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## ROTORUA DISTRICT COUNCIL

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

**FILE NO:** 6221199

**FROM:** Charlotte MacDonald (Consultant Planner)

**DATE:** 22 September 2022

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### SECTION 42A – COUNCIL OFFICERS REPORT

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**NOTIFIED APPLICATION TO:**

USE THE EXISTING SITE AND BUILDINGS FOR CONTRACTED EMERGENCY HOUSING FOR FIVE YEARS.

<b>APPLICANT:</b>	TE TŪĀPAPA KURA KĀINGA – MINISTRY OF HOUSING AND URBAN DEVELOPMENT
<b>APPLICANTS AGENT:</b>	THE PROPERTY GROUP C/-ALICE BLACKWELL
<b>OPERATOR / CONSENT HOLDER</b>	MALONES MOTEL C/- AMBER LUO & FRANK MA
<b>ADDRESS:</b>	321 FENTON STREET, ROTORUA
<b>RESOURCE CONSENT NUMBER:</b>	RC17662
<b>LEGAL DESCRIPTION:</b>	LOT 2 DPS 1591, LOT 1 DP 33670, AND LOT 121 DP 3178
<b>APPLICATION STATUS:</b>	NON-COMPLYING ACTIVITY
<b>ZONE AND DISRICT PLAN OVERLAYS:</b>	COMMERCIAL 4 – CITY ENTRANCEWAY ACCOMMODATION
<b>REPORT:</b>	SECTION 42A – COUNCIL OFFICERS’ REPORT
<b>NOTIFIED:</b>	PUBLIC NOTIFICATION

## SUMMARY

1. Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development (**MHUD**) is applying on behalf of the motel operator (the **Applicant**) under Section 88 of the Resource Management Act 1991 (the **RMA**) through The Property Group (the **Agent**) to use the subject site (the **site**) and the existing Malones Motel buildings for contracted emergency housing (**CEH**) accommodation for a maximum period of five years. On the expiry of the consent, the site and existing buildings will revert back to tourist accommodation.
2. The resource consent application (the **application**) was lodged with Council on 13<sup>th</sup> August 2021. The activity has been operating since 1 July 2021, so the resource consent application is both retrospective and prospective.
3. A request for further information (**RFI**) was issued to the applicant on 24<sup>th</sup> September 2021 and therefore the application was placed on hold in accordance with section 92(1) of the RMA. A RFI response was received from the applicant's agent on the 11<sup>th</sup> May 2022.
4. The applicant requested that the application be publicly notified on the 11<sup>th</sup> May 2022. The application was publicly notified on 11<sup>th</sup> June 2022 along with 11 other CEH applications<sup>1</sup>. Notice of the application was also served on the owners/occupiers of immediately adjacent properties and owners/occupiers of neighbouring properties, owners/occupiers of the subject site, Bay of Plenty Regional Council, Rotorua Housing Taskforce, Te Pokapū, Ngāti Whakaue, Te Arawa Lakes Trust, Restore Rotorua Incorporated, and Rotorua Economic Development Limited.
5. Of the 3,841 submissions received on all 13 CEH applications, four submissions were specific to the subject site. The majority of submissions covered general matters across all 13 CEH application sites. These general matters are covered in the Section 42A Overview Report (**Overview Report**).
6. The proposed activity has been assessed as a **Non-Complying Activity** pursuant to Rule COMZ-R1 of the Operative Rotorua District Plan (**District Plan**) as the activity is not expressly provided for.

## REPORT STATUS

7. This is a report prepared under Section 42A of the RMA. It provides a site-specific assessment of the application. It should be read in conjunction with the Overview Report which addresses matters common to the 13 applications made by MHUD for CEH.
8. This report is not a decision on the application. It provides opinions and assessments, which are, in turn, incorporated into the Overview Report. The Overview Report assesses matters common to all 13 applications and records recommendations to the Independent Hearing Panel (**Panel**) on whether the applications should be granted or declined consent.
9. This report will be considered by the Panel in conjunction with all other evidence and submissions which have been received. The Panel will determine the weight to be given to this report and to any other evidence or submissions that are presented when making its decision.

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<sup>1</sup> The 13<sup>th</sup> application was notified on 6 August 2022.

## REPORTING OFFICER

10. This report has been prepared by Charlotte MacDonald. I am employed as a Senior Planner at Boffa Miskell Limited. I hold a Bachelor of Urban Planning (Honours) degree from the University of Auckland. I have approximately six years planning experience. I am an Intermediate member of the New Zealand Planning Institute (**NZPI**).
11. I have read and complied with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014 in preparing this report. I agree to comply with it in presenting this report. The opinions and assessment within this report are within my area of expertise, except where I have stated my reliance on other identified evidence. I have considered all material facts that are known to me which might alter or detract from the opinions I express in this evidence.
12. In preparing this report I have relied on the following evidence:
  - The Overview Report prepared by Craig Batchelar, Planner and Director of Cogito Consulting Limited;
  - Expert advice from Sarah Collins, Landscape Architect at Boffa Miskell Limited;
  - Expert advice from Rebecca Foy, Social Researcher and Director at Formative; and
  - Expert advice from Natalie Hampson, Economist and Director at M.E Consulting.
13. This report records my assessment and recommendations along with the recommended Conditions of Consent, should the Panel determine that consent should be granted.

## THE SITE AND SURROUNDING ENVIRONMENT

### Site Description

14. The site was initially visited by Bethany Bennie on 14<sup>th</sup> September 2021 and I also visited the site on the 23<sup>rd</sup> August 2022.
15. The proposed activity is split across three Records of Title, all of which are located within the Commercial 4 Zone (**COMZ4**) of the District Plan. This is shown in Figure 1 and within the table below.

District Plan Zone	Legal Description	Area (m <sup>2</sup> )
COMZ4	Lot 1 DP 33670	809
COMZ4	Lot 2 DPS 1591	651
COMZ4	Lot 121 DP 3178	1,012
<b>Total</b>		<b>2,472</b>



Figure 1 – District Plan zones with the subject site outlined in red. The yellow is RESZ2 and the purple is COMZ4.

