not been provided by the applicant. It is expected this will be addressed in the applicant's evidence to the hearing. The Beca SIA recommendations have been considered as part of the applications when assessing effects and considering appropriate consent conditions.

OPERATIVE ROTORUA DISTRICT PLAN

Plan Status

46. The ODP was made operative in 2016. It was restructured in July 2021 as required by the implementation of the National Planning Standards.

Zoning, Overlays and Features

47. The zoning of each site is shown in the table below.

Trading Name	District Plan Zone
Alpin Motel	Commercial 4 Zone - City Entranceway Accommodation
Ann's Volcanic Motel	Residential 2 Zone - Medium Density Living
Apollo Hotel Rotorua	Commercial 3 Zone - Neighbourhood Centre
Ascot on Fenton	Commercial 4 Zone - City Entranceway Accommodation, Residential 2 Zone - Medium Density Living
Emerald Spa Motel	Commercial 4 Zone - City Entranceway Accommodation
Geneva Motor Lodge	Commercial 4 Zone - City Entranceway Accommodation
Lake Rotorua Hotel	Commercial 4 Zone - City Entranceway Accommodation, Residential 1 Zone - Low Density Living
Malones Motel	Commercial 4 Zone - City Entranceway Accommodation
Midway Motel	Commercial 4 Zone - City Entranceway Accommodation
Newcastle Motor Lodge	Commercial 4 Zone - City Entranceway Accommodation
Pohutu Lodge Motel	Commercial 4 Zone - City Entranceway Accommodation

Trading Name	District Plan Zone
RotoVegas Motel	Commercial 4 Zone - City Entranceway Accommodation, Residential 2 Zone - Medium Density Living
Union Victoria Motel	Residential 2 Zone - Medium Density Living

48. None of the CEH application sites are subject to any policy overlays or special features.

Activity Status Assessment

49. To assess activity status under the ODP, it is necessary to characterise and define the CEH activities. CEH is an activity that was not contemplated when the ODP was originally drafted between 2010 and 2012.

As 'Community Housing'

50. Community housing is defined in the ODP in the following terms:

*“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.”*

[My emphasis added.]

51. All the CEH applications are, collectively, for a place of residence for more than eight people. For this reason, CEH is not “Community Housing” under the ODP.

52. Community Housing was the subject of several submissions on the then District Plan Review in 2014 from residents concerned about the effects of community housing on amenity in residential zones. In making provision for Community Housing, the Hearings Committee determined that the definition and performance standards in (what later became) the ODP would:

*“...achieve a reasonable level of management and provide for the protection of residential amenity. It allows for a scale and character that is in keeping with the residential zones but **triggers an application for consent for anything that exceeds those stated limits.**”⁶*

...

*The **scale of the proposal is managed through the performance standards**, which ensure that the residential character of the zone is not adversely affected. The provisions benefit the social needs of the district⁷.*

[My emphasis added.]

53. The “scale of the proposal” is not actually managed through the Performance Standards, as stated in the Hearing Committee’s decision, but rather through the definition of Community

⁶ Doc No RDC - 462978 Para 4.4.7

⁷Doc No RDC-462978 Para 4.4.10

Housing. The effect of limiting scale through the definition is that Community Housing proposals that exceed the 8-person scale limit simply fall outside the definition⁸.

54. Although the definition and standards for community housing were a response to submissions on residential zone amenity issues, the same provisions for community housing have also been imported into to the Commercial Zones.
55. Advisors and decision makers clearly did not contemplate the current location, scale and extent of emergency housing when the Community Housing provisions were formulated. The focus of submissions at that time was on the use of isolated residential properties in suburban locations for EH and provision of a 'night shelter' for homeless people.

As 'Tourist Accommodation'

56. Tourist accommodation is defined in the ODP in the following terms:

*"land and buildings for use as **temporary accommodation by paying guests, where the accommodation is not their normal place of residence** and includes motels, hotels, boarding houses, private hotels, tourist house licensed premises, guest houses, backpacker lodges, youth hostels and similar accommodation, and includes accessory facilities such as visitor, service and recreation facilities, conference facilities and restaurants. Tourist Accommodation does not include Bed and Breakfast or Holiday Rental Accommodation."*⁹

[My emphasis added.]

57. CEH clients are obviously not tourists. However, other than the plain meaning of 'tourist'¹⁰, the ODP definition of tourist accommodation does not expressly restrict the type of person who may stay as a guest in tourist accommodation other than the stipulation that the accommodation cannot be their normal place of residence.
58. Tourist accommodation can sometimes provide temporary accommodation for guests who are not engaged in activities that are considered *tourism*. A person may use temporary accommodation for business travel or for social events. A person may also occasionally use temporary accommodation for other reasons such as when renovating their residence, their residence being affected by a natural disaster, or when confronted by challenging personal circumstances, etc.
59. While none of these types of guests are engaged in tourism activities per se, no reasonable person would question the acceptability of this use of tourist accommodation, given the similarity to tourist use of the accommodation (the accommodation is temporary, short term and not their *normal place of residence*). This use of tourist accommodation does not detract from the tourist accommodation being provided primarily for tourists.
60. In contrast, the CEH facilities are only to be used by MHUD clients. The activity is characterised by the exclusion of tourists and all other types of guests while the facility is being used for CEH.

⁸ See for example Rule RESZ-R2 Where an activity is not expressly stated in this table

⁹ ODP Part 1: Introduction and General Provisions, Interpretation, Tourist Accommodation.

¹⁰ A tourist is a person who is visiting a place for pleasure and interest, especially when they are on holiday (<https://www.collinsdictionary.com/dictionary/english/tourist>)

61. While the CEH activity has the characteristic of being temporary accommodation, those that reside in CEH do so because they do not have any other *normal place of residence*; the MHUD-contracted facility has become, by default, their normal place of residence.
62. It is on this basis that the CEH activity does not meet the ODP’s definition of *tourist accommodation*.

As ‘Household Units’

63. CEH could be characterised as a complex of ‘household units’ used for a residential activity exclusively by one household, with support services including security services. This is a combination of activities generally contemplated by the ODP.

64. The CEH residential activities come within the ODP definition of “Household Unit”:

*“any building, part of a building or vehicle, whether temporary or permanent, that is **occupied as a residence**, including any structure or outdoor living area that is accessory to and used wholly or principally for the purposes of the residence”.*

[My emphasis added.]

65. The definition does not discriminate between “household” types on the basis of whether they are vulnerable, needing support, or otherwise. The motel units, although small, are largely self-contained with separate cooking facilities, bathrooms and living areas. In some cases, there are shared laundry facilities. CEH households are therefore able to live independently in the motel units, largely as any other household would.

66. Use of motels as household units is a controlled or restricted discretionary activity in the applicable Commercial and Residential Zones. The ODP therefore clearly contemplates and provides for the re-purposing of tourist accommodation for residential activities.

67. The CEH support activities reasonably come within the scope of an “ancillary office”. Support services are provided from an office on the site as well as to people throughout the site/facility.

68. “Office” is defined in the ODP as having its “ordinary and customary meaning”. The support services have an administrative and client service focus common to that of an office. “Ancillary office” is not defined in the ODP. However, ‘ancillary retail’ is defined with its essential characteristics identified as being “subsidiary” and “of secondary nature to the main purpose of the site”. Taking the same approach, the support services activity would reasonably fall within the definition of ancillary office and, therefore, do not detract from the primary use of the site for household units.

69. The support and security activities are generally a permitted activity in the applicable Commercial zones, and non-complying in Residential zones.

70. Taking this approach, activity status varies according to location and zoning as summarised in the following table:

Trading Name	District Plan Zone	Activity Status
Alpin Motel	Commercial 4 Zone - City Entranceway Accommodation	Restricted Discretionary Activity
Ann’s Volcanic Motel	Residential 2 Zone - Medium Density Living	Non-complying Activity

Trading Name	District Plan Zone	Activity Status
Apollo Hotel Rotorua	Commercial 3 Zone - Neighbourhood Centre	Non-complying Activity
Ascot on Fenton	Commercial 4 Zone - City Entranceway Accommodation, Residential 2 Zone - Medium Density Living	Non-complying Activity
Emerald Spa Motel	Commercial 4 Zone - City Entranceway Accommodation	Restricted Discretionary Activity
Geneva Motor Lodge	Commercial 4 Zone - City Entranceway Accommodation	Restricted Discretionary Activity
Lake Rotorua Hotel	Commercial 4 Zone - City Entranceway Accommodation, Residential 1 Zone - Low Density Living ¹¹	Non-complying Activity
Malones Motel	Commercial 4 Zone - City Entranceway Accommodation	Restricted Discretionary Activity
Midway Motel	Commercial 4 Zone - City Entranceway Accommodation	Restricted Discretionary Activity
Newcastle Motor Lodge	Commercial 4 Zone - City Entranceway Accommodation	Restricted Discretionary Activity
Pohutu Lodge Motel	Commercial 4 Zone - City Entranceway Accommodation	Restricted Discretionary Activity
RotoVegas Motel	Commercial 4 Zone - City Entranceway Accommodation, Residential 2 Zone - Medium Density Living	Non-complying Activity
Union Victoria Motel	Residential 2 Zone - Medium Density Living	Non-complying Activity

71. A detailed assessment of the relevant ODP provisions is included in Appendix 2.
72. It is notable that the inclusion of support and security services is the reason for the overall non-complying activity status for the CEH applications for the sites located wholly or partly within Residential Zones. For the purposes of these applications, the services are non-residential and therefore it is generally consistent with the ODP structure that a higher consent status should apply to non-residential activities in a residential zone.

‘Where an activity is not expressly stated in this table’

73. CEH could also be characterised as a type of residential care facility or ‘institution’ used to provide residential accommodation with wrap around support services, rather than as complex of “household units”. This is not an activity expressly stated in the activity table for the

¹¹ MIXED ZONING OF THE SITE IN THIS CASE IS MORE A TECHNICALITY AS NONE OF THE ACTIVITY IS LOCATED ON THE RESZ1 LAND, WHICH IS VACANT.

Commercial or Residential zones. Where an activity is not expressly stated in the activity tables, the activity status defaults to a Non-Complying¹²¹³ in the ODP.

74. This approach might overlay the level of care that is provided through the support services for each site. The services provided may be at the low end of the scale when compared with other institutional type care facilities such as aged care, boarding schools, drug rehabilitation centres, justice facilities, etc.
75. Nevertheless, adopting this approach, all the applications for CEH are Non-Complying Activities.

Conclusion

76. The activities cannot be characterised as ‘Community Housing’ or ‘Visitor Accommodation’ as the activities fall outside the ODP definitions.
77. The activities could reasonably be characterised as “Residential Units”, with on-site support services but this requires an interpretation that would not have been contemplated when the ODP was drafted.
78. Given the uncertainty, it is appropriate in this case to exercise caution and assess the proposals as ‘an activity that is not expressly stated in this table’ which are non-complying activities in the ODP. This is, in effect, the same approach taken by the applicant.

Proposed Plan Change 9 - Housing for Everyone

79. Plan Change 9 to the ODP incorporates the mandatory Medium Density Residential Zone Standards (“MDRS”) under the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 into all relevant residential zones. A range of other supporting changes to other zones are also proposed to support the implementation of the MDRS and Policy 5 of the National Policy Statement for Urban Development.
80. Further detailed guidance on the Plan Change 9 process is set out in Appendix 3.
81. Plan Change 9 was publicly notified on 20 August 2022, several months after the CEH applications were lodged and further information requests were completed.
82. Activity status of the CEH applications is not affected by Plan Change 9 to the ODP.
83. However, Plan Change 9 is relevant to the CEH applications in terms of:
 - A change in the permitted baseline, particularly for bulk and location of buildings in Residential Zones where the mandatory MDRS apply; and
 - New objectives and policies in the Residential Zone that are mandatory and have immediate operative effect.
 - Other new objectives and policies in the Residential and Commercial Zones which, following notification of Plan Change 9, constitute relevant provisions for the Panel to have regard to under section 104(1)(b)(vi) of the RMA.

¹² COMZ-R1 Where an activity is not expressly stated in this table

¹³ RESZ-R2 Where an activity is not expressly stated in this table

NOTIFICATION AND SUBMISSIONS

Notification

84. All but one of the 13 original applications lodged by MHUD were publicly notified on 11th June 2022. One of the 13 applications originally lodged by MHUD was subsequently withdrawn before notification. An alternative 13th application (for Emerald Spa Motel) was then lodged and later publicly notified on 6 August 2022.
85. Notice of the applications were served on the owners/occupiers of immediately adjacent properties and owners/occupiers of neighbouring properties, owners/occupiers of the subject site, Bay of Plenty Regional Council, Rotorua Housing Taskforce, Te Pokapū, Ngāti Whakaue, Te Arawa Lakes Trust, Restore Rotorua Incorporated, and Rotorua Economic Development Limited.

Submissions

86. 350 submitters lodged submissions on all or some of the 13 notified CEH applications.
87. A Final Submissions Summary Report is provided on the Council website. This includes the methodology used to analyse the submissions¹⁴.
88. In overview:
 - 3,841 submissions were received from 350 submitters.
 - Across all 13 applications there were 279 submitters opposing, 4 submitters opposing in part, and 69 submitters supporting.
 - More than 100 submitters wish to be heard at the hearing.
 - 350 submitters submitted on all 13 applications and 22 submitters submitted on just one application.
 - 21 submitters outlined conditions or changes they would like to see if the applications were granted consent.
 - There were 64 late submissions. These late submissions have been accepted by the Independent Hearings Panel.
89. The five themes most frequently raised in submissions were:
 - Behaviour of emergency housing tenants;
 - Neighbourhood safety;
 - Crime;
 - Adverse effects on the tourism sector, and
 - Adverse effects on the amenity/reputation of Rotorua.
90. The 15 themes most frequently raised in the submissions are shown in the figure below.

¹⁴ <https://www.rotorualakescouncil.nz/our-council/consultation-and-public-notice/public-notice-for-contracted-emergency-housing>

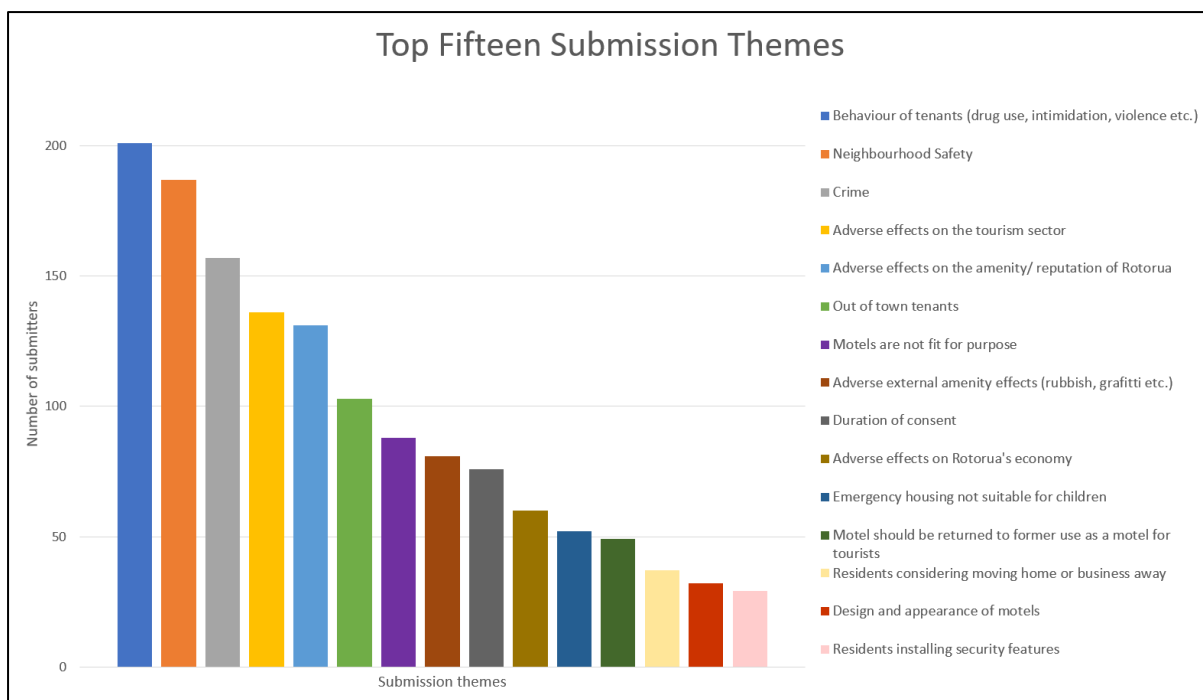


Figure 1: 15 most frequently mentioned themes

91. For submissions that oppose all CEH applications, there is a focus on the cumulative social and economic effects of emergency housing. Many of these submissions do not distinguish between the 13 CEH facilities that are the subject of the applications from other tourist accommodation being used for EH. Several submitters refer to 'MSD motels', that is those motels accepting holders of MSD-issued EHSNGs, in their submission.
92. For submissions on a specific application, a detailed analysis is provided in the Site Specific Assessment report for that particular application.
93. The majority of submissions have been made by residents in the Fenton Road corridor. The generalised location of submitters who oppose or support the applications is shown on the following plan.

