

**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 REBECCA FOY
Dated 18/10/2022

TOMPKINS | WAKE

Solicitor: Theresa Le Bas
Theresa.LeBas@tompkinswake.co.nz

Counsel: Kahlia Goss
kahlia.goss@tompkinswake.co.nz

1105 Arawa Street
PO Box 248
Rotorua 3040
New Zealand
Ph: (07) 347 9466
Fax: (07) 347 9500
tompkinswake.com

INTRODUCTION

1. This Summary Statement (**Summary**) has been prepared on the basis that the Independent Hearing Panel (**Panel**) has read my pre-circulated full Statements of Evidence (**SoE**). It is on this basis that my Summary simply records:
 - (a) A summary of the key points of my SoE dated 21 September 2022; 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 SOE

2. A key issue for the assessment of social effects is the degree to which those effects can be attributed to CEH in isolation from UEH and wider social patterns arising from higher than anticipated population growth, housing shortages, increased homelessness, and Covid-19 impacts.
3. Providing housing for vulnerable populations is likely to have positive outcomes in comparison to the alternative of substandard living conditions.
4. However, UEH and CEH is intended to be used for only up to two weeks. Data shows that EH-SNG occupants (81%) are staying in UEH for more than six months and there has been no data available regarding the average length of stay for CEH occupants.
5. A range of negative social wellbeing outcomes can arise from staying in temporary accommodation for such long periods. Those negative effects can spill-over into the wider community, and many submitters have identified that the social effects arising from both UEH and CEH (due to the difficulties differentiating between the two), including increased crime, antisocial behaviour, and feeling unsafe, are unacceptable to them.

6. Those effects tend to be concentrated in the suburbs of Glenholme and Victoria surrounding Fenton Street, where there is an aggregation of UEH and CEH activities.
7. The cumulative effect of adding more UEH and CEH motels over time has not been considered in the Beca SIA which concentrated on the social effects generated on-site and managed by the SMPs. This downplays the evidence of neighbours and community members about the adverse social effects.
8. The two key groups that will be impacted by the positive and negative social effects of these applications, if resource consent is granted, are homeless people needing EH and the immediate neighbours and surrounding community of the motels providing CEH.
9. The social wellbeing effects for CEH occupants are more likely to be positive due to the improved level of access to social and health support and onsite security. There could also be negative effects for some occupants as a result of crowding, long lengths of stay, and exposure to anti-social behaviour, violence, and substance abuse. Moving people through CEH faster is the best way to overcome these negative effects, however mitigation options as proposed by Ms Healy, and the RLC team of experts should help to reduce the scale of those negative effects through regulation.
10. The social wellbeing effects for immediate neighbours and the surrounding community are more likely to be negative, however the scale of these effects may be able to be mitigated.
11. Options that may be considered to mitigate adverse social effects include:
 - (i) Approving some consents in the Fenton Street cluster, but not all. A more dispersed approach to CEH motel locations would spread the social effects more widely and dilute the social effects that appear to be accruing in one community at present.

- (ii) Approving all CEH consents, and RLC encouraging central government to look for solutions to move UEH occupants from motels in the wider area to other suburban locations.
 - (iii) For central government to also explore other housing options for UEH residents in more permanent housing formats or relocatable housing.
12. The mitigation measures that I consider would be helpful to improve the environment around CEH are¹:

Health and safety

- (a) On-site safe dedicated play areas for children.
- (b) A highly visible presence of security staff².

Connectivity

- (c) Housing young people and children near schools and recreation facilities.

Social cohesion

- (d) Systems to allow the provision of feedback and concerns from community members in a way that does not lead to retaliation and retribution. This would include a centralised 0800 number or website available 24/7, funded and managed by MHUD so that information can be co-ordinated and recorded.
- (e) Communication and engagement. Creation of a community forum facilitated by MHUD would enable local residents to gather regularly (in person or online) to share concerns and provide feedback about their experiences, and to hear ongoing plans for the management of and eventual exit plan for UEH and CEH activities.