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

*The site is currently occupied by Malones Motel which has its main entrance and managers unit located in the site’s eastern corner. With the exception of the Manager’s unit, the existing buildings on the site are all single storied and surround the internal driveway and parking space. The motel has its main entrance and exit from Fenton Street, with a secondary entrance and exit from Sumner Street. A temporary fence has been installed to stop pedestrian and vehicle access from Sumner Street.*

*The site has three separate buildings. The Manager’s unit, three accommodation units, and the laundry/facilities area are in a rectangular building on the eastern side of the site. The rectangular building located close to the southern boundary of the site with 10 accommodation units. The third building (containing seven units) runs in a north to south direction and occupies the parcel of land closest to Sumner Street.*

*The existing buildings within the site are dedicated to the existing motel operation, which has been in operation since the 1980’s. The site has a total of 20 motel units and provides for a maximum of 66 occupants (see Table 1 below). There is also a separate manager’s residence.*

*...The overall occupancy levels are based on the number of beds typically accommodated within each unit. For example, a double bed can sleep two people,*

a single bed one person. The occupancy rate is therefore based off the nature of the unit and the beds within (noting in some units, additional beds are located in bedrooms and/or living areas, as is typical of this style of accommodation). Occupancy levels will not change as part of the proposal). It is noted that the Manger's unit, which is located at the front of the site, is not included in the table below, nor are infants aged less than 18 months.

*Table 1: Configuration of existing units at 321 Fenton Street excluding managers accommodation and children in cots under 18 months of age*

Type of unit	No. of units	Max No. of occupants
Studio unit	14	42
One bedroom unit	6	24
<b>Total</b>	<b>20</b>	<b>66</b>

*The site has a one carpark per unit. There is a shared laundry facility on site, which can be used by the site occupants.*

17. The applicant has recently stated an intention to reduce the maximum occupancy level (as originally proposed) from 66 occupants to 42 (excluding staff and children under the age of 18 months). Under the proposed new maximum, where there is more than one double bed in a room, only one bed has been counted as sleeping two people.
18. The motel has been in use as MHUD CEH since 1 July 2021. Prior to this, the motel was used for uncontracted emergency housing (by accepting customers paying through the use of Emergency Housing Special Needs Grants (EHSNGs) provided by the Ministry of Social Development (MSD)) since March 2020.

## **SURROUNDING AREA**

19. The immediate surrounding environment includes the Ace Motor Lodge located on the corner of Sumner Street (currently operating as emergency housing), the Arawa Bowls Club to the west of the site, the Silver Fern Rotorua Accommodation and Spa to the east of the site across Fenton Street, and residential properties to the west and south. Figure 2 below shows sites that are:
  - CEH;
  - Tourist accommodation not known to be providing emergency housing (**tourist accommodation**); and
  - Tourist accommodation that is operating solely as emergency housing (**EH**).
20. In the wider context, the majority of land use along Fenton Street is tourist accommodation, or emergency housing. Fenton Street is an Urban Primary Arterial Road and a City Entranceway. West of the site is predominantly residential and north of the site is the city centre.

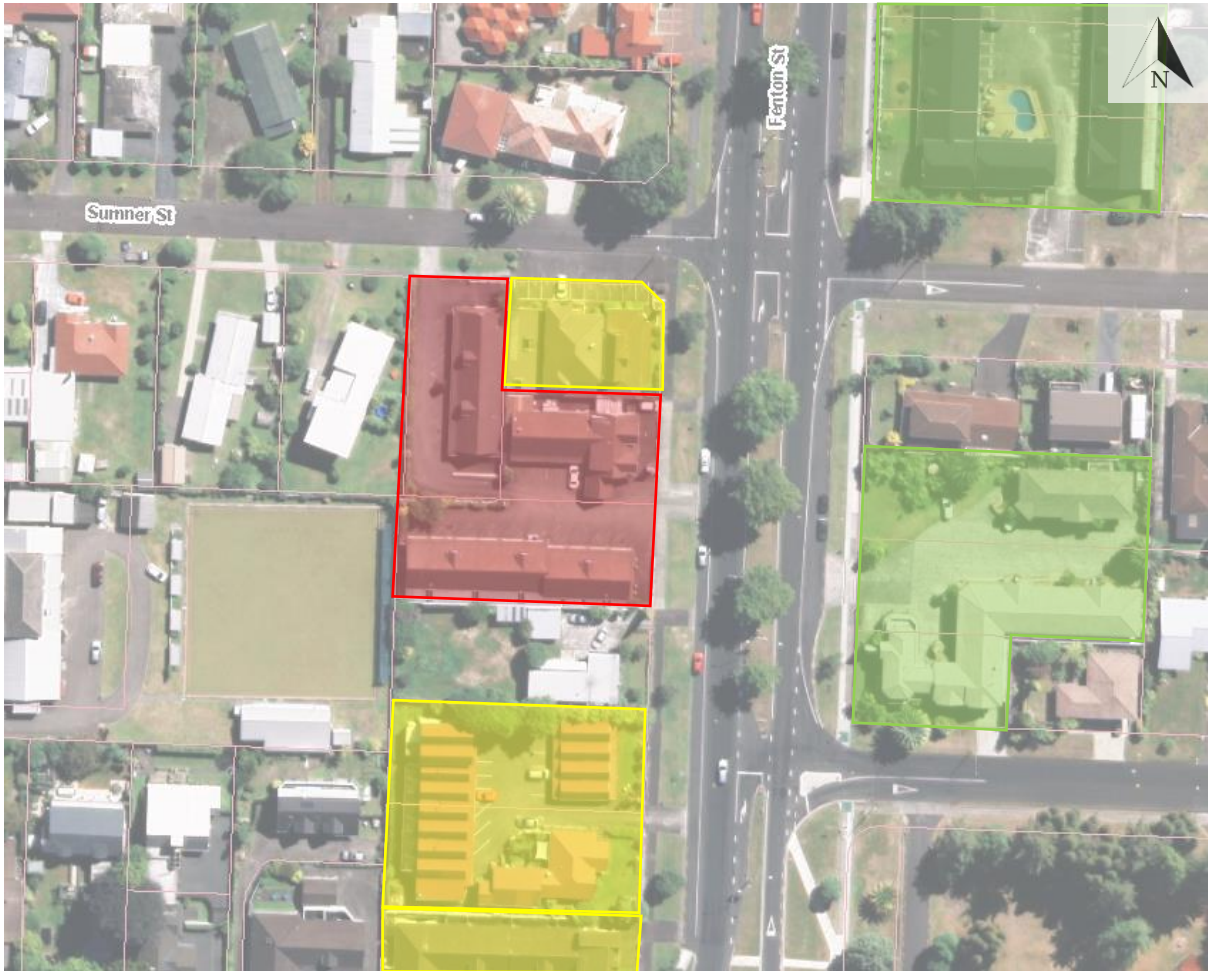


Figure 2 – Activities within the immediate surrounding environment (red – subject site, yellow – EH, green - tourist accommodation). Data source: Rotorua NZ/Rotorua Lakes Council, 13 September 2022