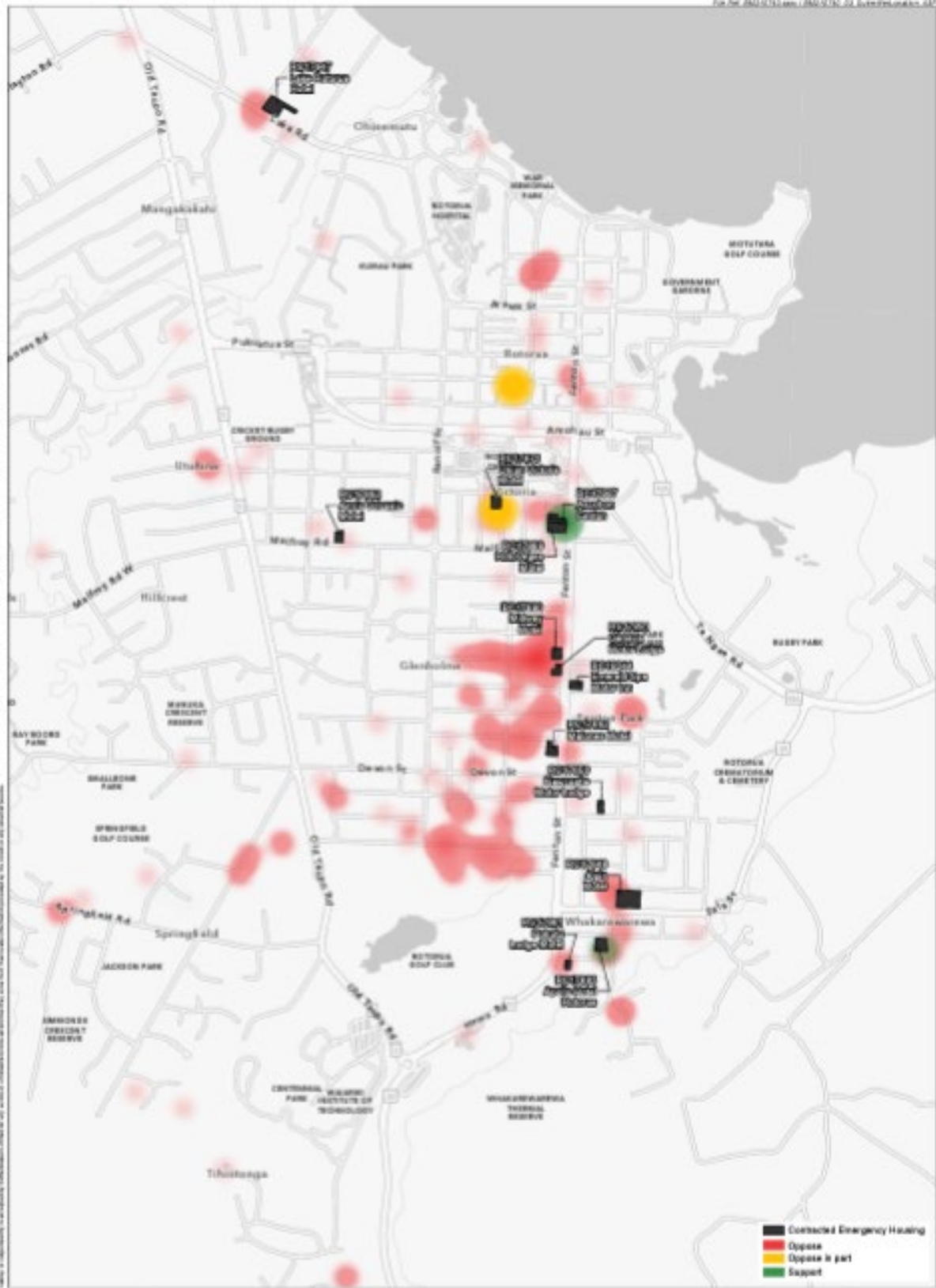


Figure 2: Location of Submitters

94. Other maps showing the location of submitters who have submitted on specific themes are included in the Final Submissions Summary Report.

SECTION 104(1) CONSIDERATION OF APPLICATIONS

Part 2 – Purpose and Principles of the RMA

95. Consideration of an application for a resource consent and any submissions received includes a range of matters under Section 104 (1), all of which are subject to Part 2 (Purpose and Principles of the RMA).
96. Case law dictates that:
- 'If it is clear that a plan has been prepared having regard to Part 2 and with a coherent set of policies designed to achieve clear environmental outcomes, the result of a genuine process that has regard to those policies in accordance with s 104(1) should be to implement those policies in evaluating a resource consent application. Resort to pt. 2 in such a case would likely not add anything. It could not justify an outcome contrary to the thrust of the policies.'*¹⁵
97. In this case, some policies do lack coherence.
98. For the COMZ3 and COMZ4 Zones, there are no clear policies that set out the intended environmental outcomes for residential activities. Rules applying to residential activities are largely the same as those for the residential zone, with a strong focus on design and appearance of buildings. The Residential Zone objectives and policies might be applied by inference, but the Commercial Zone purposes are very different. This policy gap is remedied to a significant extent by PC 9, which is discussed later in this report.
99. For Community Housing, the ODP is reasonably clear in its intention to permit only small scale community housing activities without resource consent, but the plan rules do not appear to reflect the intention of the Plan Review decision makers and there are no coherent policies designed to achieve clear environmental outcomes for large scale community housing. Incoherence is a reflection of the unanticipated scale, extent and complexity of the EH issue rather than any shortcomings in plan drafting.
100. In this context, consideration under Part 2 is appropriate in evaluating the resource consent applications.

Section 5 Purpose

"The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

(a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

¹⁵ R J Davidson Family Trust v Marlborough District Council [2018] NZCA 316 at [74].

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.”

101. Emergency housing is provided by central government to enable people and communities to better provide for their social, economic, and cultural well-being and for their health and safety. Some submissions refer to the human right to adequate housing, and the rights of whānau/families/ tamariki/mānaha to a warm, dry, decent, affordable and accessible home¹⁶.
102. However, this should be provided in a way that avoids, remedies, or mitigates any adverse effects of activities on the environment.

Section 6 Matters of National Importance

103. Section 6 specifies Matters of National Importance that must be recognised and provided for in achieving the purpose of the Act.
104. Several submissions have raised issues that are potential matters for consideration under Section 6(e) *the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga*:
- James Paerau Warbrick as a Director of Whakarewarewa Living Village (Submission 145) referring to the impact of behaviour of people associated with EH on Whakarewarewa Living Village, through trespassing, drug use and loss of safety for residents;
 - Makuini Ellen Warbrick as a resident of Whakarewarewa Village (Submission 210) referring to EH residents trespassing on their Wharekai, and tagging and petty crime in the locality;
 - Kathryn Anita Warbrick as a resident of Whakarewarewa Village (Submission 210) referring to EH residents trespassing on their pools and taonga;
 - Tim Cossar for Te Puia Board (Submission 362) referring to the negative impacts of EH on Rotorua as a tourism destination affecting ‘Te Puia’, a visitor focussed business operating within the Te Whakarewarewa Geothermal reserve. The Te Puia Board requests consultation with Manawhenua by the Minister of Housing on EH site considerations.
105. There are no other evident Matters of National Importance that are relevant to the consideration of the CEH applications that are not otherwise addressed under the ODP.

Section 7 Other Matters

106. Section 7 specifies Other Matters that must be given “particular regard” in achieving the purpose of the Act.
107. Two matters warrant consideration in this instance:
- (c) the maintenance and enhancement of amenity values:*
- (f) maintenance and enhancement of the quality of the environment:*
108. The ODP focus for amenity values and environmental quality in the Commercial and Residential Zone provisions is primarily on the design and appearance of buildings and other physical amenity considerations at site level.

¹⁶ Submissions 206 and 243.

109. The evidence on social and economic effects identifies a range of other adverse cumulative effects that arise from a concentration of emergency housing that affect amenity values and environmental quality including:
- Crime and other incidents;
 - Property value effects;
 - Effects on tourism;
 - Social effects.
110. The ODP did not contemplate the current scale and intensity of emergency housing that has given rise to these effects. These matters can be appropriately considered in making decisions on the CEH applications.

Section 8 Treaty of Waitangi

111. In achieving the purpose of the Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, must take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
112. The principles, as expressed by the Courts and Waitangi Tribunal, are¹⁷:
- partnership;
 - duty to act reasonably, honourably, and in good faith;
 - reciprocity;
 - mutual benefit;
 - duty to make informed decisions;
 - active protection;
 - redress.
113. Tangata whenua interests are represented in some facets of emergency housing through partnerships that include the Housing Task Force and the Te Pokapū housing hub. There is a strong and clear need for partnership with a high proportion of EH occupants being of Māori ethnicity.
114. Treaty principles have not been directly raised in submissions, but this may emerge through submitter evidence.

Section 104(1)(a) Assessment of Actual and Potential Effects

Meaning of Effect

115. Under Section 3 of the RMA, the meaning of 'effect' is:

...unless the context otherwise requires, the term effect includes—

- (a) any positive or adverse effect; and*
- (b) any temporary or permanent effect; and*
- (c) any past, present, or future effect; and*

¹⁷ He Tirohanga o Kawa ki te Tiriti o Waitangi, Te Puni Kokiri, 2001

(d) any cumulative effect which arises over time or in combination with other effects—

regardless of the scale, intensity, duration, or frequency of the effect, and also includes—

(e) any potential effect of high probability; and

(f) any potential effect of low probability which has a high potential impact.

Scope of Effects

116. Having regard to the nature of the applications, ODP provisions, and issues raised in submissions, effects have been considered under three broad headings:

- Economic Effects;
- Social Effects;
- Site Specific Effects.

Economic Effects

117. Economic effects are assessed in the statement of evidence of Natalie Hampson. The key findings are summarised below.

Housing Demand and Capacity

118. The assessment identifies the economic factors that underlie the shortfall in housing supply and progressive increase in demand for emergency housing over the past 5 years. This is an important analysis for understanding the wider impact of consent decisions.

119. Rotorua has a significant housing shortfall, estimated at 1,550 - 1,750 dwellings (2019). The escalation of the housing shortage is clearly apparent when comparing annual household growth with growth in residential dwelling consents over the past 20 years.

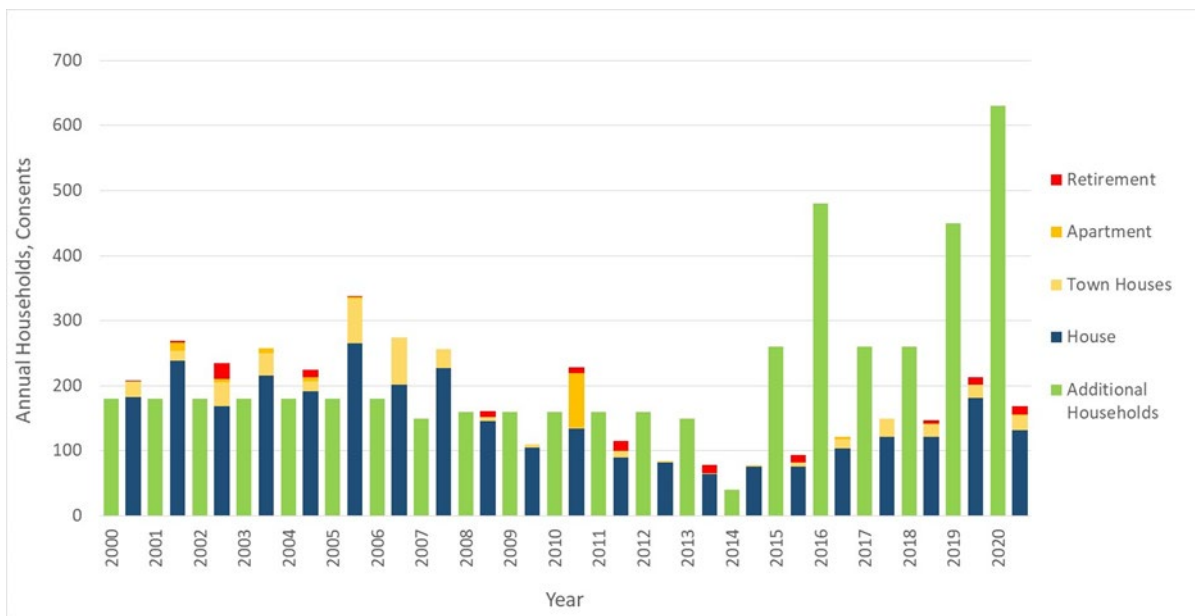


Figure 3 – Annual residential building consents issued compared to household growth in Rotorua district (year ending June)

120. Residential dwelling consents issued in 2021 were more than double those in 2020 at around 330, resulting in a significant improvement in the rate of housing supply. However, if this number of consents is sustained over the next three years it would only cater for 67% of projected dwelling growth and would not have recovered any of the current shortfall. Instead, the shortfall would be worse.
121. To cater for projected district dwelling growth and eliminate the current shortfall of say 1,500 dwellings in the next three years would require a supply rate of 1,090 dwellings per annum which is more than three times the number of residential dwelling consents issued in 2021.
122. To eliminate the current housing shortfall over the next 10 years will require a supply rate of just under 600 dwellings per annum to cover both underlying dwelling demand and the shortfall.
123. Achieving such a dwelling supply rate will require a substantial increase in the capacity of the Rotorua construction sector (nearly double), and more efficient ways of delivering houses. This will be very challenging given current economic conditions.
124. There is a significant shortfall in the supply of affordable housing. Only a very small number of dwellings in low price values come onto the market. The shortfall of 'affordable' dwellings for non-owner households who want to enter the owner market is estimated at 3,550 dwellings. By 2023, this is estimated to increase to 4,670 and by 2030 to 4,810.
125. Rotorua's rents are now close to the national average, however Rotorua has below average household incomes.
126. The ODP and Spatial Plan land supply and infrastructure do not provide sufficient capacity to meet housing demand in the short, medium, or long term. Without a significant planning and infrastructure response, housing affordability in Rotorua will continue to decline over time, and wider economic influences on rising house prices will further worsen affordability. Rotorua's proposed PC9 to the ODP is intended to provide for sufficient capacity within the urban environment to meet demand within the existing urban area.
127. There is a high level of confidence that the changes proposed in PC9 will ensure that the ODP provides sufficient housing capacity, including for attached housing. They provide a greater range of housing options that will contribute toward addressing identified gaps within the market. They provide for dwellings to be constructed on smaller sites, and a greater range of medium density attached housing options.
128. In overview, the need for EH in Rotorua (even if limited to Rotorua residents) will not disappear in the next few years and may never disappear entirely. However, it should decrease, slowly at first, and potentially faster in the medium term. From this perspective, the 5 year consent duration sought by the applicant for CEH is not unreasonable.
129. Further information is needed from MHUD during the hearing on the proposed solution to EH to have greater certainty on projected demand and the role of the CEH sites in the overall EH capacity picture

Crime and Other Police Related Incidents

130. Actual and potential effects of the proposed CEH on crime and antisocial behaviour (i.e., on social and economic conditions) are within the scope of effects that need to be considered under the RMA.

