

**BEFORE THE INDEPENDENT HEARINGS PANEL - DAVID HILL (CHAIR), GREG HILL
AND SHEENA TEPANIA**

UNDER the Resource Management Act 1991

IN THE MATTER of Various applications by Te Tūāpapa Kura Kāinga - the
Ministry of Housing and Urban Development (MHUD) to
the Rotorua Lakes Council

BETWEEN **MINISTRY OF HOUSING AND URBAN DEVELOPMENT**
Applicant

AND **ROTORUA DISTRICT COUNCIL** Consent Authority

AND **SUBMITTERS**

SUMMARY STATEMENT OF CHARLOTTE MACDONALD

Dated 21 / 10 / 2022

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INTRODUCTION

1. This Summary Statement (**Summary**) has been prepared on the basis that the Independent Hearing Panel (**Panel**) has read my pre-circulated Site-Specific Planner Reports (**Planner Reports**) for the following sites:
 - (a) Emerald Spa Motor Inn (RC18244);
 - (b) Geneva Motor Lodge (RC17891);
 - (c) Malone's Motel (RC17662);
 - (d) Midway Motel (RC17890);
 - (e) Ascot on Fenton (RC17887); and
 - (f) Rotovegas Motel (RC17889).

2. It is on this basis that my Summary simply records:
 - (a) A summary of the key points of my Planner Reports; and
 - (b) Areas of disagreement, points requiring clarification and updates to my expert opinion as a result of my review of the evidence subsequently filed by other parties relevant to my area of expertise.

KEY POINTS OF MY PLANNER REPORTS

3. All applications propose land uses that are non-complying activities under the Operative District Plan (**District Plan**).

4. The imposition of recommended conditions will mean that:
 - (a) Adverse effects of each proposal in relation to character and amenity, transportation, noise and infrastructure will be no more than minor; and

- (b) Each proposal will be generally consistent with the relevant objectives and policies of the District Plan.
5. Conclusions regarding the gateway test for non-complying activities under s104D of the Resource Management Act 1991 (**RMA**) are discussed in the s42A Overview Report prepared by Mr Batchelar.

Emerald Spa Motor Inn (Emerald Spa)

6. Emerald Spa is located on Fenton Street in the Commercial 4 Zone (**COMZ4**) of the District Plan.
7. The site offers a total of 29 units and 30 carparks. There is no shared or private outdoor space.
8. Eight submissions were received that were specific to Emerald Spa. The site-specific issues¹ relate to the lack of play space for children and the suitability of the motel for contracted emergency housing (**CEH**). One of these submissions was from the owner of the underlying subject site and argues that the proposed use of the site for emergency housing goes against the lease agreement. The submitter also discusses direct impacts on the Rotorua Racing Club (adjoining the site). Another submission was from a resident of Rotovegas, who had concerns regarding the Service Providers and the suitability of units within CEH. This submitter had made a submission in support on the initial 12 applications.
9. Key issues for the site relate to the occupancy rate, the lack of outdoor living space, and suitability for children between the ages of six months to seven years. Conditions of consent have been recommended to address this, including:
- (a) Reducing occupancy levels proposed by the applicant from 93 to 68;

¹ Broader issues such as social, economic and cumulative effects are addressed in the s42A Overview Report by Mr Batchelar

- (b) Restricting children between the ages of six months and seven years residing on the site;
- (c) Restricting the number of people per unit; and
- (d) Providing a dedicated play area on the site for children.

Geneva Motor Lodge

- 10. Geneva Motor Lodge is located on Fenton Street in COMZ4 of the District Plan.
- 11. The site offers a total of 14 units and 14 carparks. Eight of the 14 units contain a small area of private open space.
- 12. Six submissions were received that were specific to Geneva Motor Lodge. The site-specific issues² relate to external amenity effects, infrastructure effects and the suitability of the motel for CEH.
- 13. Key issues for the site relate to the occupancy rate, the lack of outdoor living space, and suitability for children between the ages of six months to seven years (in the upper floor units). Conditions of consent have been recommended to address this, including:
 - (a) Reducing occupancy levels proposed by the applicant from 41 to 30;
 - (b) Restricting the number of people per unit; and
 - (c) Restricting children between the ages of six months and seven years residing in the upper floor units.

Malones Motel

- 14. Malones Motel is located on Fenton Street in COMZ4 of the District Plan.
- 15. The site offers a total of 20 units and 20 carparks. Ten of the 20 units contain a small area of private open space.