### Local Amenities and Social Infrastructure

21. There is a Save Mart and a dairy located at Gibson Street approximately 350m and 450m respectively. A supermarket, pharmacy, butcher and fruit and veggie shop are located approximately 1.1km from the site on the opposite side of Fenton Street.
22. The Seventh-day Adventist Church is approximately 200m north on Fenton Street, and the Shri Swaminarayan Mandir Temple is approximately 300m north on Fenton Street (although currently closed).
23. Murray Linton Park is approximately 500m away, which requires crossing Fenton Street. Saint Michaels Reserve Sports park is around 1.3km away, though it is accessed along a busy road and there is no safe crossing.
24. The nearest school is the Rotorua Seventh-day Adventist School, approximately 300m north-west of the site. Glenholme School and the Treehouse on Ranolf Childcare centre are approximately 1km from the site.
25. Overall, the site is generally well served with local amenities and social infrastructure within a 10-minute walking distance. However, limited pedestrian access is available for some areas.

## RECORD OF TITLE REVIEW

26. The interests contained on the Records of Title are set out below. There are no interests that would restrict the CEH proposal from proceeding.

Record of Title	Legal Description	Interests
SA704/127	Lot 121 Deposited Plan 3178	<ul style="list-style-type: none"><li>• Subject to Section 15 Rotorua Town Lands Act 1920<sup>2</sup></li><li>• Certificate pursuant to Section 643(2) Local Government Act 1974 (affects Record of Title SA1094/285)<sup>3</sup></li><li>• Lease agreements<sup>4</sup></li></ul>
SA884/228	Lot 1 Deposited Plan 33670	<ul style="list-style-type: none"><li>• Lease agreements</li></ul>
SA1094/285	Lot 2 Deposited Plan South Auckland 1591	<ul style="list-style-type: none"><li>• Subject to Section 15 of the Rotorua Town Lands Act 1920</li><li>• Certificate pursuant to Section 643(2) Local Government Act 1974 (affects Record of Title SA704/127)</li><li>• Lease agreements</li></ul>

## CONSENT HISTORY

27. The following resource consents are listed on the property file. These consents do not specifically provide for the proposed CEH activity.
28. After expiry of the CEH consent, the motel activity (tourist accommodation) would recommence. There is no intention, nor need, to surrender these consents in the interim.

Reference number	Date of issue	Details
SP1326	November 1995	Signage
SP873	October 1991	Signage
SP187	December 1987	Signage
RC6668725	June 1987	Dispensation / waiver – gable with height restrictions
RC6668728	June 1987	Dispensation / waiver – roofline with height restrictions

## PROPOSAL DESCRIPTION

29. The applicant is seeking resource consent to use the subject site and existing buildings for CEH for a maximum period of five years, after which the site and buildings will revert to tourist accommodation.
30. The applicant has recently stated an intention to reduce the maximum occupancy level (as originally proposed) from 66 occupants to 42 (excluding staff and children under the age of 18 months).<sup>5</sup>
31. The applicant proposes no modifications or change to the layout of the buildings within the site. However, it is noted that corrugated iron fencing at the Sumner Street frontage has been

<sup>2</sup> This relates to the Crown reservation of rights to minerals and other resources.

<sup>3</sup> This relates to a repealed statute regarding the construction of a building on two or more allotments.

<sup>4</sup> A copy of the lease agreement was not provided through the resource consent application process. Notwithstanding, this is seen as a private property matter, and any implication in terms of the CEH proposal sits with the landowner and the leaseholder.

<sup>5</sup> Email from Alice Blackwell titled Occupancy Numbers 9 September 2022



installed since the application was lodged. This vehicle entrance will not be used for the duration of the consent.

32. On-site support services will be provided by “Visions of a Helping Hand”, who will implement a Site Management Plan (**SMP**) (attached as Appendix 4 of the application). The SMP is offered as an “Augier”<sup>6</sup> condition by the applicant. The SMP details maximum occupancy, on-site security, authorised personnel and visitors, and noise management. On-site support services include:
- 24/7 on site security presence and an on-call senior security officer;
  - Registers and trained social and support workers available on-site Monday through Friday 8.30am to 5.00pm;
  - 24/7 on-call social and support worker (via phone);
  - Facilitated groups run by a programme facilitator. Group topics include budgeting, employment, parenting, education, cooking on a budget, and men’s and women’s empowerment groups; and
  - Afterschool and holiday programmes for children.
33. The existing motel operator will continue to manage the day-to-day running of the facility. This includes:
- Regular maintenance checks of all units;
  - Outdoor maintenance;
  - Waste management;
  - Any repairs;
  - Routine inspections of units; and
  - Full cleaning of units once occupants have left.
34. Regarding the length of time occupants will stay in CEH, the applicant has stated the following:
- ...Across all emergency housing, the average length of stay in (sic) is 22 weeks, the typical length of stay is 2-3 months and the maximum length of stay is 19 months.*
- Across all CEH motels, there are 16 whānau and five individuals that have been in CEH since 1 July 2021 (i.e. from when motels were first contracted by HUD). The shortest length of stay in CEH is three days.*
35. The plan for the site is shown in Figure 3 below, and further details of the proposal are outlined in Section 3 of the application.

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<sup>6</sup> 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.





Figure 3 – Site plan showing units, parking areas, and private open space

## ACTIVITY STATUS

36. The activity status for each application is discussed in detail in the Overview Report.

37. In summary, the proposed activity has been assessed as a **Non-Complying Activity** pursuant to Rule COMZ-R1(1) of the District Plan as the activity is not expressly provided for.

## NOTIFICATION AND SUBMISSIONS

### Notification Process

38. The application was publicly notified on 11<sup>th</sup> June 2022 (along with 11 of the other 12 CEH applications)<sup>7</sup>. Notice of the application was served on the owners/occupiers of immediately adjacent properties and owners/occupiers of the subject site, Bay of Plenty Regional Council, Rotorua Housing Taskforce, Te Pokapū, Ngāti Whakaue, Te Arawa Lakes Trust, Restore Rotorua Incorporated, and Rotorua Economic Development Limited.