131. At a district level there is no evidence that the increase in the number of households in EH in the last two years has led to an increase in crime at the district level in Rotorua.
132. There has been a net increase in crime (particularly theft) in the Fenton St corridor over the last four years. There is evidence that EH is not driving all of the increase in crime in the local community. This means that in the absence of EH, some growth in crime may have occurred in any case, particularly during 2018 and 2019 in line with trends in other parts of the district.
133. EH is likely to be the cause of a minor increase in non-crime incidents recorded in the Fenton St corridor catchment over the last three years that would have been unlikely to occur in the absence of EH. The effects of EH on crime, anti-social behaviour, and general police presence appears, in the data, to be primarily concentrated in the Fenton St corridor.
134. There is a level and concentration of EH that can occur without significant adverse effects on the local community. EH in the Fenton St corridor catchment exceeds that threshold, but it is not known by how much (i.e., by how much the number and concentration of EH would need to reduce before the crime and incident data would return to levels that are closer to those that would have occurred in the absence of EH).
135. There is no definitive evidence that CEH (in aggregate and relative to the total EH activities occurring in the catchment) is having a net positive or net negative effect on the social conditions at a local community scale. In theory, a marginal improvement would be expected from CEH, compared to an uncoordinated and less supported service.
136. At a site-specific level, that is within each CEH site itself, it would be helpful if the applicant can produce evidence in the hearing that addresses the application of the Ministry of Justice's National Guidelines for Crime Prevention through Environmental Design in New Zealand to each of the 13 CEH sites. This evidence will then be considered and incorporated in an update to this report.
137. In the absence of all other EH activity, the actual adverse effects on social conditions (crime, police presence, sense of safety etc) of CEH are assessed as likely to have been minor, and not significant at the local community level.
138. The current effects of CEH are occurring in the absence of any consent conditions to manage those effects. If consents are granted subject to conditions, further improvement in the management of these effects would be expected.

Property Value Effects

139. A literature review and assumptions around its applicability to EH occurring in Rotorua, support those submissions stating that the concentration of EH is causing reductions in private property values.
140. Care is needed to attribute those effects to CEH. The potential adverse economic effects of CEH on property values are assessed as being more than minor, but not significant.
141. The evidence does not suggest that the effects on adjoining properties will be any greater in scale than average effects on dwellings located further away from the sites but within 500m distance. Research suggests that effects are unlikely to apply when dwellings are located further than 500m from the CEH sites.

142. Property value impacts attributed to the CEH sites are expected to be temporary effects limited to the duration of the CEH contracts.
143. If it was decided that any of the CEH sites should not be granted consent, then this will further reduce the concentration of households in CEH in the catchments, and this will in turn reduce adverse effects on property values.
144. Property value effects may be mitigated by consent conditions that help ensure that the appearance of the sites is maintained at a high standard and that any anti-social behaviour of clients is controlled where practicable.

Effects on Tourism

145. Several submitters have stated a preference that the application sites be used for tourist accommodation instead of CEH. The assessment notes that the ODP cannot require the sites to be used for tourist accommodation and that with changes in the economy and new development opportunities, there is no guarantee that the sites will return to tourist accommodation after CEH ceases.
146. The reduction in tourist accommodation capacity over time is a potential adverse economic effect of EH.
147. EH has grown in Rotorua during a period of suppressed demand mainly due to the loss of international guest arrivals. The data indicates that guest arrivals are unlikely to have been materially constrained by available capacity over the last two years.
148. Minor and short-term periods of constraint are likely to start appearing as international tourists return (and before the end of 2022), but the opportunity cost for tourist arrivals will be minor. Over the course of the next five years (and beyond) there are multiple ways that the market could respond to meet tourist demand and increase available capacity. This will mitigate the probability and scale of potential shortfalls going forward.
149. Relative to the permitted baseline, the effect of consenting up to 13 motels as CEH is expected to have a less than minor effect on tourist accommodation capacity.
150. EH collectively has had a more than minor impact on Rotorua's tourism reputation in the last 12 months and if this continues over several more years, the economic effects could be significant. Experiences in mixed EH is likely to be relatively more damaging on tourism reputation than the effects of dedicated EH establishments on the amenity of accommodation areas like Fenton Street.
151. Relative to the permitted baseline, CEH proposals are likely to have had only a minor effect on Rotorua's tourism reputation to date, and that effect will remain only minor if consented.
152. The assessment recommends removal of all signage and on-line presence that identifies the facilities as tourist accommodation for the duration of their contract. This will help mitigate the effect of tourists associating adverse effects of those sites with Rotorua's tourism industry.

Positive Economic Effects

153. The assessment concludes that it is likely (but not certain) that the use of a large number of tourist accommodation establishments as EH may have softened the total loss of employment in the Fenton Corridor catchment between 2020 and 2021. In other words, the employment

loss could have been even greater had all establishments still been operating as tourist accommodation just prior to Covid.

154. CEH is an activity that supports direct employment in Rotorua District (including working proprietors of the motels) and may support a similar or slightly greater number of total direct jobs than those businesses would have sustained as tourist accommodation in the current market, i.e., a minor positive employment effect.
155. A minor positive effect of EH-SNGs being used in Rotorua by non-local households is that it brings net additional household spend (commensurate with low-income households) to Rotorua that would not otherwise have been expected (or projected). This provides a boost in household final demand that may help offset the loss of international visitor spend in some sectors of the economy.

Recommended Conditions and other Actions

156. Sites contracted for CEH should not be identifiable as tourist accommodation – in person or online. Removing signage, websites and any presence on online booking platforms avoids tourists being able to associate any actual or perceived adverse environmental effects of those sites with Rotorua’s tourism industry and risking further damage to its tourism reputation.
157. At a strategic level (i.e., the way that the 13 sites are managed as a bundle), if MHUD are in a position to reduce the number of CEH contracts before the end of the 5 year consent period, then where practicable, priority should be given to releasing CEH that is in close proximity to tourist attractions, to help reduce any externality effects and further risk reputational damage. Following that, priority should be given to reducing the concentration of CEH (i.e., where two sites are close together). Reducing the concentration of CEH will assist in reducing cumulative effects.
158. If demand for CEH does reduce over the course of the consent period, then to improve the chances of being able to reduce the number of contracts (and concentration of establishments which have wider flow on economic and social benefits), the recommendation is to avoid incremental reductions in occupancy across all CEH contracts and instead, instead retaining fewer sites at the approved maximum occupancy.

Social Effects

159. Social effects are assessed in the statement of evidence of Rebecca Foy.
160. The assessment confirms there is a significant shortage of housing in Rotorua, as documented in the HBA, and a significant homelessness issue. EH has an important and necessary role in addressing these issues.
161. This assessment concludes that there are a range of both positive and negative social effects from the use of motels for CEH activities. The two key groups that will be affected are homeless people needing EH and the immediate neighbours and surrounding community of CEH.

People Needing EH

162. The social wellbeing effects for CEH clients are identified as positive, especially in comparison to the alternative living arrangements. The improved level of access to social and health support services and onsite security should provide positive effects. However, there are also

likely to be negative effects for some people, related to factors such as crowding, long lengths of stay, and being exposed to intimidating behaviour, violence and substance abuse.

163. The assessment identifies that it is essential that better options are provided to move clients through CEH faster, which means providing more housing supply. The resource consent process for the MHUD applications to be considered and decided by the Panel is limited in what it can do to improve housing options. There is, however, scope to achieve an improved living environment within the application sites through the imposition of appropriate conditions.

Immediate neighbours and the surrounding community

164. The social wellbeing effects for immediate neighbours and the surrounding community are assessed as more likely to be negative. The assessment by Ms Foy concludes that the applicant's AEE significantly underestimates the scale of these effects, due to adopting a permitted activity baseline of existing EH provision, none of which was lawfully established.
165. The assessment identifies that adverse social effects are being caused by significant concentrations of EH activity along Fenton Street. The assessment identifies that social effects on immediate neighbours and the surrounding community of CEH could be 'diluted' by providing EH in more dispersed locations, and that this could be achieved by declining to grant consent for some of the applications. An alternative may be to explore other options for providing EH in formats other than motels, through the provision of short-term relocatable housing or more permanent housing.

Recommended Conditions and other Actions

166. Beyond the core recommendation that dispersal of CEH / EH should occur, Ms Foy's assessment makes several specific recommendations on conditions (para 137) including:
- On-site safe dedicated play areas for children.
 - Landscaping and well-maintained grounds to blend in with the surrounding environment, softening security provisions and providing privacy screening.
 - Fencing with development of quality permanent or semi-permanent fencing on motel sites to blend in with the surrounding environment.
 - Removal of physical and online motel signage while being used for CEH.
 - Improved management of parking.
 - Security staff presence being highly visible.
 - Young people and children being located near to schools and recreation facilities.
 - Independent communication hub for CEH clients to register complaints and grievances to actioned in a co-ordinated fashion.
 - Community forum to enable local residents to gather regularly (in person or online) to provide and receive feedback on operational and long term issues.
 - On-going SIA to be undertaken by MHUD, with Council, input including:
 - An independent, confidential survey of the occupants EH clients to understand their lived experience and suggestions for improvements to the CEH and EH; and
 - Surveying the community to understand the range of impacts being experienced by both immediate neighbours and the wider community.
167. Several of these recommendations are consistent with the measures recommended by the Beca SIA.

168. Ms Foy recommends that a Social Impacts Management Plan (**SIMP**) be implemented by MHUD, with RLC input. The SIMP would first establish a baseline, followed by monitoring annually to evaluate the effectiveness of the social impact mitigation management measures.

Site Specific Effects

169. Site specific effects are assessed for each application in the Site Specific Assessment reports.

170. The scope of effects that are assessed are informed by relevant district plan objectives and policies, zoning, performance standards, and matters of discretion, as well as matters raised in submissions that relate directly to the site.

171. In each of the Site Specific Assessment reports, effects are categorised as:

- Character and amenity effects
 - External amenity
 - Internal amenity
 - Outdoor living space
 - Suitability for children/play space
 - Occupancy
- Transportation effects
 - Parking and access
 - Traffic generation
- Noise effects
 - Reverse sensitivity effects
 - Noise from emergency housing
- Effects on infrastructure
- Financial contributions

172. Several key issues from this assessment that are common across all of the applications are identified and discussed below.

Amenity Values

173. Under Section 2 of the RMA, “amenity values” means:

“...those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.”

174. The District Plan makes frequent reference to amenity in the Residential and Commercial Zone provisions. This is discussed further below in the context of the ODP objectives and policies. In general, ODP amenity outcomes are focussed on site layout, design and appearance of buildings, traffic management and mitigation of nuisance effects of noise, vibration, light, smoke, fumes, odours, or other sources of disturbance.

Character and Amenity Effects – External Amenity

175. For external character and amenity effects, the general conclusion is that effects will be less than minor as result of existing buildings and site development remaining largely unchanged.

176. Maintenance of buildings and landscaping, and keeping sites and street berms clear of rubbish, and removal of motel signage are recommended as conditions, expanding on the proposals included in the Site Management Plans (SMP) submitted with the applications.

Character and Amenity Effects - Internal Amenity

177. Most of the facilities do not provide a level of internal amenity equivalent to typical residential units due to small size and the lack of private or shared outdoor living space. Mitigating factors for this across the sites include the temporary nature of the activity, and that in most cases the surrounding area is well served with local amenities and social infrastructure.
178. A detailed assessment has been made of each of the sites of their suitability for children’s play space, with children seen as a vulnerable group within EH (See Evidence Ms Sarah Collins).
179. Ms Collins’ assessment finds that some of the CEH application sites have unacceptable play space provision for certain age groups of children, with potential detriment to a child’s development. Where this is the case, and there are no mitigating factors, conditions are recommended to restrict these age groups from staying in the CEH facilities.
180. For several of the sites, specific improvements to play space are recommended as conditions, to address specific issues.
181. As originally proposed, the maximum occupancy for each facility was its maximum occupancy as visitor accommodation, based on maximum bed numbers. Several submitters have raised concerns about occupancy levels, overcrowding, and the potential for this to cause spillover effects on the neighbourhood and surrounding community.
182. The applicant has recently stated an intention to reduce the maximum occupancy level across all of the application sites. This approach would reduce overall maximum occupancy by about 20%.
183. The s42A assessment has assessed the proposed occupancy against the Canadian National Occupancy Standard (**CNOS**). CNOS is used by Statistics NZ in the New Zealand Deprivation Index as an indicator of crowding. Applied to the application sites, the occupancy rates as proposed would result in crowding. To avoid crowding, there would generally need to be a limit of two people per bedroom.
184. Recommendations are made in each site specific assessment on occupancy levels based on CNOS, but also taking into account mitigating factors such as higher levels of on-site open space and access to other facilities.
185. A comparison between the original proposed occupancy, MHUD proposed reduction, and CNOS based assessment is shown the table below:

Name	CEH Occupancy (Max)	New CEH Occupancy (Max)	Actual Occupancy Past 18 months (Max)	Recommended Occupancy (Max)
Alpin Motel	142	120	98	120
Ann’s Volcanic Motel	39	31	17	26
Apollo Hotel Rotorua	117	98	75	89

Name	CEH Occupancy (Max)	New CEH Occupancy (Max)	Actual Occupancy Past 18 months (Max)	Recommended Occupancy (Max)
Ascot on Fenton	54	43	40	40
Emerald Spa Motel	93	93	51	68
Geneva Motor Lodge	52	41	22	30
Lake Rotorua Hotel	140	105	74	124
Malones Motel	66	42	44	40
Midway Motel	90	70	46	60
New Castle Motor Lodge	64	47	46	30
Pohutu Lodge Motel	58	42	41	42
RotoVegas Motel	108	80	66	63
Union Victoria Motel	58	56	46	44
Total	1081	868	666	776

186. This is an overall reduction of total occupancy of about 30% on that applied for but is also generally greater than the actual occupancy over the last 18 months. With these recommended occupancy levels, effects from overcrowding and potential for spill over effects are assessed as acceptable.
187. The assessment of the CEH at the Pohutu Lodge concludes that outdoor play space for children, on-site amenity may not be able to be mitigated to achieve an acceptable outcome. Additional information from the applicant on how the site is managed and any potential mitigation measures for the lack of outdoor shared open space and the lack of play space for children may be able to address these concerns.

Transportation

188. Several submitters have stated that due to a lack of off-street parking, CEH occupants were parking on the berms and causing damage.
189. Parking on berms is managed through Council Bylaws. Proposed conditions include a requirement that the SMP address parking allocation for visitors to reduce congestion on the street.
190. In general, transportation effects are acceptable. A reduction in occupancy will further reduce traffic effects.

Noise

191. Several submitters have raised concerns about increases in noise disturbance from in police sirens, motor vehicles, and noise from CEH occupants (yelling, late night parties, etc.).
192. The applicant proposes the implementation of the SMP to manage potential noise effects. Noise measures referred to in the SMP include not disturbing the “quiet and peaceful enjoyment” of

neighbours, and compliance with the noise limits of the District Plan. In general, noise effects are acceptable.

Infrastructure

193. The applications have been assessed by the Councils development engineering team and they have no concerns about infrastructure effects.

Financial Contributions

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

Cultural Effects

195. Two of the CEH applications are for sites near to the Whakarewarewa Village (Pohutu Lodge and Apollo Motel). The Village is recognised as an exceptional and unique cultural and historic place within the district, with a specific zoning of Residential 3. There are also several scheduled heritage features within the Village.
196. Several submissions have been made by village residents and businesses raising concerns about the localised social effects of CEH activities on various aspects of village life.
197. The ODP recognises the need to protect the village from effects of activities on adjacent land, but this refers specifically to noise, smoke, dust, vibration or traffic, and visual effects. A broader consideration of effects may be appropriate under Part 2 of the Act. The assessment concludes that a better understanding of these cultural effects is needed for a recommendation to be made.

