
ROTORUA DISTRICT COUNCIL

REPORT TO: Jason Ward,
Manager, Planning & Development Solutions

FILE NO: 6221133
DOC NO. RDC-1155737

FROM: Bethany Bennie
Consultant Planner

DATE: 09 July 2021

LAND USE CONSENT REPORT FOR A NON-NOTIFIED NON-COMPLYING ACTIVITY

A. APPLICATION DETAILS:

Consent no:	RC17556
Applicant:	KĀINGA ORA – HOMES AND COMMUNITIES
Agent:	THE PROPERTY GROUP C/- ALICE BLACKWELL
Type of application:	LAND USE – NON COMPLYING
Proposal:	USE OF THE EXISTING MOTEL SITE AND BUILDINGS FOR TRANSITIONAL HOUSING
Site address:	265 FENTON STREET, ROTORUA
Legal description:	LOTS 50 -51 DP 2865 LOT 52 DP 2865 LOT 45 DP 2865 LOT 41 DP 2865 LOT 44 DP 2865 LOT 40 DP 2865
Property file no:	P01842 P01841 P01835 P01836 P01837
Zone:	RESIDENTIAL 2 – MEDIUM DENSITY RESIDENTIAL COMMERCIAL 4 – CITY ENTRANCEWAY ACCOMMODATION
Notified:	NO
Principal issues:	Activities that are not specifically provided for in the District Plan have the potential to generate unanticipated effects, including those relating to residential density, noise and traffic levels, that do not align with the amenity, character and/or purpose of the underlying zone.
Recommendation:	It is recommended that the application for resource consent be GRANTED.

B. INTRODUCTION

B.1 Proposal

Kāinga Ora – Homes and Communities (the Applicant) has applied under Section 88 of the Resource Management Act 1991 (the Act) through the The Property Group (the Agent) to use the subject site (the site) and existing motel buildings for transitional housing accommodation.

Transitional housing is proposed for a maximum of 88 occupants (excluding staff) accommodated in 31 units. The units range from attached studio units to a standalone five-bedroom house. Full time management and supervision are to be provided, with managers accommodation located onsite.

The existing motel has a maximum occupancy of 132 guests, accommodated in 34 units. The applicant proposes no change to the layout of the buildings within the site except for converting six small units into three larger units.

The applicant proposes to use the units located on the eastern side of the site as transitional housing for singles or couples, with the units on the western side of the site predominately used for family groups. An internal fence to be installed to physically separate these areas.

The restaurant will be closed to the public and used as a communal kitchen and meeting space. Minor site works will be undertaken to decommission the existing outdoor spas and mineral spas, and to remove the existing swimming pool. Minor changes will be made to the existing on-site parking and no change is proposed to the existing vehicle access to and from the site.

The site will be managed by a contracted service provider who will implement a Site Management Plan and this is offered as a condition by the applicant. The Site Management Plan will include:

- On-site support services available to residents, staff numbers, and hours of operation
- Overall site management (maximum occupancy, security, and visiting hours)
- Noise management
- Traffic management
- Site rules

The service provider will provide training and support services in relation to “finding, securing and maintaining long-term housing and wellbeing”. These services are to be provided on site within the existing facilities and will only be available to residents.



Figure 1 – Proposed Site Plan

For further detail on the proposal, please refer to section 3 of the application.

B.2 Description of the Site and Surrounding Area

The site is located on the corner of Seddon Street and Fenton Street, Rotorua. The site has access from Fenton Street, Seddon Street and Malfroy Road, with the main vehicle and pedestrian entry being from Fenton Street.

The site is made up of 7 parcels as set out below:

Zone	Description	Area m ²
Residential	Lot 40 DP 2865	1072
	Lot 41 DP 2865	1012
	Lot 44 DP 2865	1072
	Residential Zone subtotal (48%)	3156
Commercial	Lot 45 DP 2865	1012
	Lot 52 DP 2865	809
	Lots 50-51 DP 2865	1619
	Commercial Zone subtotal (52%)	3400
Total		6596

The site and buildings are currently occupied by the Boulevard Motel. The applicant gives the following description of the existing motel operation in Section 2.1 of the application which I adopt here in accordance with s42A(1B)(b) of the Act.

The existing buildings within the site are dedicated to the existing motel operation, which has been in operation since the 1960s. The site currently has a total of 34 units. The configuration of these units is outlined in Table 1 below...The overall occupancy levels are based on the number of beds typically accommodated within each unit... 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 living areas, as is typical of this style of accommodation. Occupancy levels will be reduced as part of the proposal).