### Submitters

39. Following the close of the submission period, 3,841 submissions were received across all 13 notified CEH applications. The majority of submissions applied to all 13 applications and focussed on general matters relating to emergency housing (for example, social and economic effects). These matters are addressed within the Overview Report and within the evidence prepared by Ms Foy and Ms Hampson.
40. Four people submitted only on Malones Motel. These submissions are summarised below.

Submitter Name/no.	Oppose / Support	Wish to be Heard	Submitted on other applications	Submission Summary
Jo Romanes (166)	Oppose	Yes	No	<p><u>Owner of tourism and hospitality business (does not specify where)</u></p> <ul style="list-style-type: none"> <li>• Impacts on tourism</li> <li>• Concerns of safety for staff and guests</li> <li>• Impacts on Fenton Street</li> <li>• Increase in crime and anti-social behaviour</li> <li>• States that the sites have already been operating and have proven they cannot contribute positively to the community</li> </ul>
Michael Heeney & Greg Lysaght (195)	Oppose	No	No	<p><u>Resident on Sumner Street</u></p> <ul style="list-style-type: none"> <li>• Traffic safety</li> <li>• Kids playing in carparks behind vehicles</li> <li>• Increase in crime and anti-social behaviour</li> <li>• Impacts on Fenton Street and the City Gateway Zone</li> <li>• Increase in supermarket trolleys and rubbish around Fenton Street / Sumner Street corner</li> </ul>

<sup>7</sup> The 13<sup>th</sup> application (Emerald Spa) was notified on the 6<sup>th</sup> August 2022.

				<ul style="list-style-type: none"> <li>• Submitter and neighbours have had to install security measures which is a financial burden</li> </ul>
Tim and Carloyn Tombleson (324)	Oppose	No	No	<p><u>Owner of a rental property on Tilsley Street</u></p> <ul style="list-style-type: none"> <li>• Submitter refers to impacts from a motel next door to their rental property. This is Brylin Motel and is not part of this application. It is understood that this motel is currently being used for emergency housing</li> </ul>
Phillip Spackman (354)	Oppose	No	No	<p><u>Resident on Sumner Street and Venue Manager at the Arawa Bowling Club</u></p> <ul style="list-style-type: none"> <li>• Poor management from the motel operators</li> <li>• Increase in crime and anti-social behaviour</li> <li>• The motel does not have suitable play areas for children. Children have been observed playing in the carpark or on the street. Linton Park is 500m away across a very busy road and there is no safe pedestrian crossing, so children are unlikely to use this park</li> <li>• Increase in rubbish, graffiti, and shopping trollies on Sumner Street</li> <li>• Temporary poorly constructed fencing</li> <li>• Many people are considering moving away from the area (or have already moved away)</li> <li>• Many people in the area have had to install security measures (at significant cost), including the Arawa Bowling Club)</li> <li>• The corner of Fenton Street and Sumner Street is now a “no-go area” for residents</li> <li>• Impacts on Rotorua’s reputation</li> </ul>

## SECTION 104 ASSESSMENT

### Section 104(1)(a) - Assessment of Actual and Potential Effects on the Environment

41. Having reviewed the application and submissions, I consider it appropriate to address the actual and potential effects of the proposal under the following topics:
- Character and amenity effects
    - External amenity
    - Internal amenity
      - Outdoor living space
      - Suitability for children
      - Occupancy rate
  - Transportation effects
    - Parking and access
    - Traffic generation
  - Noise effects
    - Reverse sensitivity effects
    - Noise from emergency housing
  - Effects on Infrastructure
  - Financial contributions
42. It is noted that many of the site-specific submitters also raise concerns over crime, occupants' behaviour, and the effects of CEH on business and tourism. These matters are not covered in this report. An assessment of the social, and economic effects of all applications is addressed in the Overview Report and statements of evidence.

#### Character and Amenity Effects

43. The RMA defines amenity values as *“those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.”*
44. The site is located in the COMZ4 zone. The District Plan describes COMZ4 as predominantly consisting of *“motels or large style 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.”*
45. Generally, the District Plan refers to amenity in the context of the *“design and appearance of buildings”*.
46. These elements generally define the character of each of the zones. The following sections assess the external amenity effects of the site, as well as the internal amenity effects.

#### *External amenity effects*

##### Fenton Street

47. The subject site has frontage to both Fenton Street and Sumner Street. The Fenton Street frontage is characterised by the existing motel buildings, a freestanding sign, low level fencing, and some garden areas directly in front of the building. These aspects form part of the existing

environment and there are no physical changes proposed by the applicant. The buildings were constructed for tourist accommodation activities, and the design, appearance and scale are consistent with the character anticipated by the COMZ4 zone.

48. Several submitters have described adverse external amenity effects in relation to Fenton Street. Typically, this related to an increase in rubbish, graffiti, shopping trolleys, temporary security fencing and road cones. A number of submitters also described how motels have fallen into a state of disrepair since they have changed in use to emergency housing. This could be due to the motel operator no longer needing to advertise and compete for tourists, or it could be related to increased density of use on the site causing wear and tear to the buildings.
49. The site was initially visited by Bethany Bennie on the 19<sup>th</sup> January 2022 and I also visited the site on the 23<sup>rd</sup> August 2022. I have relied on both my site visit, and the site photographs taken by Ms Bennie to assess the visual effects of the site at two separate points in time.
50. There was no sign of road cones, temporary fencing, graffiti, or shopping trolleys. However, the site did appear rundown and unkept. In particular, there were kids toys and scooters in the parking areas, the landscaping was not tidy, there was some rubbish around the site and there was dirt and moss growing on the concrete and fencing.
51. To ensure the site is well maintained, the applicant has provided a SMP which outlines requirements for site maintenance. It is recommended that the SMP is updated to provide further detail addressing submitter concerns as stated above<sup>8</sup>. Specifically, this includes the removal of rubbish and graffiti, daily removal of shopping trolleys, daily tidying of the property and street berms, and maintenance of all buildings.
52. Although landscaping is not specifically required under the District Plan at the Fenton Street frontage, a condition of consent is recommended that the existing landscaping (including gardens and trees) be maintained and replaced where necessary<sup>9</sup>. Furthermore, it is recommended that the signage associated with the motel is removed<sup>10</sup>. This would assist in reducing visual clutter along Fenton Street.
53. Adoption of the above recommendations would maintain the attractiveness of the streetscape.