² Broader issues such as social, economic and cumulative effects are addressed in the s42A Overview Report by Mr Batchelar

16. Four submissions were received that were specific to Malones Motel. The site-specific issues³ relate to traffic safety, external amenity effects, and lack of play space for children. One of these submissions was from the manager of the Arawa Bowling Club, which adjoins the site to the west.

17. Key issues for the site relate to boundary treatments (with neighbours and the Sumner Street frontage), the occupancy rate, the lack of outdoor living space, and suitability for children between the ages of six months to seven years. Conditions of consent have been recommended to address this, including:
 - (a) Upgrading the fencing along the Sumner Street frontage;
 - (b) Planting additional trees along the boundary with the Arawa Bowls Club to improve amenity and discourage climbing and throwing items over the fence;
 - (c) Reducing occupancy levels proposed by the applicant from 42 to 40;
 - (d) Restricting the number of people per unit; and
 - (e) Providing a dedicated play area on the site for children.

Midway Motel

18. Midway Motel is located on Fenton Street in COMZ4 of the District Plan.

19. The site offers a total of 15 units, which have been described as “family apartments” in the applications. It is unclear how many bedrooms these units contain. Each of the units contain private open space and there is a shared outdoor play area and indoor games room. There are 15 carparks located within the property.

³ Broader issues such as social, economic and cumulative effects are addressed in the s42A Overview Report by Mr Batchelar

20. Six submissions were received that were specific to Midway Motel. The site-specific issues⁴ relate to external amenity effects, infrastructure effects and the suitability of the motel for CEH.
21. The site has been assessed as highly suitable for families and the key issue for the site relates to the occupancy rate. Conditions of consent have been recommended to address this including:
 - (a) Reducing occupancy levels proposed by the applicant from 70 to 60; and
 - (b) Restricting the number of people per unit.

Ascot on Fenton

22. Ascot on Fenton is located on Fenton Street in the Residential 2 Zone (**RESZ2**) and COMZ4 of the District Plan.
23. The site offers a total of 14 units and 14 carpark spaces. There is no shared or private outdoor space available.
24. Five submissions were received that were specific to Ascot on Fenton. The site-specific issues⁵ relate to external amenity effects. There were also 23 submissions in support from people who recorded their address as 247 Fenton Street (ie. Ascot on Fenton).
25. Key issues for the site relate to the occupancy rate, the lack of outdoor living space, and suitability for children between the ages of six months to seven years. Conditions of consent have been recommended to address this including:
 - (a) Reducing occupancy levels proposed by the applicant from 43 to 40;
 - (b) Restricting the number of people per unit; and

⁴ Broader issues such as social, economic and cumulative effects are addressed in the s42A Overview Report by Mr Batchelar

⁵ Broader issues such as social, economic and cumulative effects are addressed in the s42A Overview Report by Mr Batchelar

- (c) Restricting children between the ages of six months and seven years residing on the site.

Rotovegas Motel

- 26. Rotovegas Motel is located on Fenton Street in RESZ2 and COMZ4 of the District Plan.
- 27. The site offers a total of 26 units and 26 carpark. Some of the units contain private open space and there is a shared outdoor play area and indoor games room.
- 28. Five submissions were received that were specific to Rotovegas Motel. The site-specific issues⁶ relate to external amenity effects and parking. There were also 15 submissions in support from people who recorded their address as 249 Fenton Street (ie. Rotovegas Motel).
- 29. The site has been assessed as highly suitable for families and the key issue for the site relates to the occupancy rate. Conditions of consent have been recommended to address this including:
 - (a) Reducing occupancy levels proposed by the applicant from 80 to 63; and
 - (b) Restricting the number of people per unit.

AREAS OF DISAGREEMENT, POINTS REQUIRING CLARIFICATION AND UPDATES

- 30. The following sections focus on areas of disagreement and points requiring clarification. These aspects are general matters applicable across all six sites, except where specifically stated.

Occupancy rates

- 31. Ms Blackwell disagrees with the proposed maximum occupancy rates as conditioned across all six sites, and in particular, the restrictions per unit.