Permitted Baseline Effects

198. At an aggregate level, the existing environment is not currently a reflection of permitted or consented activity, with many EH activities not having the required resource consents. This adds complexity in assessing the relevant social and economic effects of the proposed CEH on neighbours and the community.
199. At application site level, the permitted baseline or consented baseline are relevant considerations. These effects relate to the design and appearance of buildings and sites, and their physical properties such as noise, traffic and infrastructure effects. Effects from the permitted baseline can be disregarded in assessing effects of CEH activities.
200. The residential use of tourist accommodation is not a permitted activity. In general, the motel units do not meet permitted activity standards for density and outdoor living space. They were not designed for long term residential use by families, and do not have the same level of on-site amenity.

Conditions

Draft Conditions

201. Recommended draft conditions that address matters arising from the assessment of environmental effects are set out in Appendix 4. These are a starting point for consideration should the panel determine that consent should be granted to some or all of the applications.

202. These include:

- ‘Site Conditions’ that apply to individual CEH application sites including standard conditions, tailored conditions for site occupancy, and any other site specific considerations. Compliance is solely the responsibility of the facility operator.
- ‘Strategic Conditions’ that apply collectively across all CEH application sites, where compliance would be the responsibility of both the site operator and MHUD.

203. Imposition of these conditions can bring about tangible improvements to the quality of environment for CEH occupants, which will have flow-on benefits beyond the individual CEH sites.

204. The Section 42A Reporting Team will continue to review and refine these conditions to ensure a final recommendation on conditions is ready for the Panel to consider at the conclusion of the hearing.

Duration of Consent

205. The applications seek a consent duration of 5 years from commencement of the consent.

206. Several submissions seek a reduced duration to limit the duration of adverse effects.

207. The CEH have been operating without resource consent since July 2021, so there is some logic in considering a consent duration that applies from that date forward.

208. The economic evidence is that a need and demand for emergency housing will exist for at least 5 years. Need and demand should reduce over time from the provision of alternative housing. However, the CEH facilities may also be needed to take up demand as other (uncontracted) EH facilities are closed down.

209. A consent duration of 5 years from the date of commencement is therefore reasonable.

Consent Holder

210. The applications identify that the facility operator will be the consent holder. However, several of the proposed conditions to mitigate cumulative effects cannot practicably be implemented by individual facility operators and will require MHUD leadership and management as the contracting entity.

211. The proposed conditions therefore identify the facility operator and MHUD as consent holder.

Compliance and Enforcement

212. The draft conditions include advice notes that set out the obligations of the consent holders to comply with the conditions, and to meet the actual cost of Council monitoring and enforcement.

213. The draft conditions also include a condition requiring the payment of a bond to secure the performance of the conditions in the event of a failure by the Operator to achieve compliance to Council’s satisfaction. This bond will enable the Council to enter the site and arrange for any necessary remedial actions to be taken.

Conclusion on Effects

214. The most significant adverse effects identified are the cumulative social and economic effects caused by the excessive concentration of all EH in the Fenton Street Corridor. Decisions on

individual CEH applications do not provide an effective framework for managing these effects. A much broader public policy response is the most appropriate way forward, centred on providing suitable alternative housing supply.

215. At an aggregate level, when assessed against the permitted and consented baseline which excludes the non-consented EH facilities, the cumulative social and economic effects of the CEH are assessed as acceptable. However, this conclusion is contingent on the recommended conditions being complied with as set out Appendix 3.
216. At site level, effects are assessed as acceptable subject to the recommended conditions being complied with. This assessment also includes the conditions offered by the applicant, as well as those recommended by the Section 42A Reporting Team.

SECTION 104(1)(ab) MEASURES PROPOSED OR AGREED TO BY THE APPLICANT

As noted in the proposal description the Applicant has proposed or agreed to several measures including:

- SMPs offered as an *Augier* condition.
 - Recommendations in the Beca SIA to “improve the integration of the sites to the surrounding area” and to further minimise identified social impact.
 - A reduction in the occupancy of units from the occupancy originally proposed in the applications.
217. These measures can be taken into account in the Panel’s assessment of environmental effects under section 104(1)(ab) of the RMA.
218. Additional or refined proposals may be submitted in the applicant’s evidence. In particular, further details of the implementation of the Beca SIA recommendations would be useful.
219. Some of the recommendations in the Beca SIA (0800 number and community forum) cannot be effectively implemented by motel operators as they require a collective response by MHUD as the lead agency, as discussed earlier.
220. While SMPs were an ‘offered’ conditions by the applicant, the assessment of effects concludes that most if not all of the matters addressed in the SMP can be imposed validly as conditions under Section 108 of the RMA.

SECTION 104(1)(b) POLICIES AND PLANS

National Environmental Standards

221. There are no applicable National Environmental Standards.

Other Regulations

222. There are no other regulations under the RMA that are relevant to the CEH applications.

National Policy Statements

National Policy Statement on Urban Development 2020

223. The National Policy Statement for Urban Development (**NPS-UD**) 2020 sets out the objectives and policies for planning for well-functioning urban environments under the RMA.

224. Objective 1 and Policy 1 are relevant considerations in all urban planning decisions, including the Panel's decisions on MHUD's applications:

Objective 1: *New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.*

Policy 1: *Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:*

(a) have or enable a variety of homes that:

(i) meet the needs, in terms of type, price, and location, of different households; and

(ii) enable Māori to express their cultural traditions and norms; and

(b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and

(c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and

(d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and

(e) support reductions in greenhouse gas emissions; and

(f) are resilient to the likely current and future effects of climate change.

225. The housing crisis in Rotorua is a case where there is not the variety of homes available to meet the needs, in terms of type, price, and location, of different households. The Council's Housing Action Plan, including implementation of the MDRS under Plan Change 9 Housing for Everyone, are examples of planning decisions that are seeking to address this critical issue.
226. The provision of EH is a necessary component of meeting housing needs in Rotorua in the present and foreseeable future, but this should be implemented in a manner that is not detrimental to other people and communities being able to provide for their social, economic, and cultural wellbeing.
227. Notwithstanding the current over-concentration effects of EH, the Fenton Street corridor and its adjacency to the Central City does provide a location that has many of the qualities of a well-functioning urban environment with good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport. As noted in the AEE, this level of accessibility is a mitigating factor for some of site constraints.

Regional Policy Statement

228. The Bay of Plenty Regional Policy Statement, which applies to the Rotorua urban area, has no specific policies relevant to the CEH applications that have not been otherwise incorporated

into the District Plan. This includes Policy UG 8B: Implementing high quality urban design and live-work-play principles¹⁸.

District Plan Objectives and Policies

Strategic Direction

229. The Strategic Direction chapter is within Part 2 District Wide Matters. This chapter outlines the key strategic or significant resource management matters for the district.

Economic Development

230. The Economic Development Strategic Direction identifies the District Plan as having a key role in encouraging economic growth throughout the district. It enables investment in Rotorua's key economic drivers including tourism.

231. Tourism is recognised as follows:

*"Our district is one of the country's leading tourism centres, offering a wide variety of tourist accommodation and attractions including experiences featuring Māori culture, lakes, geothermal features and adventure opportunities. At any one time there can be 8,500-10,000 tourists in our district in addition to the base population. Projections suggest an overall increase in visits to Rotorua is anticipated. Cultural and sporting events are also major draw cards to our district. Many of the events focus on mountain biking, walking and running in the forests or around one or more of the lakes. The city is a preferred destination for major conferences, due to the Energy Events Centre and supporting hospitality facilities and infrastructure."*¹⁹

232. The Economic Direction objective is

*"Sustainable Rural, Residential, Industrial and Business Innovation Zones where activities contribute to the economic, social, cultural and environmental wellbeing and prosperity of the community."*²⁰²¹

233. The related tourism policy is:

*"Manage the environment to enable ongoing growth of tourism and recreational activities that support the social, cultural and environmental attributes that are valued by the community and contribute to the identity of Rotorua."*²²

234. The economic evidence is that EH as a whole may not have a significant adverse effect on tourist accommodation capacity. There are multiple ways that the market could respond to meet tourist demand and increase available capacity. However, there are significant risks to Rotorua's reputation as tourist destination, especially from mixed EH.

¹⁸ Part of Rotorua Lakes District is in Waikato Region, but this does not include any of the Rotorua Urban Area.

¹⁹ SDED-I1 Enable sustainable development and economic growth

²⁰ SDED-O1

²¹ Commercial Zones, where most Tourist Accommodation is located, are not listed in this objective. Reading the plan as a whole, including an advice note to the policy, this is a clear omission.

²² SDED-P4

235. On their own, the CEH proposals are likely to have only minor effects on tourism. On this basis, granting consent to the CEH applications is not contrary to the Economic Development Strategic Direction.

Urban Form and Development

236. The Urban Form and Development Strategic Direction identifies key issues influencing the policy framework for the 'Future Growth area'.
237. The 'Future Growth areas' are shown on District Plan Map 103 and shows specific 'Future Growth areas'. Therefore, the Urban Form and Development strategy mainly concerns residential growth and infrastructure issues in greenfield areas. Residential development in existing urban areas is barely addressed and commercial zones are not addressed.
238. The issues for the *economic and social well-being of the district* focus on the adverse effects of intensification on residential amenity and housing affordability, and enhanced lifestyle choice through provision of land for development enabling well-designed development and generally contributing to "social and economic wellbeing", assumed to be through growth in GDP and employment for investment in development.
239. The issues for provision of *safe and attractive residential spaces and sustainable infrastructure* focus on adverse effects of intensification (infill subdivision) and having plan provisions that maintain environmental and amenity values:

"Residential areas are expected to provide safe and attractive environments to live in, with space to give each household reasonable privacy and outlook. The District Plan anticipates that existing residential areas will continue to be efficiently used, with further infill subdivision, but is careful to ensure environment and amenity values are upheld through performance standards, rules, and subdivision standards."

240. The objective for 'Economic and social well-being of the district'²³ is

Sufficient land area suited for future urban and economic development that provides the residents of Rotorua with a range of lifestyle and development choices.

241. Related policies address land demand and broad mitigation of environmental effects²⁴.

242. The objectives for 'Provision of safe and attractive residential spaces' are

Subdivision, use and development consistent with the anticipated settlement pattern that maximises the efficient use of zoned and serviced urban land and is co-ordinated with the provision of cost effective infrastructure²⁵.

Sufficient and suitable land zoned for future urban development that provides the residents of Rotorua with a range of lifestyle and development choices²⁶.

²³ SDUD-01

²⁴ SDUD – P1-SDUD-P2

²⁵ SDUD-06

²⁶ SDUD-07

243. Related policies are limited to infrastructure issues²⁷ and development in future growth areas.
244. The applications for CEH are not inconsistent with the Urban Form and Development Strategic Direction, albeit that most of the provisions have little or no relevance. The CEH proposals do not change the physical characteristics of built form and site layout.

Plan Change 9

245. Plan Change 9 proposes no change to the Economic Development Strategic Direction.
246. Extensive changes are proposed to the Urban Form and Development Strategic Direction, replacing “Economic and Social Wellbeing of the District” with “Well Functioning Urban Environment”, reflecting the policy reset towards urban intensification, and housing choice and supply as priority.
247. “Provision of safe and attractive residential spaces and sustainable infrastructure” is replaced by “Quality environments”,

“This will change the amenity values appreciated by some people in existing neighbourhoods but may also improve amenity values for future generations, by enabling greater housing choice in the most accessible parts of Rotorua.”

248. New objectives are included as follows (mandatory objectives shown in bold):

Well-functioning urban environment

- SDUD-01** ***A well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future:***
- SDUD-02** ***A relevant residential zone provides for a variety of housing types and sizes that respond to—***
- i. housing needs and demand; and***
 - ii. the neighbourhood’s planned urban built character, including three storey buildings within the Residential 1 Zone and up to six storeys in the Residential 2 Zone.***
- SDUD-03** *There is at all times at least sufficient development capacity and land supply to meet expected demand for housing and business land over the short term, medium term and long term.*
- SDUD-04** *The primary focus for higher residential intensification and additional business or community services include areas:*
- a) within and adjacent to centres or employment opportunities;*
 - b) well-served by existing or planned public or active transport;*
 - c) where there is high demand for housing or for business land in the area, relative to other areas within the urban environment.*

Quality Environments

- SDUD-09** ***Urban development results in attractive, safe and healthy environments.***

249. Provision of CEH as sought in the applications is broadly consistent with this policy direction reset, in terms of it meeting housing needs and demand, and being located near to centres and public or active transport. However, this should be implemented in a manner that is not unduly detrimental to other people and communities being able to provide for their social, economic, and cultural wellbeing.

²⁷ SDUD-P15-SDUD-P18

250. The proposed new Quality Environments objective supports the recommended conditions.

Commercial Zones

251. Commercial Zones are included in Part 3 - Area - Specific Matters.

252. The Site Specific Assessments address the Commercial Zone objectives and policies for matters of a site specific nature.

Zones

253. Commercial Zones provide a hierarchy of commercial areas based on the role and catchment area of each. The City Centre is the principal commercial centre for the Rotorua District and is managed through a separate City Centre Zones chapter. There are six other zones in the hierarchy:

- Commercial 1 Zone - Ngongotahā Centre (COMZ-1)
- Commercial 2 Zone - Compact Commercial Centres (COMZ-2)
- Commercial 3 Zone - Neighbourhood Centres (COMZ-3)
- Commercial 4 Zone - City Entranceway Accommodation (COMZ-4)
- Commercial 5 Zone - City Entranceway Tourism (COMZ-5)
- Commercial 6 Zone - Southern Edge Commercial Centre (COMZ-6)

254. Four issues are identified, and summarised below as:

- Commercial Centre activities and services: To meet the day to day needs of residents within the local area, and for office and service employment
- The design and appearance of buildings: To make a place more attractive and inviting, and to maintain the amenity of adjoining residential zones
- Commercial activities located within Non-Commercial Zones: avoiding leakage into residential and industrial zones
- Reverse sensitivity

Relevant Objectives and Policies

Commercial centres

COMZ - 01 A hierarchy of vibrant compact commercial and tourism centres that efficiently service and support the needs of the surrounding community and nationally significant tourism sector.

*COMZ-P3 Neighbourhood Centres
Provide for small neighbourhood centres within easy walking distance that support the day to day needs of the surrounding residential area.*

*COMZ – P4 Entranceway Accommodation and Tourism
Provide for the development of tourism enterprises and Māori cultural experiences that maintains or enhances the amenity and vibrancy along the northern and southern city entranceways to the inner city, as shown on Planning Map 206.*

255. The COMZ3 Zone applies only to the Apollo Motel.

256. The existing tourist accommodation on the site is a non-complying activity and does not support the day to day needs of the surrounding residential area. The use of the site for CEH is also inconsistent with the same policy. Residential units are generally a permitted activity in COMZ3, other than units at ground level which are non-complying. This is to ensure that there is

provision of local convenience retail. While the CEH is contrary to this policy, there is no real change on the existing degree of policy non-compliance.

257. The COMZ4 Zone along Fenton Street applies to ten of the 13 applications.
258. The COMZ4 Zone provides for the development of tourism enterprises as a permitted activity. The policy is to provide for the development of tourism enterprises, and this is achieved through tourist accommodation generally having permitted activity status.
259. The conversion of tourist accommodation to residential use is a controlled activity if all performance standards are met, and a restricted discretionary activity if they are not. None of the 'matters of control' or 'matters of discretion' for conversion require consideration of the economic or any other effects of removing tourist accommodation from the city's pool of tourist accommodation.
260. On this basis, the proposed CEH activity (use of tourist accommodation) is not contrary to the centres objectives and policies.

Design and appearance of buildings

COMZ - 02 *Commercial activities that do not adversely affect the character, safety and efficiency of commercial areas.*

COMZ – P6 *Manage the design of activities within commercial centres to maintain or enhance the character, public safety and efficient functioning of the transport network.*

261. As assessed in the Site Specific Assessments, the CEH activities generally have a less than minor effect on the transport network. However, based on objective COMZ-02, Policy COMZ-P6 was probably intended to read:

“Manage the design of activities within commercial centres to maintain or enhance ~~the~~ character, public safety, and efficient functioning of the transport network.”