Table 1: Configuration of existing units at 265 Fenton Street (Boulevard Motel)

Type of unit	No. of units (Existing)	Max No. of occupants (Existing)
Studio unit	11	30
One bedroom unit	14	48
Two bedroom unit	7	33
Three bedroom unit	1	9
Five bedroom (house)	1	12
Total	34	132

The site also includes a restaurant, thermally heated swimming pool, four geothermal hot pools, a games room, laundries and changing rooms.

The buildings within the site are single storey, with the exception of the 10-unit two storied building in the south-eastern corner of the site, the 5-bedroom two storied house in the north-western corner of the site and the three units located above the existing games room and laundry located centrally within the site.

There are a minimum of 38 carparks within the site. Additional parking is also available to the east and north of the main reception area within the site.

A large grassed shared open space area (About 550m²) is provided to the east of the five-bedroom house, north of the laundry and games rooms, with a smaller grassed area provided to the north of the existing units 5 and 6. The five-bedroom house has its own private outdoor space to the rear of the house.

Existing units 5, 6, 7 and 10 open onto grassed outdoor area. A central partially covered pedestrian courtyard runs through the middle of the site with access out to the main entry on Fenton Street.

There are several established trees towards the north of the site adjacent Malfroy Street and surrounding the five-bedroom house. Other vegetation is dotted around the site. Three large established palm trees are located on the frontage adjacent to Fenton Street.

The immediate surrounding environment includes the Gateway International Hotel to the north of the site, the Arawa Park Racecourse to the east, across Fenton Street, and the Four Canoes Hotel to the south of the site across Seddon Street. Residential properties border the west of the site.

Seddon Street is an urban road with low levels of on-street traffic. Malfroy Street is an Urban Secondary Arterial Road and has a busier traffic character.



Figure 2 – Activities within the immediate surrounding environment (green star – subject site, red star – tourist accommodation, yellow star – residential, purple star – commercial activities)

In the wider context, the subject site fronts Fenton Street which is an Urban Primary Arterial Road (District Plan Maps 205) and a City Entranceway (District Plan Maps 206). Tourist accommodation is found the length of Fenton Street though is predominately located south of Arawa Park Racecourse. A block north of the site, past Victoria Street is the commercial city centre. West and south of the site is predominately residential (with the exception of tourist accommodation along Fenton Street).

B.3 Statutory timeframes

Date application received:	14 June 2021
Working days as at 23 September 2021:	18 working days
Time on hold:	0 working days
Type of on hold request:	N/A

B.4 Legal Interests in the Property

There are no interests registered on the Record of Title that would restrict the proposal from proceeding.

The certificates of title refer to being “Subject to Section 8 Coal Mines Amendment Act 1950” and/or “Subject to Section 15 Rotorua Town Lands Act 1920”. These interests relate to the Crown reservation of rights to minerals and other resources.

B.5 History

The following resource consents are listed on the property file:

- **No consent number (1966)** – Land Use - Conditional Use 4 Motel Flats.
- **RC3447 (1973)** – Land Use – Three household apartment block.
- **RC6595063 (1991)** – Land Use - Height encroachment (roof and chimney of re-sited dwelling).
- **RC1992102 (1992)** – Land Use – Extend the restaurant facilities and construct a 2.8m block wall.

None of the above consents would restrict the proposal from proceeding. There is no intention, nor need, to surrender these consents.

B.6 Plan Change

There is one current Plan Change:

- Plan Change 3 (PC3) Significant Natural Areas

This plan change is not relevant to the site or proposal.

C. DISTRICT PLAN DETAILS

C.1 Applicants Assessment of Activity Status

An assessment of the proposal’s compliance with the relevant rules of the Operative District Plan has been completed by the Agent and submitted as part of the Application (See Section 4).

The applicant’s assessment is that the activity falls generally within the definition of “community housing”, being a “place of residence where some element of care or support is provided for residents”.

Community housing is a permitted activity in both the RD2 Zone and CM4 Zone.

However, the proposal is for a maximum of 88 people (excluding staff and support service workers) whereas the District Plan definition of community housing limits occupancy to a maximum of eight persons (inclusive of staff).

On this basis, the assessment concludes that:

“As the proposal is not otherwise provided for in the District Plan, it must be considered as a Non-Complying Activity pursuant to Table 4.5 (Residential 2 Zone) and Table 6.5 (Commercial 4 Zone) of the District Plan.”

This refers to Rule 4.5 Table 4.5: Activities in the Residential 1 - 5 Zones and Rule 6.5. Table 6.5: Activities in the Commercial 1 – 6 Zones which both provide that “Where an activity is not expressly stated...” the activity status is “NC” (non-complying).