Environment

- (f) Landscaping, fencing, removal of motel signage, and improved parking.
- (g) Allow for on-going SIA to be undertaken by MHUD, with RLC input, on an annual basis, and undertaken three months prior to

¹ Note some of these mitigation options were recommended in Ms Healey's SIA report.

² Note my changes to the wording of this recommendation later in this summary statement

consents being removed. Two surveys could be undertaken to monitor the social effects:

- (i) Of UEH and CEH occupants to understand their lived experience and suggestions for improvements.
- (ii) Surveying the community to understand the range of impacts experienced by both immediate neighbours and the wider community.

Ongoing SIA and management plan

13. A Social Impacts Management Plan (“SIMP”).

Other alternative EH and social housing options

14. Alternative options that have not been considered in the Beca SIA include the use of short-term relocatable houses, as has been piloted in Raukokore, or alternative sites for UEH and CEH occupants.

AREAS OF DISAGREEMENT, POINTS REQUIRING CLARIFICATION AND UPDATES

The social baseline

15. I disagree with Ms Healy’s assertion that my social baseline is an ‘artificial environment’ (para 9.10) and that values such as amenity, safety and security need to change over time to reflect current circumstances. In my opinion the values identified in the various policy documents I have reviewed are likely to remain unchanged, if not to have become more important. Recent changes in the environment include both the provision of UEH and CEH in concentrated amounts and wider social changes such as due to Covid-19. The mismatch between the current and anticipated social environment is contributing to high levels of frustration as presented in submissions and media articles.
16. Mr Murphy agrees with the approach I have employed which assesses the likely social effects of both UEH and CEH (para 11).
17. Differentiating the extent and scale of positive and negative social change that can be ascribed to UEH and CEH, as well as underlying social changes, is difficult and complex, as I discussed in my SOE. This is acknowledged in the evidence of Ms Healy (paras 6.3 and 9.1), who also states that it is the specialist’s role to try to untangle these effects (para 9.42).

18. The absence of evidential data makes it very difficult to establish who or what is causing social effects³, and has meant that public perceptions and opinions form an important part of the evidential base available.
19. Take for example an incident of shoplifting reported after the introduction of EH and CEH in the surrounding Fenton Street environment (referred to in Ms Walsh's evidence). There is no information about who committed that offence, and it could be (a) a member of the non-EH Rotorua community, (b) an UEH occupant, (c) a CEH occupant, or (d) someone from outside of Rotorua. There is an overwhelming belief in submissions, evidence (Ms Walsh, Ms Tassell, Mr Rolston, and Mr Parry) and media reports, that social conditions have changed since the introduction of UEH and CEH, especially after the first Covid-19 lockdown, and that recent levels of anti-social behaviour and crimes were not occurring in this location prior to EH residents relocating there.
20. Ms Healy accepts the difficulty of untangling these effects when she states that "people experience the environment as a whole and are not likely to experience specific on-sites impacts of the CEH motels (when they began operating as CEH) in a way that is easily distinguishable from everything else happening within their community" (para 10.1). She goes on to say that "submissions largely report on the wider social conditions and further on what is happening offsite", and "it is not evident that these activities are a result of the CEH motels as opposed to other housing or emergency housing or from wider social conditions".
21. I agree with her observations on those matters, which in my opinion show that it is important to consider wider effects, irrespective of whether they can be directly attributed to CEH or not, as the community perception is that UEH and CEH are intertwined.

³ RLC lodged an OIA request for crime data that was not provided, as documented by Ms Hampson. Statistical analysis of that data would have enabled assessment of whether there are statistically significant relationships between the increase in supply of UEH, conversion to CEH, and the incidents of crime and feelings of unsafety in the wider community. From the data available causation is difficult to establish, despite the strong belief of many submitters.