262. On that interpretation:

- The 'design of the activity' (i.e. Design and appearance of buildings) is generally unchanged for each site
- Public safety is appropriately managed through the Site Management Plan.
- The activities will have an acceptable effect on the efficiency of the transport network.

263. On this basis, the proposed CEH activity is not contrary to the objective and policies.

Design and appearance of buildings

COMZ - 03 *Commercial buildings and activities designed and operated in a manner that avoids adverse effects on the amenity of residential zones.*

COMZ – P7 *Manage the effects and design of activities to ensure that the amenity of adjoining residential properties is not adversely affected.*

264. As assessed in the Site Specific Assessments, the CEH activities generally have an acceptable effect on the amenity of residential zones.

265. The scope of amenity considerations is limited by the need to be within the scope of 'Design and appearance of buildings'. No significant change will be made to the design and appearance of buildings. Removal of signage and additional landscaping as recommended will enhance the design and appearance of buildings. The amenity of adjoining residential properties will not be adversely affected by these built environment effects.

266. The COMZ4 objectives and policies do not address environmental outcomes for residential activities within the zone.
267. On this basis, the proposed CEH activity is not contrary to the design and appearance objective and policies.

Reverse Sensitivity

- COMZ - 05 *Subdivision, use and development that enables the continued efficient operation of existing development and activities.*
- COMZ – P4 *Manage the location and design of new subdivision, use and development within each zone to avoid adverse reverse sensitivity effects on existing activities.*

268. Reverse sensitivity is the vulnerability of an established land use (such as state highways) to complaints from a newly establishing, more sensitive land use (for example, new houses and other noise-sensitive activities)²⁸.
269. As assessed in the Site Specific Assessments, the CEH activities generally have no greater *reverse sensitivity effects on existing activities* than the visitor accommodation activity. On this basis, the proposed CEH activity is not contrary to the reverse sensitivity objective and policies.

Plan Change 9

270. Plan Change 9 enables residential development in the Commercial and City Centre Zones due to their accessible location relative to amenity. The primary method of doing this is by enabling a greater building height through more permissive height standards to accommodate a wider range of activities that are supported by a greater density.
271. The Plan Change also supports quality design through amendments to the provisions relating to the assessment of the design of buildings and additions.
272. The COMZ3 Zone retains the same name. There is a minor change to the zone description, removing the building scale limitation and reiterating that residential activity should be above ground floor.
273. The COMZ4 Zone retains the same name. The zone description changes to recognise inclusion of all forms of housing at high densities and to be clearer about what was already envisaged:

“Tourism accommodation and high density residential concentrated along city entranceways and arterial routes such as Fenton Street and Lake Road. The Commercial 4 zone provides for the continued operation and development of tourist accommodation and supporting commercial activities, as well as all forms of residential, at high densities.”

274. The issues statement includes:

“A high quality frontage to the street will be achieved through encouraging activities, building lobbies and entrances to be designed and located to activate and engage with the street. Where residential is provided at ground floor, it should be designed and located to provide passive surveillance of the street and privacy for residents. Quality on-site living environments are expected for residential development.”

²⁸ Waka Kotahi, Guide to the management of reverse sensitivity effects on the state highway network

Resource consent is required for new buildings, or for external alterations to buildings in most of the commercial zones, to enable a qualitative assessment of development proposals and ensure that good design outcomes are achieved.”

275. Changes to objectives and policies reinforce the environmental outcomes of design quality and introduce new objectives and policies for residential activity within the context of Design and Appearance of Buildings, with the principal change being:

<i>Design and appearance of buildings</i>	
<i>COMZ-03A</i>	<i>Residential development provides healthy, safe, and quality living environments for residents.</i>
<i>COMZ -P12</i>	<p><i>a) Require the design of all buildings to positively contribute to the safety and attractiveness of the street by:</i></p> <ul style="list-style-type: none"> <i>i. Within commercial centres, require development to maximise street activation, building continuity along the street, pedestrian amenity and safety;</i> <i>ii. Within other commercial areas, require buildings to orientate to front the street, locate active uses on the street edge, including building entrances, lobbies, and commercial activities where proposed.</i>
<i>COMZ – P13</i>	<p><i>b) Require the design of residential buildings to achieve quality on site living environments for people by providing</i></p> <ul style="list-style-type: none"> <i>i. Private open space that is functional and accessible;</i> <i>ii. A reasonable level of visual privacy and outlook;</i> <i>iii. Safe and convenient pedestrian access to residential units from the street ; and</i> <i>iv. Where located outside of commercial centres:</i> <ul style="list-style-type: none"> <i>i. Opportunities for onsite landscaping; and</i> <i>ii. Opportunities for passive surveillance of the street, while allowing privacy for residents.</i>

276. Several rule changes are proposed, and although none of these changes have immediate effect, they indicate the move away from controls on density balanced by a greater focus on design:

- Removing site coverage and household density performance standards;
- New performance standards requirements for residential unit design and landscaping.
- New height limits

277. Plan Change 9 does not introduce provisions that significantly affect the assessment of the CEH applications, although confirm that conversion of tourist accommodation is contemplated and that the plan focus is on design and appearance of buildings as a key consideration, lending support to the recommended conditions.

Residential Zones

278. Residential Zones are included in Part 3 - Area - Specific Matters.

279. The Site Specific Assessments address Residential Zone objectives and policies for matters of a site specific nature.

Zones

280. Across the district there are five residential zones with objectives, policies and rules that address the amenity values and character each zone.

- Residential 1 Low Density living RESZ1
- Residential 2 Medium density living RESZ2
- Residential 3 Ōhinemutu, Whakarewarewa, Ngāpuna RESZ3
- Residential 4 Lakeside settlement RESZ4
- Residential 5 Residential lifestyle (Wharenui Road area) RESZ5

281. CEH application sites are located in the RESZ1 and RESZ2 Zones.

282. Three issues are identified, summarised as follows:

- Activities in Residential Zone: Amenity that is primarily residential in character, peaceful and safe, and mitigating the effects of density and loss of open space
 - Residential 1 – maintaining open space around buildings and passive surveillance
 - Residential 2 – offsetting higher density with high quality design
- The design, layout and appearance of residential sites – focussed on height, yard distances, site coverage, on-site parking and turning, fence height and signage, and high quality urban design to promote amenity, security and the effects of infill.
- Reverse Sensitivity

Relevant Objectives and Policies

Activities in a Residential Zone

RESZ - 01 A level of amenity that provides residents with:

- 1. A northerly outlook*
- 2. Side and rear yards that provide aural and visual amenity*
- 3. Residential levels of noise*
- 4. Safe parking and turning areas where required*
- 5. Street surveillance*
- 6. Orientation to maximise energy efficiency*

RESZ – P1 Require yards and protection of daylight planes to provide for privacy and outlook to reduce the adverse effects of noise between household units and the character of the streetscape.

RESZ-P2 Manage the siting of household units on adjoining land to protect the privacy, outlook and amenity of residents.

RESZ-P3 Require on-site outdoor space for each household unit.

RESZ-P4 Ensure the design and location of access, on-site parking and turning areas do not detract from the safe and efficient functioning of the transport network or dominate the streetscape.

RESZ-P5	<i>When considering a resource consent application, require the landscaping to mitigate the adverse effects of activities and to enhance the character and amenity of the zone.</i>
RESZ-O2	<i>The character and amenity values of the residential zones are maintained and enhanced.</i>
RESZ – P7	<i>Maintain the following qualities and characteristics of the Residential 1 zone</i> <ol style="list-style-type: none"> <i>1. Low density residential areas</i> <i>2. A mix of single and two storey buildings</i> <i>3. A variety of building design and materials</i> <i>4. Balance between the built and natural elements of the environment</i> <i>5. A sense of space around buildings</i> <i>6. Space enhanced by on-site landscaping and trees within the road reserve</i> <i>7. Low levels of noise</i> <i>8. Low traffic levels.</i>
RESZ-P8	<i>Maintain the following qualities and characteristics of the Residential 2 zone:</i> <ol style="list-style-type: none"> <i>1. Medium density residential areas</i> <i>2. A mix of single storey and two-storey buildings</i> <i>3. Smaller household units and apartment style living</i> <i>4. Limited outdoor space</i> <i>5. Built elements dominate the environment</i> <i>6. Much of the space around buildings is taken up by hard surfacing for car parking and turning</i> <i>7. Reliance on street trees to soften the built environment.</i>
RESZ-O3	<i>Non-residential activities in residential zones that are domestic in scale and character and do not have an adverse impact on the amenity values and character of the residential zones, or the vitality and viability of the City Centre or Commercial zones</i>
RESZ-P13	<i>Manage the location and design of buildings for non-residential activities to ensure that the activity is in keeping with the appearance and character of the residential zone sought in RESZ-O2 and Policies RESZ-P7 to RESZ-P11.</i>
RESZ-P14	<i>Avoid adverse effects of noise, vibration, light, smoke, fumes, odours, or other sources of disturbance that are detrimental to the amenity of the residential zones.</i>

283. The objectives and policies focus entirely on the design and layout of site development. The proposed CEH activities propose little of no change to the physical properties of design and layout of site development and are not inconsistent with the activity objectives and policies.

284. On site open space does not meet the expected environmental outcomes, but this is mitigated to a degree by the short term of occupation and access to off-site amenities. The assessment of effects concludes that these internal amenity effects are acceptable with reduced levels of occupancy and restrictions on certain age groups of children being resident on the sites.

The design, layout and appearance of residential sites

RESZ - 06	<i>Residential site design and development in a sustainable manner that promotes and maintains the character of the zone, residential amenity and community safety</i>
RESZ-P20	<i>Encourage and promote buildings on residential sites that:</i> <ol style="list-style-type: none"> <i>1. Have sufficient space to provide private, useable outdoor open areas for garden and amenity space</i> <i>2. Do not intrude into side, rear, or front yards</i> <i>3. Maximise access to sunlight and daylight to north facing living rooms</i> <i>4. Provide car parking and turning areas that are separate from outdoor garden and amenity space and do not dominate in the streetscape</i>
RESZ – P21	<i>Encourage site and building design that provides:</i>

	<ol style="list-style-type: none"> 1. <i>Passive surveillance of public space</i> 2. <i>Front yards that are free of buildings and not screened by high fencing</i>
RESZ-P22	<i>Residential property design and development that ensures reverse sensitivity effects on network utilities and other infrastructure do not occur.</i>
RESZ-P23	<p><i>Provide for residential development to occur in a manner that:</i></p> <ol style="list-style-type: none"> 1. <i>Does not detract from the surrounding residential amenity</i> 2. <i>Provides for a range of residential opportunities</i> 3. <i>Provides for access by a range of modes of transport</i> 4. <i>Provides recreation and amenity areas.</i>

285. These objectives and policies also focus on the design, layout and appearance of sites. The proposed CEH activities propose little or no change to the physical properties of design and layout and appearance of site development and are not inconsistent with the design, layout and appearance of residential sites activity objectives and policies. The policies give support to the recommended conditions on occupancy and play space.

<i>Reverse Sensitivity</i>	
RESZ-03	<i>Non-residential activities in residential zones that are domestic in scale and character and do not have an adverse impact on the amenity values and character of the residential zones, or the vitality and viability of the City Centre or Commercial zones</i>
RESZ-26	<i>Manage the location and design of new subdivision, use and development within each zone to avoid adverse reverse sensitivity effects on existing activities.</i>

286. The non-residential components of the activity (on-site support services and security) do not have an adverse impact on the amenity values and character of the residential zones.

Plan Change 9

287. The Residential 1 zone is renamed Medium Density Residential Zone and is amended to incorporate the MDRS and related amendments.

288. The proposed Zone Description reflects the shift away from low density residential:

“Areas used predominantly for residential activities with moderate concentration and bulk of buildings, such as detached, semi-detached and terraced housing, low-rise apartments, and other compatible activities. A medium density residential built character is expected, comprising residential buildings generally up to three storeys, surrounded by open space”.

289. The proposed objectives and policies have an increased emphasis on quality design as a result of there being a greater number of people on site and living spaces being generally more compact, and include:

- Increased housing supply and choice with medium density character
- Attractive and safe streets and public open spaces, including landscaping and passive surveillance;
- healthy, safe and quality living environments for residents, including open space that has access to sunlight, visual privacy and outlook, and on site landscaping
- supported by adequate infrastructure and services
- supports the use of public and active transport

290. Mandatory new policies for the Residential 1 Zone are:

Activities in the Residential 1 Zone - Medium Density Residential Zone

- RESZ-P1 Enable a variety of housing typologies with a mix of densities within the zone, including 3-storey attached and detached dwellings, and low-rise apartments.*
- RESZ-P3 Encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.*
- RESZ-P4 Enable housing to be designed to meet the day-to-day needs of residents.*

291. The MDRS provides for three, three storey residential units to be constructed as a permitted activity if they comply with the density standards relating to height, height in relation to boundary, setbacks, building coverage, outdoor living space, outdoor space (per unit), windows to street and landscaped areas.

292. These provisions alter the permitted activity baseline between CEH sites and adjoining properties and in all cases are significantly less restrictive.

293. The Residential 2 zone is renamed High Density Residential Zone and is amended to incorporate the MDRS and related amendments.

294. The proposed Zone Description reflects the shift from medium to high density residential:

“Areas with good accessibility to commercial activities, public open space and community services, used predominantly for high density residential activities such as apartments, and other compatible activities. A high density residential built character is expected, comprising residential buildings generally up to six storeys.”

295. Extensive changes to objectives and policies focus on:

- creation of neighbourhoods with a high density residential built character;
- attractive and safe streets and open spaces, including landscaping and passive surveillance;
- healthy, safe, and quality living environments for residents, including private open space, privacy and outlook, and landscaping
- adequate infrastructure and service
- supporting the use of public and active transport, including on site cycle storage

296. Mandatory new policies for the Residential 1 Zone are:

Activities in the Residential 2 Zone – High Density Residential Zone

- RESZ-P10 Enable a variety of housing typologies with a mix of densities within the zone, including attached and detached dwellings and apartments.*
- RESZ-P12 Encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.*
- RESZ-P13 Enable housing to be designed to meet the day-to-day needs of residents.*

297. Plan Change 9 also proposes to increase the height limit for the High Density Zone to 19.5m to enable the construction of six storey buildings in this zone.

298. Plan Change 9 changes to the Residential Zones do not introduce provisions that significantly affect the assessment of the CEH applications, although confirm that the plan focus is on design and appearance as a key consideration, lending support to the recommended conditions.

Conclusion on District Plan Objectives and Policies

299. On their own, the evidence is that CEH proposals are likely to have a minor effect on tourism. On this basis, granting consent to the CEH applications is not contrary to the Economic Development Strategic Direction which identifies tourism as key driver of the economy.
300. The applications for CEH are not inconsistent with the current Urban Form and Development Strategic Direction, albeit that most of the provisions have little or no relevance beyond greenfield land supply and servicing.
301. The CEH activities are not contrary to the Commercial Zone and Residential Zone objectives and policies which are strongly focused on design and appearance of buildings. The CEH proposals do not change the physical characteristics of built form and site layout. Fundamentally, CEH facilities are residential activities that are generally enabled by the ODP. Conversion and re-purposing of motels for residential use is clearly contemplated by the ODP, but this requires a quality outcome to be delivered, appropriate to residential use.
302. Plan Change 9 introduces a policy reset towards urban intensification, and far wider housing choice and increasing supply as a public policy priority. Provision of CEH as sought in the applications is broadly consistent with this policy direction reset, in terms of it meeting a demonstrable housing need and demand and being located near to centres and public or active transport. However, CEH activity should be implemented in a manner that is not unduly detrimental to other people and communities being able to provide for their social, economic, and cultural wellbeing.
303. On this basis, the proposed CEH activities are not contrary to the ODP Strategic Direction, and objectives and policies of the Commercial Zones and Residential Zones, and the provisions of Plan Change 9.