#### Sumner Street

54. The Sumner Street frontage is located within COMZ4, however the remainder of Sumner Street to the west is located within the Residential 2 Zone (**RESZ2**). At this frontage, a corrugated iron fence has been constructed to block off the Sumner Street vehicle entrance. One submitter<sup>11</sup> has raised concerns regarding this fence, stating that it has been “poorly constructed”. To create a more attractive street frontage and to be consistent with the surrounding residential area, a condition has been proposed to remove the existing fencing and to construct permanent pool style fencing across this frontage<sup>12</sup>. Pool fencing will also allow for passive surveillance.

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<sup>8</sup> Refer recommended condition 36 in Appendix 1

<sup>9</sup> Refer recommended conditions 12 – 15 in Appendix 1

<sup>10</sup> Refer recommended condition 18 in Appendix 1

<sup>11</sup> Submitter 354

<sup>12</sup> Refer recommended condition 22 in Appendix 1



### Boundaries with neighbouring properties

55. The site adjoins a residential property and the Arawa Bowls Club to the west, which are both located within the RESZ2 zone. Under the District Plan, where a commercial zoned site adjoins a residential zone, the boundary must have a 1.8m high close-boarded fence, or a 2m planting strip which is able to achieve a visual screen of at least 1.8m high<sup>13</sup>. One submitter<sup>14</sup> has observed that EH occupants from the motels have been using the bowling club as an accessway between Lytton and Fenton Streets. They also state that there has been rubbish thrown over the fence onto the bowling club green on several occasions. The Apex Motel also adjoins the Arawa Bowls Club and so it is unclear which motel may be causing issues.
56. There is an existing fence along the western boundary with the Arawa Bowls Club. There is also some planting along this boundary (including some trees which appear to be around double the fence height – refer site photograph below). It is recommended that additional trees are planted along this boundary to improve amenity and to discourage climbing and throwing items over the fence<sup>15</sup>.
57. There is also a small accessway between the building and this fence which contains rubbish and is unkept (refer site photograph below). It is recommended this is blocked off and locked so CEH occupants cannot access this area<sup>16</sup>.



*Figure 4 - Site photographs showing the boundary with the Bowls Club (left photograph shows the area for additional trees to be planted and right photograph shows the accessway which is recommended to be blocked off.*

58. The boundary with the residential property to the west also includes a fence and some planting. This is consistent with the permitted standard under the District Plan and provides separation between the activities. This property did not make a submission on the application.

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<sup>13</sup> Rule COMZ-S9.1.a

<sup>14</sup> Submitter 354

<sup>15</sup> Refer recommended condition 14 in Appendix 1

<sup>16</sup> Refer recommended condition 24 in Appendix 1

## Conclusion

59. With the implementation of the above recommendations and the retention of the existing boundary treatments and landscaping features, character and amenity effects of the proposal on the environment are assessed as acceptable, and consistent with the character and amenity outcomes anticipated by the District Plan.

### *Internal amenity effects*

#### Outdoor living space

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

*On-site outdoor open space is not a strong feature of the site's existing built environment, and physical changes are not proposed in this regard. A small area is available in the front of each unit for use by occupants, but it is noted that this area is not private as it is adjoining the main carparking area. Units 1-10 have a spa in a private covered outdoor area, while the remaining units within the site have a spa inside the unit.*

61. In COMZ4, household units are required to provide a private outdoor living space with a minimum area of 10m<sup>2</sup> and a minimum depth of 2m<sup>17</sup>. However, this only applies to new buildings. There are no objectives and policies within COMZ4 that address outdoor living space.

62. A number of submitters have stated that the lack of outdoor space within some motels<sup>18</sup> is contributing to the "spill-over" of people onto surrounding streets (and in particular Fenton Street). The provision of outdoor space on site needs to be balanced with the length of stay, as the motel units are a temporary accommodation solution for families and individuals who do not have alternative accommodation options. Occupants who stay within the units for shorter durations may be more accepting of a lack of outdoor space.

63. At the time of the RFI (dated May 2022), the applicant stated that:

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

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

64. Updated information on lengths of stay has not yet been provided by the applicant, but is expected to be provided in the course of the hearing.

65. Overall, the site does not provide a high level of amenity due to the lack of private or shared outdoor living space. Mitigating factors relate to the temporary nature of the activity (subject to the applicant's updated information on lengths of stay at this facility), and the fact that the surrounding area is generally well served with local amenities and social infrastructure.

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<sup>17</sup> COMZ-S5

<sup>18</sup> As well as overcrowding, which is addressed below.



### Suitability for Children

66. Ms Collins has assessed the site as unacceptable for children between the age of six months and seven years, as there is no safe outdoor space for play. The site has been assessed as low for children between the ages of eight and eighteen. Whilst there is no space on site for children in these age groups to gather, Murray Linton Park is 500m away and this group could engage in active recreation as they are older and more independent.
67. Ms Collins states that play is important for the development, health and well-being of children. The impacts on children when they do not have access to 'play' is discussed in detail within her evidence.
68. In her evidence, Ms Collins provides recommendations for creating play areas for children. I agree with these recommendations, and as the Sumner Street entrance has already been closed off by the applicant, it is recommended that the flat area (in front of units 14 – 20) currently used for carparking is completely fenced off to create a safe play area for children. This area would have no vehicle access and the fencing<sup>19</sup> would need to be secure so children could not walk out onto the road or into parking and manoeuvring areas. A condition of consent is recommended to address this<sup>20</sup>.
69. Ms Collins states that this would lift the facility rating from unacceptable to low suitability for children. Whilst the "low" rating indicates that the outdoor living space is not ideal for children in these age brackets, it is nonetheless acceptable in terms of Ms Collins' rating system.
70. It is recognised that in adverse weather conditions, children would have no play space other than the limited space available within the individual units. A solution to this would be to dedicate one of the units for use as a common playroom. Whilst this hasn't been recommended by any of the technical experts, the Panel may wish to consider this as an option to further mitigate internal amenity effects for young occupants of the site.

### Occupancy rate

71. The applicant has recently stated an intention to reduce the maximum occupancy level across the site from 66 occupants to 42 (excluding staff and children under the age of 18 months). Where there is more than one double bed in a room, only one bed has been counted as sleeping two people.
72. The applicant has provided details of actual occupancy rates for the CEH activity on the site over an eight-month period<sup>21</sup>. This data<sup>22</sup> shows that the average occupancy level of the CEH activity on site is 34 occupants. The maximum occupancy rate over the same period was 44 occupants in December 2021.
73. A number of submitters have raised concerns of overcrowding within the units. Some of these submitters referenced Statistics NZ, whereby *"there should be no more than two people to a bedroom but that couples and children of certain ages can share a bedroom"*<sup>23</sup>.