22. In my opinion, while mitigation measures in Site Management Plans (**SMPs**) may be able to manage some adverse social effects, they cannot manage effects in off-site locations, such as crime, impacts on business profitability, and perceptions of risks to safety, as Ms Healy recognises (para 10.12).
23. It is important that members of the public perceive that social behaviour is correlated with the establishment of EH in the wider community, and in the absence of data that disproves this assumption, EH occupants are likely to be blamed for the increase in negative social effects. The inability to control the behaviour of CEH residents off-site is one of the key reasons that I have recommended a more dispersed pattern of CEH activity, or a consolidated pattern of CEH activity with UEH activity becoming more dispersed. I will return to this point.
24. I agree with Ms Healy that CEH is likely to be creating more positive site-specific impacts than UEH, and that some site management is preferable to no management or to sharing accommodation with tourists. I also agree that CEH provides a valuable and necessary service for vulnerable whānau, and the mitigation measures suggested by the experts could reduce the negative effects of CEH motels on immediate neighbours (Ms Healy para 9.13 (a)).

Cumulative effects and assessment of alternatives.

25. The negative social effects that cannot be managed by SMPs, and are occurring off-site in the wider community, are also important. These include matters such as increased levels of crime, noise, perceptions of unsafe environments, and flow-on impacts to business profitability (as outlined in evidence of Ms Walsh, Ms Tassell, Mr Rolston, and Mr Parry). Mr Murphy agrees with my position that the submissions highlight greater impacts in Fenton Street than acknowledged in Ms Healey's evidence (paras 17, 57 and 68) and uses this to justify the position that some consents may need to be declined (para 56).
26. Ms Healy does acknowledge that negative impacts are more likely where the CEH motels are clustered with other forms of emergency and transitional housing and other contracted motels (para 7.5).

27. A range of alternatives should be considered to reduce the negative social effects, as submitters have asserted these are unacceptable, and could include:
 - (a) Consenting some motels for shorter timeframes to allow MHUD to investigate and provide capacity in other suburban locations (in Rotorua or in other cities), and
 - (b) Declining consents for some of the CEH motels.
28. I note that my assessment has not recommended declining all 13 motels. This would generate adverse outcomes for people requiring EH and is not a pragmatic solution. Ms Healy has acknowledged that we both share this view (para 9.25) and I agree with her conclusions on this issue (paras 9.13 (b), 9.29 and 9.30). I also acknowledge that given the high levels of housing demand and low levels of supply in Rotorua that there is no quick fix, and buying time through the use of CEH is a good option (Ms Healy para 9.38).
29. Ms Healy (para 9.6), Ms Blackwell, and Mr McNabb consider that the counterfactual if CEH sites are not consented is that CEH occupants would return to UEH, other forms of overcrowded living or homelessness. I agree that that is a situation that needs to be avoided.
30. Therefore, I do not support the proposition of Mr Murphy (para 75) and Mr Counsell (para 101) that declining all the Fenton Street motels and allowing occupants to be relocated to motels with available capacity elsewhere would produce positive social outcomes for CEH occupants, though it would likely reduce negative effects for the wider community.
31. My SoE questioned whether alternatives to the CEH model had been assessed or were able to be delivered by MHUD (or other central government agencies). Mr McNabb's evidence has clearly described the Rotorua housing situation and provided some of the missing contextual information.
32. He describes (para 7.7) the process of selecting an initial set of 41 motels, reducing those to 24, and eventually ending up with the 13 application sites. While no information has been provided about why some of the

motels were not considered appropriate for CEH, he states that they have been assessed for a range of attributes. For this reason, I disagree with Mr Murphy's assertion that "there is no evidence of consideration of alternatives or solutions" (para 132).