Other Matters

Building Regulations

304. The Council has lodged a request for a 'determination' to the Ministry of Business, Innovation and Employment (MBIE) for the Ashleigh Court Motel at 337 Fenton Street. A copy of the request is included in Appendix 4. The request was lodged and accepted on 23 February 2022. Ashleigh Court Motel is one of a number of motels being used for EH without resource consent.
305. Council believes that the use of this motel for emergency housing is more akin to a multi-unit dwelling (housing) rather than community service (communal residential), as defined in the Building Act regime, when assessed against the Building Regulations 1992, Schedule 1, A1 - classified uses.
306. This is regarded as a test case to assist Council in its monitoring and enforcement responsibilities under the Building Act 2004. While each situation will be site specific and the determination will not be binding on other owners, Council hopes that the decision will provide valuable guidance on the statutory requirements under the Building Act and how the findings may be applied to similar sites/activities.
307. The Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 that are used to categorise the type of use for all or part of the building do not have clear guidance on when a building's accommodation is no longer considered transient (SA – sleeping

accommodation - motels) and has moved to a more permanent classification such as multi-unit dwellings (SR – sleeping residential – attached dwellings).

308. The request for determination has been made on the basis that long term occupants of the premises are housed in separate self-contained units and are living as a single household. On this basis a classification of multi-unit dwelling would seem appropriate and therefore sleeping residential (SR).
309. The requirements of the Building Code for SR are more onerous in relation to;
- G2 Laundering;
 - G3 Food Preparation and Prevention of Contamination; and
 - G6 Airborne and Impact Sound.
310. There have been recent fires in motels providing emergency housing. Many of the older motel building stock have a 'bell in one' system that met the compliance requirements when installed. Existing use rights then apply until there is a change of use or major alteration that would then trigger a review of the adequacy of existing safety and amenity provisions associated with the building.
311. If it is determined by MBIE that there is a change of use, then the upgrade provisions of the Building Act may result in an upgrade to existing warning systems to provide early warning in case of fire.
312. The indicated date for the draft MBIE determination to be available was 'towards the end of September 2022'.²⁹
313. There is no indication as to when the final MBIE determination will be available as each party has the ability to submit on the draft before the final determination is issued.

104D PARTICULAR RESTRICTIONS FOR NON-COMPLYING ACTIVITIES

314. A consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either:
- the adverse effects of the activity on the environment will be minor; or
 - the application is for an activity that will not be contrary to the objectives and policies of the relevant plan
315. The conclusion on environmental effects is that adverse effects of the CEH activities on the environment will be minor if the recommended conditions of consent are imposed and are fully complied with. The particular challenge in this case is to be able to isolate the effects of the proposed CEH activities from the wider EH activities that are currently operating without consent.
316. The conclusion on objectives and policies is that CEH activities are not contrary to the ODP Strategic Direction, and objectives and policies of the Commercial Zones and Residential Zones, and the provisions of Plan Change 9.
317. On this basis, the tests of Section 104D are met and the Panel is able to consider whether or not to grant or to refuse consent.

²⁹ Email Darrell Holder Manager Building Services, Planning & Development Solutions 9 September 2022

RECOMMENDATION

318. The recommendation is that resource consent be granted to 11 applications for CEH, subject to the conditions set out in Appendix 3:

- Alpin Motel
- Ann's Volcanic Motel
- Ascot on Fenton
- Emerald Spa Motel
- Geneva Motor Lodge
- Lake Rotorua Hotel
- Malones Motel
- Midway Motel
- New Castle Motor Lodge
- RotoVegas Motel
- Union Victoria Motel

319. For two of the applications, further information is needed for a recommendation to be made:

- Apollo Hotel Rotorua: information on cultural effects;
- Pohutu Lodge Motel: information on cultural effects, outdoor open space and children's play space.

Appendix 1

From: [Alice Blackwell](#)
To: [Bethany Bennie](#); [Craig Batchelar](#)
Cc: [Charlotte MacDonald](#)
Subject: RE: Occupancy Numbers
Date: Monday, 12 September 2022 9:42:50 am
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Kia ora Beth and Craig,

The reductions are influenced by the type of beds in the units. The initial maximum was based on every bed in every unit at maximum capacity – i.e. every double bed would have two people in it, but under this new proposed maximum, where there is more than 1 double bed in a room, only one bed has been counted as sleeping two people – basically all other beds are only one person per bed. Even with this reduction (as you will also note) the actual number of people staying on each site is well below the new proposed maximum numbers. The rooms being used by Service Providers are also now being counted as operations rooms – so this also impacts the maximum numbers as well.

Hope this clarifies this for you,

Kind regards

Alice Blackwell

Alice Blackwell

Senior Planner



Mobile: 027 462 5769

Reception: 04 470 6105

Level 11, Cornerstone House, 36 Customhouse Quay, Wellington 6011

PO Box 2874, Wellington 6140

Proud supporters of KidsCan Charitable Trust

Our office locations: [Whangarei](#) | [Auckland](#) | [Hamilton](#) | [Tauranga](#) | [Rotorua](#) | [New Plymouth](#)

[Napier](#) | [Palmerston North](#) | [Wellington](#) | [Nelson](#) | [Christchurch](#) | [Dunedin](#) | [Queenstown](#)

All of our emails and attachments are subject to [terms and conditions](#).

From: Bethany Bennie <Bethany.Bennie@boffamiskell.co.nz>

Sent: Friday, 9 September 2022 1:07 PM

To: Alice Blackwell <ablackwell@propertygroup.co.nz>; craig batchelar <craig@cogitoconsulting.nz>

Cc: Charlotte MacDonald <Charlotte.MacDonald@boffamiskell.co.nz>

Subject: RE: Occupancy Numbers

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thanks for this Alice, it's really helpful.

The change in occupancy rate is not a standard percentage reduction across all motels, are you able to tell us the reasoning behind this?



Bethany Bennie | Planner | Senior Professional

E: bethany.bennie@boffamiskell.co.nz | D: +64 7 927 5748 | LEVEL 5 | 35 GREY STREET | TAURANGA 3110 | NEW ZEALAND

**BOFFA
MISKELL**

VISIT OUR > [Website](#) | [Twitter](#) | [Facebook](#) | [Instagram](#)

WHANGĀREI | AUCKLAND | HAMILTON | TAURANGA | WELLINGTON | NELSON | CHRISTCHURCH | QUEENSTOWN | DUNEDIN

Boffa Miskell is proudly a Toitū net carbonzero® certified consultancy, [learn more>](#)

From: Alice Blackwell <ablackwell@propertygroup.co.nz>

Sent: Friday, 9 September 2022 11:49 am

To: craig batchelar <craig@cogitoconsulting.nz>; Bethany Bennie <Bethany.Bennie@boffamiskell.co.nz>

Subject: Occupancy Numbers

Good morning,

Earlier in the week you both mentioned that it would be helpful to gain a better understanding of the occupancy numbers in the CEH motels. Please find attached an updated occupancy number spreadsheet. In an effort to help address potential effects of the proposal, HUD are likely to agree to lowering the maximum capacity (in terms of CEH occupants) on each site to the numbers in the purple column. I note that CEH will therefore have less capacity than if the site were to operate as tourist accommodation.

I am happy to discuss this with you further.

Kind regards

Alice Blackwell

Senior Planner



Mobile: 027 462 5769

Reception: 04 470 6105

Level 11, Cornerstone House, 36 Customhouse Quay, Wellington 6011

PO Box 2874, Wellington 6140

Proud supporters of KidsCan Charitable Trust

Our office locations: [Whangarei](#) | [Auckland](#) | [Hamilton](#) | [Tauranga](#) | [Rotorua](#) | [New Plymouth](#)

[Napier](#) | [Palmerston North](#) | [Wellington](#) | [Nelson](#) | [Christchurch](#) | [Dunedin](#) | [Queenstown](#)

All of our emails and attachments are subject to [terms and conditions](#).

This electronic message together with any attachments is confidential. If you receive it in error: (i) you must not use, disclose, copy or retain it; (ii) please contact the sender immediately by reply email and then delete the emails. Views expressed in this email may not be those of Boffa Miskell Limited. **Electronic Data.** By accepting or using electronic data files provided by Boffa Miskell Limited, you acknowledge and agree that (i) The purpose for which the files were prepared may differ from the purpose that you intend to use the files, and Boffa Miskell makes no representation that the files are suitable for your intended use; (ii) Boffa Miskell gives no representation as to the accuracy, completeness or correctness of the information in the files. You acknowledge that it is your responsibility to confirm all measurements and data in the files; (iii) The provision of the files does not transfer any copyright or other intellectual property rights in the files or any information contained therein. All references to Boffa Miskell shall be removed if any information in the files is copied or altered in any way; and (iv) To the full extent permitted by law, Boffa Miskell accepts and shall have no liability whatsoever (including in negligence) for any loss, damage or liability arising from the receipt or use of the files. This e-mail message has been scanned for Viruses and Content.

Occupancy Numbers for CEH December 2021– August 2022

				New MAX			15/12/21	15/12/21	7/02/22	7/02/22	30/03/22	30/03/22	27/04/22	27/04/22	23/05/22	23/05/22	30/06/22	30/06/22	1/08/22	1/08/22	30/08/22	30/08/22	Comment
	Motel	Provider	Contracted Units		Max No of Occupants	HSP UNITS	UNITS	PEOPLE	UNITS	PEOPLE	UNITS	PEOPLE	UNITS	PEOPLE	UNITS	PEOPLE	UNITS	PEOPLE	UNITS	PEOPLE	UNITS	PEOPLE	
1	Alpin Motel	Visions	40	120	142	0	40	74	27	69	31	79	36	98	31	83	36	81	32	85	29	77	
2	Ann's Volcanic	Emerge	10	31	39	1	9	10	9	12	8	11	8	12	9	17	8	11	8	13	7	9	Unit 9 used for Ops (Sleeps up to 3)
3	Apollo Hotel	WERA	39	98	117	0	39	56	33	67	26	60	33	62	39	73	39	75	35	59	36	61	
4	Ascot on Fenton	WERA	14	43	54	0	14	33	13	34	13	34	14	36	13	32	13	37	13	38	14	40	
5	Geneva Motor Lodge	Emerge	14	41	52	1	13	17	11	22	11	19	12	22	6	13	6	13	5	7	7	13	Unit 2 used for Ops & 1 unit used for Emergency Placements
6	Lake Rotorua Hotel	Visions	38	105	140	2	36	63	33	74	32	73	31	74	26	61	26	51	33	68	29	56	Units 1 & 2 used for Ops
7	Malones Spa Motel	Visions	20	42	66	2	18	44	13	29	17	37	17	35	14	30	16	30	14	29	19	39	Units 201 & 214 used for Ops.
8	Midway Motel	Emerge	15	70	90	1	14	51	14	52	11	42	7	27	7	32	11	38	11	35	13	40	Unit 15 used for Ops (Sleeps up to 6)
9	Newcastle Motor Lodge	Visions	16	47	64	1	15	31	13	32	12	34	11	32	12	38	11	31	14	46	12	37	Unit 101 used for Ops (Sleeps up to 4)
10	Pohutu Lodge	Visions	14	42	58	1	13	36	11	37	12	41	11	35	11	39	12	39	13	40	13	38	Unit 1 used for Ops (sleeps up to 5)
11	Rotovegas	WERA	27	80	108	0	27	66	23	64	23	52	25	54	23	50	25	57	21	47	21	47	Toko C used for ops. Repairs to the room that suffered fire & 5 other rooms await remediation.
12	Union Victoria	Visions	20	56	78	1	19	40	16	46	11	31	12	31	8	25	8	20	14	37	15	40	Unit 9 used for Ops, 1 room Emergency Placements
13	Emerald Spa	Visions	30	93	99	0									0	0	0	0	27	48	28	51	1 Unit used for Onsite Manager's residence.
			297	868	1107	10	257	521	216	538	207	513	217	518	199	493	211	483	240	552	243	548	

Appendix 2

APPENDIX 2 - ACTIVITY STATUS FOR CEH WHERE ASSESSED AS "HOUSEHOLD UNITS"

ZONING

1. The zoning of the application sites under the ODP varies as follows:
 - (a) Seven application sites are entirely in the Commercial 4 Zone - City Entranceway Accommodation Zone (**COMZ4**) on Fenton Street.
 - (b) One application site is entirely in the Commercial 3 Zone - Neighbourhood Centres (**COMZ3**).
 - (c) Two application sites are entirely in the Residential 2 - Medium Density Residential Zone (**RESZ2**).
 - (d) Two application sites are in the COMZ4 Zone on Fenton Street but also extend into the adjacent residential zone being the RESZ2 Zone.
 - (e) One application site is in the COMZ4 Zone on Fenton Street but also extends into the adjacent residential zone being the Residential 1 Low Density Residential Zone (**RESZ1**).

POLICY OVERLAYS AND FEATURES

2. There are no specific policy overlays or features on the planning maps that affect any of the application sites.

ACTIVITY STATUS IN THE CITY ENTRANCEWAY ACCOMMODATION ZONE (COMZ4)

3. The following facilities which are the subject of CEH applications are entirely in the COMZ4 Zone:
 - (a) Alpin Motel;
 - (b) Emerald Spa Motel;
 - (c) Geneva Motor Lodge;
 - (d) Malones Motel;
 - (e) Midway Motel;
 - (f) Newcastle Motor Lodge; and
 - (g) Pohutu Lodge.

Zone Description

4. The COMZ4 Zone is described 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.”¹

Household Units

5. “Household Units” are a permitted activity in the COMZ4 Zone where compliant with Performance Standards for height, yards, site coverage, household unit density, household unit design, and parking and access².
6. A ‘household unit’ is defined as: *“any building, part of a building or vehicle, whether temporary or permanent, that is occupied as a residence...”*³
7. The CEH activity is temporarily occupying a building as residences and falls within this activity category.
8. The density performance standard for the COMZ4 Zone is a maximum of *‘one household unit per 450m² net site area’*⁴. All the emergency housing proposals in the COMZ4 Zone exceed the density performance standard. Non-compliance with this rule is a Restricted Discretionary Activity.
9. The household unit design performance standard requires minimum outdoor living space, storage, and heating and ventilation for each unit to be achieved⁵. Few of the emergency housing units will comply with these Performance Standards. Non-compliance with the performance standards is a Restricted Discretionary Activity.
10. Some of the existing buildings do not meet some of the Performance Standards for height and yard setbacks. Resource consents are already in place for these building non-compliances, and this is not a material consideration.

¹ ODP Part 3: Area-Specific Matters, Zones, Commercial Zones Introduction

² ODP Part 3: Area-Specific Matters, Zones, Commercial, Rules, COMZ-R32 Household units

³ ODP Part 1: Introduction and General Provisions, Interpretation, Household Unit.

⁴ ODP COMZ-S4 Household unit density. The performance standard does not state whether this is a minimum or a maximum standard. Other Performance Standards in the ODP refer mostly to ‘minimum site area per household unit’ and this is assumed to also be the intention for the COMZ4 Zone.

⁵ ODP COMZ-S5 Household unit design – new buildings

11. The applications for CEH can be assessed as a Restricted Discretionary Activity for Household Units in the COMZ4 Zone.

Change in use from tourist accommodation to a permanent residence within an existing building

12. Change in use from tourist accommodation to a permanent residence within an existing building is a Controlled Activity in the COMZ4 Zone where compliant with Performance Standards for height, yards, site coverage, household unit density, and parking and access. Non-compliance with the Performance Standards is a Restricted Discretionary Activity.
13. The intention of this rule is to enable tourist accommodation facilities to be converted for occupation as a *permanent residence* (i.e., a permanent household unit).
14. Contracted emergency housing is the temporary occupation of a residence (a temporary household unit), for a temporary period overall (for up to five years) and would not reasonably fall within the scope of this activity.