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<sup>19</sup> This also includes the proposed fencing at the Sumner Street entrance.

<sup>20</sup> Refer conditions 16 - 17 in Appendix 1

<sup>21</sup> December 2021 to August 2022

<sup>22</sup> Further information received from the applicant, dated September 2022

<sup>23</sup> Stats NZ (2018) *Living in a crowded house: exploring the ethnicity and well-being of people in crowded households*. Retrieved from [www.stats.govt.nz](http://www.stats.govt.nz)

74. The measure used by Statistics NZ is the Canadian National Occupancy Standard (**CNOS**) and is regarded as a “*best fit for the New Zealand context*”<sup>24</sup>. The New Zealand Deprivation Index uses CNOS as an indicator of crowding<sup>25</sup>. Applied to the subject site, the proposed occupancy rates would result in crowding<sup>26</sup>. To avoid crowding, there would generally need to be a limit of two people per bedroom.
75. The site visit did not involve the entering of any units. There is limited information on the types and size of families that have typically stayed within Malones Motel (since it has been CEH), the size of the units (in m<sup>2</sup>), or the number of beds within each room. It is also not clear what criteria is applied for the allocation of units to families. It is expected that the applicant can provide this information in the course of the hearing.
76. The following information has been provided on the types of units:

*Table 1: Configuration of existing units at 321 Fenton Street excluding managers accommodation and children in cots under 18 months of age*

Type of unit	No. of units	Max No. of occupants
Studio unit	14	42
One bedroom unit	6	24
<b>Total</b>	<b>20</b>	<b>66</b>

77. As the site does not provide a high level of amenity in the form of outdoor living space, the following occupancy rates are recommended in line with the CNOS standards:
- Studio units shall accommodate a maximum of two people (excluding children under the age of six months); and
  - One-bedroom units shall accommodate a maximum of two people (excluding children under the age of six months).
78. The maximum occupancy levels proposed by the applicant exclude children under the age of 18 months. It is recommended that only children under the age of six months are excluded from the occupancy levels. At this age, typically children are unable to crawl or walk and therefore less space is required.
79. This would result in a maximum occupancy of 40 occupants across the whole site which is more than the average occupancy (at 34 occupants) and just under the maximum occupancy levels (44 occupants) over the previous eight months.
80. It is noted that some existing families may be established in units that no longer meet the recommended occupancy rate. Requiring them to move immediately, if consent is granted, could be an unnecessary disruption. There are options that could be considered by the Panel, including:
- A transition period of say 3 months; or

<sup>24</sup> Stats NZ (2012) *Finding the crowding index that works best for New Zealand*. Retrieved from [www.stats.govt.nz](http://www.stats.govt.nz)

<sup>25</sup> Stats NZ (2012) *Finding the crowding index that works best for New Zealand*. Retrieved from [www.stats.govt.nz](http://www.stats.govt.nz)

<sup>26</sup> As defined by Statistics NZ

- Allowing the family to stay (if they wish) until they no longer need CEH, but ensuring any incoming occupants meet the proposed occupancy rates and age restrictions.
81. The applicant may be able to provide information in the course of the hearing that identifies how many families this would apply to.

#### Conclusion

82. Overall, it is recognised that the motel units are a temporary accommodation solution for families and individuals who do not have alternative accommodation options. Whilst they may not provide a level of amenity equivalent to more typical permanent residential units, the conditions recommended above will avoid overcrowding and will reduce long-term negative impacts on children (in relation to play). Overall, with the adoption of the above recommendations, internal amenity effects are considered acceptable.

#### Transportation Effects

##### *Parking and access*

83. The site has an existing vehicle crossing onto Fenton Street and a separate vehicle access onto Sumner Street which is currently closed off by the corrugated iron fencing. There are 20 carparks provided on site (one per unit), as well as one accessible park. However, with the recommendations outlined above, up to 9 carparks could be removed to create a children's play area on the site. The benefits the shared play area would provide for children would outweigh the loss of these carparks. Ultimately, parking allocation will be managed by the motel operator.
84. Several submitters stated that due to a lack of off-street parking, occupants within emergency housing units were parking on the berms. During a recent site visit, a number of the carparks available on site were empty and it was advised by the motel operator that the majority of occupants do not own a vehicle.
85. Parking on berms is managed through Council Bylaws<sup>27</sup>. Overall, this appears to be a wider parking issue. Furthermore, it is recognised that Council is not able to set minimum parking requirements under the District Plan as required by the National Policy Statement on Urban Development 2020<sup>28</sup>.
86. Notwithstanding the above, the existing carparks are required to comply with the District Plan standards. The application was circulated to the development engineering team within Council and no issues were raised in regard to the existing carparks or vehicle crossings.

##### *Traffic generation*

87. The maximum occupancy of the motel is 66 occupants (based on the number of beds available). As outlined above, it is recommended that the occupancy rate is reduced to 40 occupants across 20 units. Furthermore, it has been advised that not all occupants own a vehicle.
88. It is acknowledged that there may be security and support services coming and going from the site. Overall, any potential increase in traffic in the immediate transport network from support services is anticipated to be negligible considering the high traffic volumes currently on Fenton Street.

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<sup>27</sup> Traffic Bylaw 2008

<sup>28</sup> Policy 11

89. Having regard to the existing environment, transportation effects associated with the proposal are assessed as acceptable.

### Noise Effects

#### *Reverse sensitivity effects*

90. The District Plan requires acoustic insulation of new sensitive activities within the Commercial Zone to mitigate potential reverse sensitivity effects of new sensitive activities on existing commercial activities. As the buildings are existing, it is unclear whether these have been designed to meet the acoustic insulation requirements of the District Plan.
91. COMZ4 predominantly consists of existing tourist accommodation activities and apartments. Directly adjoining Malones Motel to the north is an uncontracted emergency housing motel<sup>29</sup>. To the west of the site is the Arawa Bowls Club and directly adjacent to the site is tourist accommodation. The remainder is residential. Due to the nature of these activities not being significant sources of noise, it is unlikely that noise at the subject site will be experienced that is higher than what is typically anticipated within a residential environment.
92. Overall, the potential for reverse sensitivity effects in relation to noise is low.