33. Mr McNabb also provides information about other investment and programmes which are currently underway in Rotorua to house vulnerable people (paras 4.11, 4.19, 4.30, 4.36, 8.17, 8.18). The combined capacity of those programmes would be 580 dwellings, comprised of 341 public houses provided by Kāinga Ora, CHPs, and iwi, and 239 dwellings from other initiatives. This is clear evidence that other alternatives are being planned to address the housing shortages.
34. Mr McNabb provides data that shows the total number of clients by month end in para 6.26. That data shows that the largest number of clients for both UEH and CEH or Covid-19 motels was in December 2021 with 677 clients (55% were UEH and 45% were CEH or Covid-19 motels). In the following eight months to August 2022, that number decreased by 170 clients (a proxy for households).
35. This recent decline in demand for both UEH and CEH, and the planned increase in housing supply indicates there could be and end in sight to recent stress on Rotorua's EH supply if housing supply plans eventuate, although that is unlikely to be in the short term.
36. I now focus on the two potential alternative approaches I have proposed.
37. The first option is to consent some of the CEH motels for shorter periods of time. Mr Murphy has also identified this as a potential option (para 75). The key benefits of this approach would be to provide CEH accommodation for vulnerable people while MHUD's service providers build suitable accommodation in other locations or identify other suitable suburban motels, ensuring the current CEH proposals have a known and finite life and will not become a permanent solution.
38. The new capacity would be best located in suburbs away from the Fenton Street environs if provided in CEH. Accommodation provided in more permanent public housing solutions would also benefit from being spread

more widely in Rotorua so as to avoid a concentration of negative social effects.

39. The second option is to decline consents for some CEH motels. As discussed in the evidence of Ms Healy, Mr McNabb, and Ms Blackwell, this is likely to push current CEH occupants into unsuitable living environments. In my opinion this is not the best of the two outcomes for CEH occupants but could decrease some of the negative effects happening in the Fenton Street environment. However, due to the significant number of UEH motels also in this area, I agree with Ms Healy that the problems in the wider social area are unlikely to reduce (para 9.24 (c)).

Mitigation options and conditions

40. Ms Healy does not support the mitigation of (a) “security staff to be highly visible” and (b) “limitations of placement on age” (para 9.45) and that position is adopted by Ms Blackwell.
41. On reflection I agree that the terminology “visible” is not the word I intended to use; “accessible” is a more accurate term. Many submitters have expressed concerns about the detrimental effects of having highly visible security personnel on amenity, and I concur that this high visibility would generate adverse effects. I agree that having an accessible security presence on sites as proposed in the SMP is appropriate.
42. With respect to the age limitations proposed, I defer to the expertise of Ms Collins, as adopted by Ms Bennie and Ms MacDonald, noting that children are a particularly vulnerable group within the CEH environment.
43. Ms Healy is supportive of a centralised 0800 number for complaints to be managed independent of the providers (para 9.44 (b)) though this is not supported by Ms. Blackwell (para 13.9). I consider this is an important mechanism for complaints, as is its independence to ensure people trust the mechanism. It is also a good method of collecting data to determine what the key social issues are that have arisen over each time period, and whether on-site and off-site behaviour has improved or declined. It would form an important data source for any ongoing SIA reporting by MHUD.

44. Ms Healy neither opposes nor supports the following mitigation measures I proposed: a SIMP and annual SIAs, proposed surveys, and how access to place space, schools or parks is achieved (para 9.47). Ms Blackwell questions why the surveys and SIMP would be relevant and argues that they should not be implemented as strategic conditions (para 13.12-13.14).
45. Mr. McNabb states (para 4.35) that an initial evaluation (which could involve surveys or interviews) is already underway for CEH occupants with a final report due in December. This is a good outcome and aligned with my recommendations and the strategic conditions proposed by RLC.
46. Mr McNabb has also provided information about other efforts to help alleviate the negative social effects and monitor outcomes, which I agree will be beneficial, including monthly reporting of EH data for Rotorua (para 8.37), restricting individuals and whānau from outside the district being accommodated in the CEH motels (para 8.38), managing reductions to the EH-SNG households across 35 UEH motels (para 8.41), and making placements in the 21 vacant transitional housing properties at 2Six5 on Fenton (para 8.42). There is a clear commitment in Mr McNabb's evidence that MHUD will work with RLC to provide better housing solutions to EH occupants, thereby reducing the negative social effects occurring off-site (para 8.41).