Noise Sensitive Activities in Commercial Zones

15. Noise sensitive activities in Commercial Zones are required to comply with Performance Standards for acoustic treatment in order to provide an appropriate noise environment and to avoid reverse sensitivity effects⁶⁷.
16. Noise sensitive activities are defined as including:

“buildings or parts of buildings used for residential activities, including household units, tourist accommodation...”⁸
17. The performance standard for acoustic treatment applies to new noise sensitive activities.⁹ If the prescribed internal noise criteria cannot be achieved with the windows and doors open, then a forced air ventilation or air conditioning system which complies with the NZ Building Code must

⁶ ODP NOISE-R5 Noise sensitive activities within ...Commercial Zones...

⁷ ODP Policy NOISE-P10

⁸ ODP Part 1: Introduction and General Provisions, Interpretation, Noise Sensitive Activities.

⁹ ODP NOISE-S6 Noise sensitive activities within...Commercial Zones...

be provided. Non-compliance with the rule is a Restricted Discretionary Activity.

18. Contracted emergency housing is a noise sensitive activity, replacing tourist accommodation which is also a noise sensitive activity. Regardless of this, the performance standard may not be met in all cases, in which case the emergency housing activity is a Restricted Discretionary Activity.

Support Services

19. The support services provided on site also require consideration as part of the proposed CEH activity. Support services are provided from an office on the site as well as throughout the site/facility.
20. *Office* is defined in the ODP as having its “ordinary and customary meaning”¹⁰. As described above, the support services have an administrative and client service focus common to that of an office.
21. *Ancillary office* is a Permitted Activity in the COMZ4 Zone¹¹. This rule does not require the principal use (or *main purpose*) of the site to be a Permitted Activity.
22. *Ancillary office* is not defined in the ODP. However, *ancillary retail* is defined with its essential characteristics identified as being “subsidiary” and “of secondary nature to the main purpose of the site”¹². Taking the same approach, a support services activity would reasonably fall within the definition of *ancillary office*¹³.
23. The support services that form part of the CEH activity fall reasonably within the scope of an *ancillary office* and are a permitted activity.

Conclusion: Activity Status for Contracted Emergency Housing in the COMZ 4 Zone

24. The contracted emergency housing proposals that are entirely within the COMZ4 Zone are a Restricted Discretionary Activity for household units. Discretion is restricted to the effects of non-compliance with household

¹⁰ ODP Part 1: Introduction and General Provisions, Interpretation, Office Activity

¹¹ ODP COMZ-R11 Ancillary offices

¹² ODP Part 1: Introduction and General Provisions, Interpretation, Ancillary Retail

¹³ While the support services provided for the Emergency Housing activity could fall within the definition of an *accessory activity*, being *incidental to the principal activity on any site*, there is no provision for any *accessory activity* in the COMZ4 Zone.

unit density, household unit design, parking and access, and noise management where applicable in each case.

25. The support services that form part of the contracted emergency housing activity fall within the scope of an ancillary office which is a Permitted Activity in the COMZ4 Zone.

ACTIVITY STATUS IN THE COMMERCIAL 3 ZONE – NEIGHBOURHOOD CENTRES (COMZ3)

26. The Apollo Hotel is in the COMZ3 Zone.

Zone Description

27. The COMZ3 Zone is described as:

“Small clusters of convenience stores such as dairies, chemists, hairdressers and takeaway outlets that provide day to day services to residential areas located within the immediate vicinity. These centres are dispersed throughout the residential zones and are normally located on corner sites. Buildings are no more than 300m² in ground floor area and are usually no more than one storey in height. These areas have lower pedestrian and traffic movement compared to other commercial centres, however they provide an active environment, with higher levels of lighting and traffic movement in comparison to the surrounding residential environment.”¹⁴

Household Units

28. “Household Units” are a Non-Complying Activity in the COMZ3 Zone where the household units are located on the ground floor¹⁵. Otherwise, the activity is permitted and the same performance standards apply as those for the COMZ4 Zone.
29. Several of the CEH units are on the ground floor and are therefore non-complying activities.

Noise Sensitive Activities in Commercial Zones

30. As assessed for the COMZ4 Zone above, the emergency housing activity is a noise sensitive activity and requires resource consent as a Restricted Discretionary Activity for the same reasons.

Support Services

¹⁴ ODP Part 3: Commercial Zones Introduction.

¹⁵ ODP COMZ-R32.3 Household units

31. The support services that form part of the contracted emergency housing activity fall within the scope of an *ancillary office*, which is a Permitted Activity in the COMZ3 Zone¹⁶¹⁷, for the same reasons as those set out for the COMZ4 Zone above.

Conclusion: Activity Status for Contracted Emergency Housing in the COMZ3 Zone

32. The contracted emergency housing application within the COMZ3 Zone are a Non-Complying Activity because several of the units are located on the ground floor of the building.

ACTIVITY STATUS IN THE RESIDENTIAL 2 – MEDIUM DENSITY RESIDENTIAL ZONE (RESZ2)

33. Ann’s Volcanic Motel and the Union Victoria Motel are both located in the RESZ2 Zone.

Zone Description

34. The RESZ2 Zone is described 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.”¹⁸

Household Units

35. *“Household Units (including comprehensive residential development)”* is a Restricted Discretionary Activity in the RESZ2 Zone where the activity is a comprehensive residential development for three or more household units (including any minor dwellings) on a site¹⁹.
36. The Matters of Discretion refer to non-compliance with Performance Standards but do not identify which Performance Standards are applicable. It is assumed that this is meant to refer to the Permitted

¹⁶ ODP COMZ-R11 Ancillary offices

¹⁷ While the support services provided for the Emergency Housing activity could fall within the definition of an *accessory activity*, being incidental to the principal activity on any site, there is no provision for any *accessory activity* in the COMZ4 Zone.

¹⁸ ODP Part 3: Commercial Zones Introduction

¹⁹ ODP RESZ-R3.4

Activity Performance Standards for household units (height, yards, site coverage, density and parking and access)²⁰.

37. Some of the existing buildings for the contracted emergency housing activity do not meet all of the Performance Standards for height and yard setbacks. Resource consents are already in place for these building non-compliances, and this is not a material consideration.
38. Other Matters of Discretion refer to design and layout, innovative components; potential adverse effects on the environment; effects on the character and amenity values of the zone; natural hazards; and financial contributions.
39. The applications for contracted emergency housing can be assessed as a Restricted Discretionary Activity for Household Units in the RESZ2 Zone.

Conversion of tourist accommodation to household units

40. Conversion of tourist accommodation to household units is a Controlled Activity in the RESZ 2 Zone where the activity is compliant with Performance Standards for height, yards, site coverage, household unit density, and parking and access²¹. Non-compliance with the Performance Standards is a Restricted Discretionary Activity.
41. The intention of this rule is to enable tourist accommodation facilities to be converted to household units. Unlike the similar rule in the COMZ4 Zone, the RESZ2 Zone rule does not require the household units to be “*permanent residences*” and also includes “*temporary residences*”.
42. Performance standards apply²². The household unit density rules will not be met, and non-compliance is assessed as a restricted discretionary activity²³.
43. The applications for contracted emergency housing can be assessed as a Restricted Discretionary Activity for the conversion of tourist accommodation to household units in the RESZ2 Zone.

Support Services

²⁰ ODP RESZ-R3.1a-e.

²¹ ODP RESZ-R8 Conversion of tourist accommodation to household units

²² ODP RESZ – R8 1

²³ ODP RESZ – R8 2

44. Accessory uses under the ODP are limited to those relating to a Permitted Activity²⁴ and there is no provision for uses that are accessory to an activity which requires resource consent. The support services that form part of the contracted emergency housing activity are an activity not expressly stated in the Rules for Activities in Residential Zones Table.
45. Where an activity is not expressly stated in the Rules for Activities in the Commercial Zones Table, the activity status is Non-Complying²⁵.

Conclusion: Activity Status for Contracted Emergency Housing in the RESZ2 Zone

46. The emergency housing activity that is entirely within the RESZ2 Zone is most appropriately assessed as a Restricted Discretionary Activity for the conversion of tourist accommodation to household units. Discretion is restricted to the effects of non-compliance with household unit density, and parking and access as applicable in each case.
47. The support services that form part of the contracted emergency housing activity are a Non-Complying Activity in the RESZ2 Zone.
48. Applying the bundling principle, the contracted emergency housing proposal that is entirely within the RESZ2 Zone must be assessed as a Non-Complying Activity.

ACTIVITY STATUS FOR ACTIVITIES IN THE COMZ4 AND RESZ2 ZONES

49. The Ascot on Fenton and Rotovegas Motel are located within both the COMZ4 and RESZ2 Zones.
50. The activity status for the contracted emergency housing in the COMZ4 Zone is a Restricted Discretionary Activity for the reasons set out above.
51. Activity status for contracted emergency housing in the RESZ2 Zone is a Non-complying Activity for the reasons set out above.

Conclusion: Activity Status for Contracted Emergency Housing in the COMZ4 and RESZ2 Zones

²⁴ ODP RESZ-R1 An activity accessory to a permitted activity

²⁵ ODP RESZ-R2 Where an activity is not expressly stated in this table

52. Applying the bundling principle, the two contracted emergency housing proposals that are within both the COMZ4 and RESZ2 Zone must be assessed as Non-Complying Activities.

ACTIVITY STATUS FOR ACTIVITIES IN THE COMZ4 AND RESZ1

53. The Lake Rotorua Hotel is within both the COMZ4 and RESZ1 Zones. Mixed zoning of the site in this case is more a technicality as none of the activity is located on the RESZ1 land, which is vacant.
54. The activity status for the contracted emergency housing in the COMZ4 Zone is a Restricted Discretionary Activity for the reasons set out above.

Zone Description

55. The RESZ1 Zone is described as:

“Low density residential areas, such as Ngongotahā, Kāwaha Point, Western Heights, Hillcrest, Springfield and Lynmore. There is a mix of single storey and two-storey houses of various styles and materials. There is a balance between the built and natural elements of the environment in this zone. There is a sense of space around buildings, which is enhanced by the landscaping on site and trees within the road reserve. Other characteristics include generally low levels of noise and low traffic levels.”²⁶

Household Units

56. “Household Units” are a Restricted Discretionary Activity in the RESZ1 Zone²⁷ for the same reasons as those set out for the RESZ2 Zone above.

Conversion of tourist accommodation to household units

57. The applications for contracted emergency housing can be assessed as a Restricted Discretionary Activity for the conversion of tourist accommodation to household units in the RESZ1 Zone for the same reasons as those set out for the RESZ2 Zone above.

Support Services

58. The support services that form part of the contracted emergency housing activity are a Non-Complying Activity in the RESZ1 Zone for the same reasons as those set out for the RESZ2 Zone at paragraphs 89-90 above.

²⁶ ODP Part 3: Residential Zones Introduction

²⁷ ODP RESZ-R3.5 Household units (including comprehensive residential development)

Conclusion: Activity Status for Contracted Emergency Housing in the COMZ4 and RESZ1 Zones

59. Applying the bundling principle, the contracted emergency housing proposal that is within both the COMZ4 and RESZ1 Zones must be assessed as a Non-Complying Activity.

Appendix 3

Guidance regarding Plan Change 9 to the Operative Rotorua District Plan

An Intensification Planning Instrument under s80E of the Resource Management Act 1991

Note: This document sets out general guidance relating to the application of Plan Change 9; users should take advice from qualified professional advisers in respect of specific development proposals.

Introduction

1. Plan Change 9 to the Operative Rotorua District Plan (Plan Change 9) was notified on 19 August 2022. Plan Change 9 is an Intensification Planning Instrument (IPI) under section 80E of the Resource Management Act 1991 (the Act) and is required by section 77G of the Act to:
 - (a) incorporate the medium density residential standards (MDRS) into every relevant residential zone; and
 - (b) give effect to Policy 5 of the National Policy Statement for Urban Development (NPS-UD) within urban environments.
2. Section 86BA of the Act provides that some rules of an IPI will have immediate legal effect. In Plan Change 9, the only zones which will have rules having immediate legal effect are the Residential 1 Medium Density Residential Zone and the Residential 2 High Density Residential Zone.
3. All other rules will have legal effect following the notification of decisions on Plan Change 9. For clarity, where Plan Change 9 proposes to amend the following rules these amendments will not have immediate legal effect:
 - (a) Rules in other zones such as the Commercial and City Centre Zones;
 - (b) District wide rules, including rules relating to subdivision and financial contributions;
 - (c) Rules relating to notification; and
 - (d) Rules relating to activities that are not residential units.
4. The objectives and policies of Plan Change 9 will have legal effect from 19 August 2022 and will be relevant to any application for resource consent assessed after that date.
5. This document sets out general guidance relating to the application of Plan Change 9 in the residential zones prior to the issue of decisions in late 2023/early 2024.

Summary of Plan Change 9

6. Plan Change 9 makes the following key changes to the residential zones of the Operative Rotorua District Plan (ODP):
 - (a) The Residential 1 zone is renamed Medium Density Residential Zone and is amended to incorporate the MDRS and related amendments. The MDRS provides for three, three storey residential units to be constructed as a permitted activity if they comply with the density standards relating to height, height in relation to boundary, setbacks, building coverage, outdoor living space, outdoor space (per unit), windows to street and landscaped areas.
 - (b) The Residential 2 zone is renamed High Density Residential Zone and is amended to incorporate the MDRS and related amendments. Plan Change 9 also proposes to increase the height limit for the zone to 19.5m to enable the construction of six storey buildings in this zone.
 - (c) No changes are proposed to the Residential 3 zone.

7. Plan Change 9 modifies the MDRS as a result of qualifying matters in a number of areas. Qualifying matters are characteristics which require modification of the MDRS to protect or recognise a particular feature or quality such as protecting sites of heritage, cultural or ecological significance, or to avoid development in areas with significant natural hazards. Many of the qualifying matters are shown on the planning maps as overlays or features. However, not all qualifying matters can be depicted spatially; some qualifying matters are identified in the plan change text.

The plan change process

8. Plan Change 9 is required to use the Intensification Streamlined Planning Process. The process includes:
 - (a) Submissions to be lodged by 14 October 2022.
 - (b) Further submissions to be lodged by 22 November 2022.
 - (c) Hearings will be held before an Independent Hearing Panel, planned for August 2023.
 - (d) The Independent Hearing Panel will make recommendations to Council.
 - (e) The Council can accept or reject the recommendations. Where the recommendations are rejected, the Council can propose an alternative, and the final decision will be made by the Minister for the Environment.
 - (f) The provisions of Plan Change 9 will become operative when decisions are notified by Council, which is required to take place by 31 March 2024.

Immediate legal effect of the MDRS

9. A rule in the Residential 1 or 2 zones will have immediate legal effect if it provides for a residential unit as a permitted activity in accordance with the density standards in the MDRS, and no qualifying matter applies to the site. These rules are identified with a gavel symbol in Plan Change 9. In these circumstances, any inconsistent standards in the ODP cease to have legal effect and the new MDRS standards are treated as operative for the particular site.
10. This means that a residential unit which complies in all respects with the density standards on a site in the Residential 1 or 2 zones which is not subject to any qualifying matter will be a permitted activity under Plan Change 9 and will not be required to comply with any inconsistent density standards of the ODP.
11. However, any rules or standards in the ODP that are not superseded by the density standards of the MDRS will continue to apply, and any district wide rules will continue to apply. This means that proposed residential units which comply with the MDRS density standards may still require resource consent for other reasons.

Example:

Construction of a second residential unit in the Residential 1 or 2 zone

- Complying with the density standards in the zone in Plan Change 9;
- Complying with any non-density standards and district wide rules in the ODP; and
- No qualifying matters apply to the site -

will be a permitted activity

Residential units which do not comply with the MDRS

12. The MDRS will not have immediate legal effect if:
 - (a) There are more than three residential units on a site;
 - (b) The residential units do not comply with one of the density standards; or
 - (c) The site is subject to a qualifying matter.
13. In any of the circumstances in paragraph 12, the MDRS does not have legal effect and the proposed activity will be assessed against the rules and standards in the ODP. For clarity, when a residential unit fails to comply with one of the density standards in the MDRS, all of the density standards in the MDRS cease to have immediate legal effect.