#### *Noise from emergency housing*

93. The applicant has not applied to breach the noise standards within the District Plan.
94. Potential noise effects from the proposed activity may arise due to a higher number of people being on-site during the day (compared to tourists who are more likely to be out during the day), as well as an increase in children playing outside.
95. Several submitters also raised concerns regarding an increase in police sirens, motor vehicles, and noise from CEH occupants (yelling, late night parties, etc.). Noise that is generated off-site (such as police sirens and motor vehicles) cannot be directly linked to Malones Motel. However, noise that is generated on-site (such as noise from CEH occupants) can be managed through consent conditions.
96. The applicant proposes the implementation of the SMP to manage potential noise effects. Noise measures referred to in the SMP include not disturbing the “quiet and peaceful enjoyment” of neighbours, and compliance with the noise limits of the District Plan. Furthermore, the SMP states that visitors are only allowed on site between certain hours of the day. CEH occupants must agree to these rules and sign a Rules of Stay Agreement before moving into a CEH housing unit.
97. Adherence to the SMP will reduce the potential for noise generation at the site and ensure compliance with the District Plan noise limits. However, it is recognised that isolated incidents may occur that may cause nuisance to the neighbours. In this case, conditions of consent have been recommended to provide an 0800-telephone line for the community to address any noise complaints<sup>30</sup>.
98. With the above management measures in place, any potential noise effects from the proposed activity will be acceptable.

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<sup>29</sup> Ace Motor Lodge

<sup>30</sup> Refer recommended strategic conditions attached to the Overview Report

## Effects on Infrastructure

99. Regarding infrastructure, the applicant has stated:

*The existing levels of accommodation (i.e. number of units and associated beds etc) will continue to be utilised at a similar capacity to the current motel operations. No changes are proposed to the onsite reticulated servicing arrangement and there is no subdivision of land or units proposed as part of this proposal. Overall, there will be no change in the intensity of use, such as 3 waters infrastructure, traffic, parking and noise. Any potential adverse effects arising from this proposal in relation to intensity of use will be negligible.*

100. The application was circulated to the development engineering team within Council, and they had no comments on the proposal. Considering the occupancy rates will be reduced, and no physical works are being undertaken on site, any effects on infrastructure will be acceptable.

## Financial Contributions

101. Rule FC-R1(6) (financial contributions for reserves) states:

*A financial contribution shall be levied on household units that are in addition to any existing household units on site. The contribution shall be 2.5% of the value of the household unit as assessed by an independent valuer. Where there is an existing building council will consider 2.5% of the value of the whole building.*

102. Under this rule a financial contribution of 2.5% of the value of the whole building would need to be paid to Council for the new household units.

103. Rule FC-R2 (financial contributions for infrastructure) requires financial contributions to be taken where additional impacts on public infrastructure will result from an activity. This can be taken in cash to mitigate the effects on infrastructure.

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

## Conclusion

105. Overall, any actual and potential effects on the environment of a site-specific nature can be mitigated to a level that is acceptable subject to conditions of consent.

## **Section 104(1)(b) – Objectives and Policies of the District Plan**

106. An assessment against the broad objectives and policies of the District Plan, as well as Plan Change 9, is provided in the Overview Report. The following sections address objectives and policies for matters of a site-specific nature.

## Commercial 4 Zone

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

### *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.*
  - *COMZ-O3: Commercial buildings and activities designed and operated in a manner that avoids adverse effects on the amenity of residential zones.*
  - *COMZ-P7: Manage the effects and design of activities to ensure that the amenity of adjoining residential properties is not adversely affected.*
108. The applicant does not propose any changes to the existing buildings at the site. These buildings were constructed for tourist accommodation activities and are consistent with the character anticipated within COMZ4.
109. A condition of consent has been recommended for additional planting along the boundary with the Arawa Bowls Club. Furthermore, a condition of consent has been recommended to replace the fencing at the Sumner Street frontage. This will improve the amenity and provide for passive surveillance.
110. Removal of the motel signage, and regular upkeep of the site (as required under the SMP) will also contribute to an attractive streetscape.
111. The site provides safe access onto the transportation network, and whilst there is no scope to require on-site carparking (due to the requirements of the National Policy Statement on Urban Development), there appears to be adequate parking available for staff and occupants. The application was circulated to the development engineering team within Council and no issues were raised in regard to the existing carparks or vehicle crossings.
112. As described throughout this report, potential noise affects will be managed through the SMP which will maintain the amenity of adjoining residential properties.

#### *Reverse sensitivity*

- *COMZ-O5: Subdivision, use and development that enables the continued efficient operation of existing development and activities.*
  - *COMZ-P10: Manage the location and design of new subdivision, use and development within each zone to avoid adverse reverse sensitivity effects on existing activities.*
113. The activities in the immediate vicinity of the site include other emergency housing sites, residential activities, the Bowls Club, and tourist accommodation. As the activities are relatively similar in nature, the proposed use of the site is considered compatible with the zoning. The potential for reverse sensitivity effects is considered low.
114. Effects on businesses and properties related to anti-social behaviour, crime and tourism are discussed within the Overview Report and the evidence statements of Ms Hampson and Ms Foy.

#### Noise

115. The following objectives and policies are applicable in regard to noise:
- *NOISE-O1: A noise environment consistent with the character and amenity expected for the zone.*
  - *NOISE-P4: Minimise, where practicable, noise at its source or on the site from which it is generated to mitigate adverse effects on adjacent sites.*

- *NOISE-P9: Mitigate adverse effects generated by central city and infrastructural activities through the requirement that new noise sensitive activities that locate within the Central City or close to major infrastructure are appropriately insulated.*
116. Noise levels generated from the proposed activity will be managed through the proposed conditions of consent and through the SMP. As outlined above, the potential for reverse sensitivity effects is low.

### Infrastructure

117. The following objectives and policies are applicable in regard to infrastructure:
- *EIT-O3: Land use, subdivision and development that do not adversely affect the operation, maintenance, upgrading of and access to existing infrastructure.*
  - *EIT-P14: Avoid, remedy or mitigate adverse effects of new land use and development on the efficient operation, maintenance and access to existing infrastructure.*
118. The application was circulated to the development engineering team within Council, and they had no comments on the proposal. Considering the occupancy rates will be reduced, and no physical works are being undertaken on site, any effects on infrastructure will be acceptable.