⁶ Broader issues such as social, economic and cumulative effects are addressed in the s42A Overview Report by Mr Batchelar

Ms Blackwell is concerned about the use of the Canadian National Occupancy Standards (**CNOS**) and references the CMHC⁷ website which states that *“the national occupancy standard should not be used to restrict access to housing.”*

32. The conditions as originally proposed, were drafted to ensure that CEH occupants were not living within overcrowded environments. The CNOS were used as a general guide only, recognising that some sites could have a proposed higher occupancy rate where there is shared and/or private open space.
33. After reviewing the evidence from the Service Providers, I understand there is a broad range of factors that need to be considered during the allocation process. Therefore, it is recommended that the maximum occupancy rates per unit can be removed across all sites. I maintain my opinion that the total maximum occupancy rates on each of the sites should be retained. This will reduce “spillover” effects onto the surrounding areas.

Suitability for Children

34. Emerald Spa, Geneva Motor Lodge, and Ascot on Fenton have been assessed by Ms Collins as unacceptable for children between the ages of six months and seven years⁸. Ms Blackwell disagrees with the imposition of conditions of consent restricting children from residing at these sites. No restrictions have been proposed for Malones Motel, on the basis that a new secure play area is created on site. No restrictions have been proposed for Midway Motel or Rotovegas Motel.
35. Ms Collins’ expert opinion is that consideration of suitability of play space is relevant. The suitability of motels (particularly for children) was also one of the top submission themes.

⁷ Canada Mortgage and Housing Corporation

⁸ Geneva has been assessed as unacceptable only in regard to the upper floor units

36. On review of the evidence of Ms Blackwell and the Service Providers, it is recommended that the conditions that restrict certain age groups from residing at the site can be removed. Ms Collins' assessment could instead be used as a guidance tool for the Service Providers to allocate children of certain ages to particular sites.

Traffic and Parking

37. Mr Murphy states there is evidence of disrupted berms outside or in close proximity to proposed CEH sites. Image 2 of Mr Murphy's evidence shows a photograph of a vehicle parked on a berm on Toko Street, directly outside Ascot on Fenton Motel and Rotovegas Motels. During my site visit⁹ I also observed vehicles parked in this location. I questioned the Motel Operator of Ascot on Fenton Motel and he informed me that the vehicles in question belonged to staff of the childcare facility, which is directly opposite the motels on Toko Street. In my opinion, there is no reliable evidence that vehicles parking on the berms can be directly attributed to occupants or visitors of CEH.
38. Nonetheless, if there are concerns around vehicles parking on berms, I maintain my view that this can be managed through conditions of consent and through Council Bylaws¹⁰.

Conditions

39. Ms Blackwell disagrees with recommended conditions 2 and 3 across all six sites which identify the consent holder as the Operator and MHUD, and restrict the consent from being transferred to and held by any other person. This is discussed further within Legal Submissions by Ms Le Bas.
40. Ms Blackwell disagrees with the conditions relating to the maximum occupancy levels across all six sites. As I have noted earlier, I recommend

⁹ 23 August 2022

¹⁰ Traffic Bylaw 2018

that the maximum occupancy levels per unit can be removed. I maintain that the total occupancy levels for each site should be retained.

41. Ms Blackwell disagrees with the conditions of consent that set restrictions on the ages of children that can reside at Emerald Spa Motel, Geneva Motor Lodge, Ascot on Fenton Motel, and Malones Motel. As I have noted earlier, it is recommended that these conditions are removed.
42. Ms Blackwell recommends that the conditions across all six sites stating that the occupancy levels do not limit the length of stay, would be better suited as an advice note. I agree that the following conditions could be incorporated into advice notes:
 - (a) Condition 11 of Emerald Spa;
 - (b) Condition 11 of Geneva Motor Lodge;
 - (c) Condition 9 of Malones Motel;
 - (d) Condition 9 of Midway Motel;
 - (e) Condition 11 of Ascot on Fenton; and
 - (f) Condition 12 of Rotovegas Motel.
43. Ms Blackwell disagrees with the conditions of consent across all six sites that require compliance with the permitted activity performance standards for noise and light emissions from the site. It is my opinion that providing a comprehensive list of consent conditions, will allow for successful monitoring of the consent and will provide certainty for the interested parties.
44. Ms Blackwell disagrees with the inclusion of a consent across all six sites relating to the road-traffic design sound level inside all habitable rooms. I agree with Ms Blackwell's conclusions and recommend that this condition is removed across all six sites.

45. Ms Blackwell disagrees with the conditions relating to a bond. This is discussed further within Legal Submissions by Ms Le Bas.

Charlotte MacDonald

21 October 2022