Assessing applications which do not comply with the MDRS

14. As set out above, the rules in Plan Change 9 will not have immediate legal effect where more than four residential units are proposed per site, or the residential units do not comply with the density standards of the MDRS. These applications will be assessed against the rules and standards of the ODP.
15. However, Plan Change 9 may be relevant to these applications in the following ways:
 - (a) The mandatory objectives and policies in the Residential 1 and 2 zones (shown green underlined in Plan Change 9) will apply and any inconsistent objectives and policies in the ODP will cease to have effect (section 77M of the Act). However, this will not apply if the site is subject to a qualifying matter.
 - (b) If three, three-storey residential units which comply with the density standards of the MDRS would be a permitted activity on the site, this level of development may provide a permitted baseline for the purpose of assessment of the activity under sections 95 and 104 of the Act. This will need to be assessed on a site-specific basis and, again, will not apply if the site is subject to a qualifying matter.
 - (c) The objectives and policies for the Residential 1 or 2 zone in Plan Change 9 may inform the context for the assessment of adverse effects under sections 95 and 104 of the Act.

Example: **Construction of up to three residential units in the Residential 1 or 2 zone which infringes a density standard such as the setback rule (no qualifying matters)**

- The rules of Plan Change 9 do not have immediate legal effect;
- The application will be assessed against the ODP;
- The MDRS objectives and policies will apply, and the MDRS may provide a permitted baseline.

Applications in a qualifying matter area

16. A qualifying matter area is an area in respect of which Plan Change 9 has proposed that a qualifying matter apply. A table of the qualifying matters is located in the explanatory note at the beginning of the Residential Zones chapter. Where a qualifying matter applies:
 - (a) The rules of Plan Change 9 will not have immediate legal effect;
 - (b) Proposed activities will be assessed against the rules of the ODP;

- (c) The mandatory objectives and policies of Plan Change 9 do not take precedence over inconsistent objectives and policies in the ODP, but will be subject to an assessment of the relative weight to be given to the objectives and policies in each of the ODP and Plan Change 9; and
- (d) No permitted baseline will apply to the assessment of effects of the activity under sections 95 and 104 of the Act.

Example: Construction of a second residential unit in the Fault Avoidance Area Overlay

- The rules of Plan Change 9 do not have immediate legal effect;
- The application will be assessed against the ODP;
- An assessment will be made of the weighting to be given to the objectives and policies of the ODP and Plan Change 9.

Applications lodged before 19 August 2022

- 17. Applications for resource consent for residential units that have been lodged before 19 August 2022 may comply with the rules and density standards of the MDRS. If resource consent is no longer required, the application could be returned to the applicant or, with the applicant's agreement, treated as an application for a certificate of compliance.
- 18. Applications for resource consent for residential units that have been lodged before 19 August 2022 that do not comply with the rules and density standards of the MDRS will continue to be processed under the ODP as set out above. In these circumstances, an applicant may be requested (under section 92) to provide an assessment of the application against the objectives and policies of Plan Change 9.

Example: Construction of a second residential dwelling which infringes the yard standard in the ODP

- Complying with the density standards in the zone in Plan Change 9;
- Complying with any non-density standards and district wide rules in the ODP; and
- No qualifying matters apply to the site -
will be a permitted activity

Appendix 4

RECOMMENDED SITE CONDITIONS

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

General

- 1 The activity shall be in general accordance with the information and plans submitted with the Application for Resource Consent, dated 20 December 2021 and the following additional information provided by the applicant:
 - a. Response to request for further information, dated 11 May 2022 and titled "Response to request for further information – RC 17887 – 247 Fenton Street & 12 Toko Street"
- 2 The consent holder shall be [insert name of motel operator for each site here] (the Operator) and Te Tūāpapa Kura Kāinga Ministry of Housing and Urban Development (MHUD).
- 3 The consent is issued personal to the Operator and MHUD. The consent cannot be transferred to and held by any other person.
- 4 The consent holder shall appoint a representative(s) within two weeks following the commencement of this resource consent, who will be the Rotorua District Council's principal contact person in regard to matters relating to this consent. The consent holder shall inform the Rotorua District Council of the representative's name and how they can be contacted. Should that person change during the term of this resource consent, the consent holder shall immediately inform the Rotorua District Council.

Consent Expiry

- 5 This resource consent shall expire on the earlier date of either:
 - a. 5 years from the date the consent commenced; or
 - b. The date of termination or expiry of MHUD's contract for contracted emergency housing applying to the site; or
 - c. The date imposed by a Council review under section 128 of the Resource Management Act 1991 pursuant to condition 32 of the consent.
- 6 No later than 6 months prior to the consent expiry, the consent holder shall submit to the Manager, Planning & Development Solutions, Rotorua District Council, or their delegate for certification an exit programme to end the use of the site and buildings for contracted emergency housing within the timeframe granted under this consent.

Scale and Intensity

- 7 A maximum of XX residents (excluding children under six months of age) shall be permitted to reside within the XX contracted emergency housing units.
- 8 No children between the ages of XX and XX may reside on the site.
- 9 One-bedroom units shall accommodate a maximum of two people (excluding children under six months of age).
- 10 Two-bedroom units shall accommodate a maximum of four people (excluding children under six months of age).
- 11 To avoid doubt, this resource consent does not:
 - a. Restrict the length of stay for residents in the contracted emergency housing units (see Advice Note 1 referring to Building Act requirements);

- b. Limit the number of people residing in the Manager's Accommodation.

Record Keeping

- 12 A record shall be maintained at all times that states:
 - a. The total occupancy numbers across the whole site;
 - b. The length of stay of occupants;
 - c. The number of people within each unit;
 - d. Ages of children; and
 - e. The details of any complaints received and any incidents where security staff intervention has been required.
- 13 The information listed in Condition 13 shall be provided to the Manager, Planning & Development Solutions, Rotorua District Council, or their delegate at six monthly intervals from the date of commencement of the consent and made available at any other time upon request. This will be a matter considered under Condition 31.

Landscaping and Planting

- 14 The existing landscaping and planting on the site shall be retained and maintained for the duration of the consent. This includes the following:
 - a. The hedging and vegetation at the Fenton Street frontage;
 - b. The trees and vegetation at the Toko Street frontage; and
 - c. The planter boxes at the northern boundary of the site.

The landscaping and planting baseline referred to in Condition 15 shall be marked on the Site Layout Plan and photographed and supplied to the Council within one month of the commencement of the consent.

- 15 If any of the landscaping dies and/or becomes diseased, the dead and/or diseased plants shall be replaced in the same or similar location within the next planting season (generally between May and October) by a same or similar species of plants capable of reaching the same height within the next planting season.

Play Equipment

- 16 The dedicated children's play area (including the trampoline) as shown on the Site Layout Plan shall be retained for the duration of the consent.

Motel Signage

- 17 The consent holder shall remove all physical motel signage for the duration of the consent. This includes, but is not limited to, the following:
 - a. Any sign that identifies the site as a motel;
 - b. Any vacancy / no vacancy sign.
- 18 The consent holder shall remove all online advertising and websites that promote tourist accommodation and other services at the site for the duration of the consent.
- 19 For the avoidance of doubt, this consent does not authorise any signage on the site, other than as required for health and safety reasons.

Storage

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

External Boundary Fencing

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

Traffic Management

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

Parking and access in accordance with these conditions shall be implemented within one month following the grant of consent and shall be maintained for the duration of the consent.

Noise

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

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

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

Daytime	7pm to 10pm any day except public holidays	65 dB LAeq (15 min)
Night-time and public holidays	At all other times	60 dB LAeq (15 min) 75 dB LAmx

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

Glare and Light

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

On-site Management

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

Bond

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

Review Condition

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

Advice Notes

Building Act

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

Waste Management

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

Right of Objection

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

Monitoring of Conditions

- 4 Fulfilment of the conditions of this consent within the timeframe specified in the consent is necessary to carry out the proposal for which this consent relates. Your progress towards satisfying the conditions of consent will be monitored by Council's Monitoring and Compliance Officer.

Please contact Council's Compliance & Regulatory Team (RMACompliance@rotorualc.nz) in relation to the completion and monitoring of the conditions of this consent. The consent holder will be charged for the administration, monitoring and supervision of this resource consent. Notwithstanding the above, where there is good and reasonable cause for unprogrammed monitoring and additional site inspections, the costs of that will be a charge on the consent holder. Such costs are recovered on an actual and reasonable basis as defined in the General Conditions and Notes of the Fees and Charges Schedule as approved by the Council in terms of Section 36 of the Resource Management Act 1991.

RECOMMENDED STRATEGIC CONDITIONS

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

1. If MHUD is considering terminating the contracts on one or more facilities during the term of the consent (due to reduced demand) then consideration should be given to (in the following order where practicable):
 - a) The avoidance of sites in close proximity to tourist attractions and tourist accommodation.
 - b) Limiting the geographic concentration of CEH sites relative to each other.
 - c) Avoiding sites that have a lower quality environment for longer term use, and in particular sites with limited outdoor living space and facilities for children's play.
2. MHUD shall monitor occupancy of the CEH motels in order to reduce the number or establishments as soon as practicable. This may mean moving clients between sites to maintain maximum occupancy in fewer sites rather than reducing occupancy across all sites simultaneously.
3. MHUD shall establish, operate and maintain for the term of the consent an 0800-telephone line for the community to address any noise or other complaints and security concerns. The telephone line must be available 24 hours a day, 7 days a week.
4. MHUD shall provide a policy demonstrating how complaints received via the 0800-telephone line will be effectively managed and how the number will be distributed to the community. This policy must be provided as part of the Site Management Plan as required under Condition 28.
5. An on-going SIA shall be undertaken by MHUD, with Council, input including:
 - a. An independent, confidential survey of the occupants EH clients to understand their lived experience and suggestions for improvements to the CEH and EH; and
 - b. Surveying the community to understand the range of impacts being experienced by both immediate neighbours and the wider community.
6. A Social Impacts Management Plan (SIMP) shall be implemented by MHUD, with RLC input. The SIMP must establish a baseline, followed by monitoring annually to evaluate the effectiveness of the social impact mitigation management measures.
7. All costs in relation to these conditions shall be met by MHUD.

Advice Note

1. If MHUD is considering identifying potential sites for additional or replacement CEH, then consideration should be given to (in the following order where practicable):
 - a. Compliance with all regulatory requirements prior to commencement, including resource consents
 - b. The avoidance of sites in close proximity to tourist attractions and tourist accommodation.
 - c. Limiting the geographic concentration of CEH sites relative to each other.
 - d. Avoiding sites that have a lower quality environment for longer term use, and in particular sites with limited outdoor living space and facilities for children's play.

- e. Avoiding sites subject to high levels of external noise.
- f. Young people and children being located near to schools and recreation facilities
- g. Outcomes from consultation with owners and occupiers of neighbouring properties.

Appendix 5

24 January 2022

Determinations
Ministry of Business, Innovation and Employment
PO Box 1473
WELLINGTON 6140

Civic Centre
1061 Haupapa Street
Private Bag 3029
Rotorua Mail Centre
Rotorua 3046
New Zealand

37-75-010\05
RDC-1215766

Dear Sir/Madam

The Rotorua district is experiencing the use of Motels for emergency housing and as a regulator is seeking a determination on whether in this instance this means the building is;

1. Classified as 'housing' under the Building Regulations Clause A1 – Classified Uses; and
2. Council is proposing to issue a notice to fix to the owner for contravention of section 115 as is of the opinion that the building has changed from SA to SR under the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005, and that compliance with the building code in its new use are more onerous than in its previous use.

The building in question is known as the Ashleigh Court Motel and is located at 337 Fenton Street, Rotorua. Before coming to Council's attention the use of the building was that typically expected of a motel where guests would stay for the purpose of recreations or business. The attached file note shows the rooms are no longer available to be booked for casual use.

Council believes that the use of this motel for emergency housing is more akin to a multi-unit dwelling (housing) rather than community service (communal residential) when assessed against the Building Regulations 1992, Schedule 1, A1 – classified uses.

The building was constructed circa 1988. The building is two story and is constructed masonry walls on concrete slab to the ground floor, insitu concrete 1st floor with timber framed walls and roof frames to this level with heavy weight roof on timber structure.

The building contains a type 1 bell in one warning system installed to NZS 4561:1973.

Building Regulations Clause A1 – Classified Uses

Previous determinations have discussed whether a building is classified as housing or communal residential thus providing the clarity necessary to apply the first test in the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005, whether the building or part thereof specified in [schedule 2](#) has changed.

Council is of the opinion that long term occupants of this premise are housed in separate self-contained units and are living as a single household.

On this basis a classification of multi-unit dwelling¹ would seem appropriate and therefore sleeping residential (SR)².

Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005

When used as a motel the building would be classified under the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 as SA (Sleeping Accommodation).

The challenge that Council is facing is that people are housed in these motels for extended periods and there is no adequate guidance on the interpretation of length of occupancy that would mean it was no longer transient as specified under Schedule 2 of the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005.

¹ Schedule 1 - The building code - Clause A1—Classified Uses

² Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 – Schedule 2

Determination 2014-043 section 5.4.4 includes the following commentary.

5.4.4 The Commentary⁵ to the Acceptable Solutions C/AS1 to C/AS7 discusses accommodation types and the length of occupancy. In relation to risk group SM, the Commentary suggests a 90-day period can be used to distinguish between temporary and permanent accommodation in some situations, and that someone’s residential address can be considered permanent accommodation. While the Commentary is not directly applicable to this situation (as I do not consider the risk group to be SM), it can be used as guidance in this case.

If no longer transient Council is of the opinion that the building would have a use of SR as is more closely aligned to flats and by default household units. Applying the second test under section 5 of the Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 the requirements of the Building Code would be more onerous in relation to;

- G2 Laundering
- G3 Food Preparation and Prevention of Contamination
- G6 Airborne and Impact Sound

Extract from Schedule 2² – Uses of all or parts of buildings

SA (Sleeping Accommodation)	spaces providing transient accommodation, or where limited assistance or care is provided for people	motels, hotels, hostels, boarding houses, clubs (residential), boarding schools, dormitories, halls, wharehau
SR (Sleeping Residential)	attached and multi-unit residential dwellings, including household units attached to spaces or dwellings with the same or other uses, such as caretakers’ flats, and residential accommodation above a shop	multi-unit dwellings, flats, or apartments

Notice to Fix

Council is proposing to issue a notice to fix for contravention of section 115 of the Building Act 2004.

Background Information

Risk to occupants

There have two recent fires in motels providing emergency housing.

Many of the older building stock have a ‘bell in one’ system that met the compliance requirements when installed providing existing rights until there is a change of use or major alteration that would

then trigger a review of the adequacy of existing safety and amenity provisions associated with the building.

If it is determined that there is a change of use, then the upgrade provisions of the Building Act may result in an upgrade to existing warning systems to provide early warning in case of fire.

¹ Schedule 1 - The building code - ClauseA1—Classified Uses

² Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005 – Schedule 2

Section 121 of the Building Act 2004

MBIE have suggested that Council consider the building under section 121 if concerned about the dangers or fire and type of warning system installed.

A consequence of this suggestion is that if you applied the rationale that as a result of a fire in a building there is a need to assess other buildings used in a similar manner, Councils would be required to apply this lens as an example to all residential buildings within their district due to the history of fire related fatalities in the residential sector.

The Building Act requires buildings to be upgraded to as near as reasonably practicable with certain provisions during an alteration or prior to a change of use meaning a building that complied with an earlier compliance path is able to operate with impunity.

MBIE may want to discuss the threshold for a dangerous building notice in relation to the adequate warning systems if it is of the opinion that this is a viable option regardless of the outcome of the determination.

The determination that Rotorua Lakes Council requests from The Ministry of Business Innovation and Employment will ensure that we do not impose upgrade requirements on building owners without merit. This decision will be of benefit in understanding what process to apply to other premises being operated in a similar matter acknowledging that each case is unique.

We look forward to your early decision on this matter.

Yours sincerely



Darrell Holder
Manager Building Services

Attachment; Application for determination
 File note showing occupancy
Enclosure; Cover letter to owner