### Transport

119. The following objectives and policies are applicable in regard to transport:
- *EIT-O7: Subdivision, use and development that enables the continued efficient operation of existing development and activities.*
  - *EIT-P18: Protect the safety, efficiency, sustainability and capacity of the transport network through avoiding, remedying or mitigating the adverse effects of land use, development and subdivision.*
  - *EIT-P22: Ensure that subdivision, use and development located in the vicinity of the district's transport network is appropriately designed to avoid, remedy or mitigate any reverse sensitivity effects such as noise and vibration.*
120. The site has existing vehicle crossings and parking areas that allow for on-site manoeuvring. Any potential increase in traffic in the immediate transport network from support services is anticipated to be negligible considering the high traffic volumes currently on Fenton Street.
121. Overall, the proposed activity will enable the continued operation, efficiency and sustainability of the transport network.

### Conclusion

122. Overall, the proposal is generally consistent with the objectives and policies contained in the Commercial Zones Chapter, the Noise Chapter and the Infrastructure Chapter of the District Plan.

## **CONCLUSION**

123. A conclusion on the assessment of effects is provided at Paragraph 105. This determines that the adverse effects of the activity on the environment of a site-specific nature will be acceptable, with the adoption of the recommended conditions.



124. A conclusion against the objectives and policies of the District Plan is provided at Paragraph 122. On balance, the proposal is generally consistent with the relevant objectives and policies of the District Plan.

### **CONDITIONS AND ADVICE NOTES**

125. Recommended conditions of a site-specific nature and advice notes are attached as Appendix 1 and Appendix 2, respectively.

## **APPENDIX 1: RECOMMENDED CONDITIONS**

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

### **General**

- 1 The activity shall be in general accordance with the information and plans submitted with the Application for Resource Consent, dated 13 August 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 17662 – 321 Fenton Street*"
- 2 The consent holder shall be Amber Luo & Frank Ma (the Operator) and Te Tūāpapa Kura Kāinga Ministry of Housing and Urban Development (MHUD).
- 3 The consent is issued personal to the Operator and MHUD. The consent cannot be transferred to and held by any other person.
- 4 The consent holder shall appoint a representative(s) within two weeks following the commencement of this resource consent, who will be the Rotorua District Council's principal contact person in regard to matters relating to this consent. The consent holder shall inform the Rotorua District Council of the representative's name and how they can be contacted. Should that person change during the term of this resource consent, the consent holder shall immediately inform the Rotorua District Council.

### **Consent Expiry**

- 5 This resource consent shall expire on the earlier date of either:
  - a) 5 years from the date the consent commenced; or
  - b) The date of termination or expiry of MHUD's contract for emergency housing applying to the site; or
  - c) The date imposed by a Council review under section 128 of the Resource Management Act 1991 pursuant to Condition 42 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 40 occupants (excluding children under six months of age) shall be permitted to reside within the 20 contracted emergency housing units.
- 8 Studio and one-bedroom units shall accommodate a maximum of two people per unit (excluding children under six months of age).
- 9 To avoid doubt, this resource consent does not:

- a) Restrict the length of stay for residents in the contracted emergency housing units (see Advice Note 1 referring to Building Act requirements); or
- b) Limit the number of people residing in the Manager's Accommodation.

### **Record Keeping**

- 10 A record shall be maintained at all times that states:
  - a) The total occupancy numbers across the whole site;
  - b) The length of stay of occupants;
  - c) The number of people within each unit;
  - d) Ages of children; and
  - e) The details of any complaints received and any incidents where security staff intervention has been required.
- 11 The information listed in Condition 10 shall be provided to the Manager, Planning & Development Solutions, Rotorua District Council, or their delegate, at six monthly intervals from the date of commencement of consent, and made available at any other time upon request. This will be a matter considered under Condition 42.

### **Landscaping and Planting**

- 12 The existing landscaping and planting on the site shall be retained and maintained for the duration of the consent. This includes the following:
  - a) The garden areas at Fenton Street frontage;
  - b) The garden areas at the Sumner Street frontage; and
  - c) The pot plants in front of each of the units.
- 13 The landscaping and planting baseline referred to in Condition 12 shall be marked on the Site Layout Plan, and photographed and supplied to Council within one month of the commencement of the consent.
- 14 Additional trees shall be established along the boundary with the Arawa Bowls Club within the next planting season (generally between May and October) that are capable of reaching the same height as the existing trees within the next planting season.
- 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 Area**

- 16 A dedicated children's play area shall be established on the site and shown on the Site Layout Plan.
- 17 The play area as required by Condition 16 shall be securely fenced and entirely separate from vehicle access and manoeuvring.

### **Motel Signage**

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

### **Storage**

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

### **External Boundary Fencing**

- 22 Permanent pool style fencing shall be installed along the Sumner Street frontage to replace the corrugated iron fencing. The fencing must reach the ground so that children cannot crawl out from underneath.
- 23 All external boundary fencing shall be maintained in the same or similar form to the existing fencing, except where specified in Condition 22, to provide privacy and security for contracted emergency housing occupants and adjoining neighbours.
- 24 A gate shall be established to restrict access between the western boundary and the building. This gate shall be permanently locked.

### **Waste Storage**

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

### **Traffic Management**

- 26 A minimum of one accessible carpark shall be provided on the site which shall be sealed and marked.
- 27 Parking and manoeuvring shall be in accordance with the New Zealand Standard, Parking facilities: Off street car parking, NZS2890.1.
- 28 Surface marking and signage shall be sufficient to ensure the safe and efficient operation of parking and access, including pedestrian safety.
- 29 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**

- 30 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 LAmax

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

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

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

#### **Glare and Light**

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

#### **On-site Management**

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

#### **Bond**

- 37 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.
- 38 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.
- 39 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.
- 40 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.
- 41 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**

- 42 At any time, Rotorua District Council may initiate a review of the consent conditions in accordance with section 128 of the Resource Management Act 1991 to:
  - a) Assess the record keeping of occupancy, complaints and incidents recorded under Condition 10; and/or
  - b) Change conditions where necessary to address any adverse effect, including, but not limited to responding to findings and recommendations of social impact assessments, setting limits on the number of occupants, requiring amendments to the Site Management Plan, and reducing the term of consent.

## **APPENDIX 2: ADVICE NOTES**

### **Building Act**

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

### **Waste Management**

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

### **Right of Objection**

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

### **Monitoring of Conditions**

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