Other matters

47. Ms Healy has posited that the neighbours and surrounding community, as defined in in my assessment, should include the following groups of people "neighbours to the facility, those in the local community surrounding the CEH facilities, the wider Rotorua community, business (es) sic, and social service providers" (para 9.33). I agree, and accept that I did not make it clear in my SoE that these groups should be included in that category.
48. I have not seen any data presented about the average length of stay in CEH in the MHUD evidence. Data in Ms Healy's evidence (para 9.26) shows that 400 households in CEH have not yet found homes, though it is difficult to form any conclusions about how long they have been living

in CEH, which could be up to 15 months since July 2021. This is an important consideration as MHUD have acknowledged through AHAP that shorter stays are important.

49. The data presented by Mr Murphy in Attachment Two of his evidence (Te Whatu Ora) shows health trends for CEH properties but provides no contextual data about wider Rotorua trends, which limits the value of that data. While there appears to have been an increase in hospital admittances, it is not possible to understand why that is the case, and it may be Covid-19 related or due to CEH occupants accessing healthcare that is part of aging and/or general ill-health.
50. In Ms Healy's para 10.10 she claims that submitters who are choosing to move out of Rotorua are probably motivated by the same drivers as existed prior to CEH and UEH. This is inconsistent with the reasons provided in evidence and submissions where people have related the anti-social behaviour, crime and amenity effects as reasons for choosing to move to other locations in Rotorua or away from Rotorua entirely. Some people may have moved for other reasons anyway, such as retirement, but there appears to be a direct causation and general reluctance to move being expressed in evidence (for example, Mr Rolston, Mr Lovell).

CONCLUSION

51. Trade-offs need to be made to provide EH for vulnerable households in Rotorua while ensuring that the negative social effects being experienced by the wider community are minimised.
52. Those effects are being experienced off-site of the CEH motels and are likely to be adding to the mix of negative social effects that have occurred due to wider social changes and the concentration of UEH, particularly within the Fenton Street environs.
53. It is difficult to determine the causation of these negative effects without data, and submitters' opinions are the best evidence of lived experience, although need to be carefully considered as to the scale of effects and level of subjectivity.

54. The proposed SMPs, and conditions recommended by RLC, are likely to create much better outcomes for on-site behaviours and for the immediate neighbours of CEH motels, however they are unable to mitigate the off-site effects. The concentration of EH in one location is likely to be the single most significant cause of negative effects and in my opinion dispersing EH will be the best way of balancing CEH occupants' housing needs against residents' desires to live and work in safe, peaceful, and high amenity environments.
55. Five years is a long time for residents to have to accept the negative social effects, especially when there is such wide-scale opposition due to the lived experience from the last two years. I have proposed two alternative management options:
- (a) allowing short term consents for some motels in the Fenton Street environment while other motels are identified for CEH activity in suburban Rotorua (or in other cities), or
 - (b) declining some consents to prevent clustering of negative social effects in the wider Fenton Street community.
56. My preference would be for short term consents for some motels in the Fenton Street environment while more suitable accommodation is provided in other suburban locations both in Rotorua and beyond. This would ensure that vulnerable households still have somewhere to live and would provide the wider community with a level of assurance that conditions are likely to change for the better.
57. Another option is to grant consents for all 13 applications. If this were to happen RLC and MHUD would need to work together to move UEH away from the wider Fenton Street environs through other regulatory and planning mechanisms. At para 8.41 of Mr McNabb's evidence a commitment is made towards collectively achieving this objective. I support that intent, and note that a significant reduction in the total number of EH occupants in the wider Fenton Street environs is likely to create much better social outcomes than exists currently. This would also

be likely to result in an acceptable outcome if that commitment was fulfilled.

A handwritten signature in blue ink, appearing to read 'Rebecca Foy', written in a cursive style.

Rebecca Foy

18 October 2022