C.2 Council Assessment of Activity Status

The applicant's assessment of activity status as non-complying is accepted.

However, the non-complying activity status belies the extent to which the District Plan provisions enable residential activities of this type under both of zones that apply to the site. This is not explained in the application.

In addition to Community Housing, the District Plan makes specific provision for:

- “*Conversion of tourist accommodation to household units*” in the **RD2 Zone** as a controlled activity and
- “*Change in use from tourist accommodation to a permanent residence within an existing building*” in the **CM4 Zone** as a controlled activity.

The proposed Transitional Housing has characteristics that align closely with this activity, being the use of an existing motel's units as household units.

The District Plan also makes provision for “additional household units” in the RD2 Zone as a controlled activity and “household units” in the CM4 Zone as a permitted activity.

The proposed number of household units on the site exceed the density standard for both zones¹, making the residential component of the activity a Restricted Discretionary Activity.

The support activities provided as an accessory use to the Transitional Housing (i.e., on site management, small scale education programmes for residents) are non-complying activities:

- In the RD2 Zone, an accessory activity is only permitted if it is accessory to a permitted activity. Otherwise, the activity is non-complying as it is “not expressly stated” under Rule 4.5 Table 4.5: Activities in the Residential 1 - 5 Zones – 3.
- Similarly, in the CM4 Zone there is no provision at all for this “accessory” activity and it is a non-complying activity under Rule 6.5 Table 6.5: Activities in the Commercial 1 – 6 Zones 2.

Applying the bundling principle, the activity as whole is also a non-complying activity when assessed under these alternative provisions. The corollary to this is that if the support activities were not provided on site, the application would be assessed as a restricted discretionary activity.

Whether assessed as “Community Housing” or “Household Units with accessory support services” the application is a non-complying activity.

As a non-complying activity, transitional housing as a residential activity is not fundamentally out of step with the District Plan, with the non-compliant aspects being of minor significance and impact. Therefore, the objectives, policies, and rules for residential activities provide guidance on the relevant matters that need to be considered.

C.3 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES)

¹ Rules 4.6.4.b. and 6.6.4.e

The site is in a well-established residential/commercial environment and has been used for accommodation purposes since the 1960s. The site is not registered as a HAIL site by BOP Regional Council. No change to the use of the site will result from this proposal. As such the NESCS does not apply to this application.

D. NOTIFICATION REPORT

D.1 SECTION 95A ASSESSMENT FOR THE PURPOSE OF PUBLIC NOTIFICATION

A consent authority must follow the steps set out below in the order given to determine whether to publicly notify the application:

D.2 Step 1: Mandatory Public Notification – s95A(2) and (3)

Criteria		Yes/No
(a)	Public Notification at Applicant's request - s95A(3)(a)	No
(b)	Public Notification is required under section 95C (s95A(3)(b))	No
(c)	Public Notification is required as the application is a joint application with an application under section 15AA of the Reserves Act 1977, to exchange recreation reserve land (s95A(3)(c))	No

D.3 Step 2: Public Notification Precluded in Certain Circumstances – s95A (4) and (5)

Criteria		ODP Yes/No
(a)	Rules or National Environmental Standards that preclude public notification – s95A(5)(a)	No
(b)	Any Controlled Activities – s95A(5)(b)(i)	No
(e)	Boundary Activities – Restricted Discretionary, Discretionary or Non-Complying – s95A(5)(b)(iii)	No

D.4 Step 3: Public Notification Required in Certain Circumstances – s95A(7)

Criteria		ODP Yes/No
(a)	The application is for one or more activities and any of those activities is subject to a rule or NES which requires public notification – s95A(8)(a)	No
(b)	The consent authority decides, in accordance with section 95D , that the activity will have or is likely to have adverse effects on the environment that are more than minor - s95A(8)(b)	No – see Section E below

D.4.1 Section 95D Assessment in Accordance with Section 95A(8)(b)

The below assessment of the application has determined that any adverse effects on the environment will be less than minor.

D.4.1.1 Effects that may or must be disregarded - Section 95D(a),(b),(c),(d) and (e)

In deciding whether an activity will have or is likely to have adverse effects on the environment that are more than minor, the relevant requirements of Section 95D (a) to (e) must be considered.

Section 95D(a)

In regard to section 95D(a), Council must disregard any effects on persons who own or occupy the subject site and adjacent land.

Effects on persons who own or occupy the properties numbered 1-4 below have been disregarded as they either own or occupy the land on which the activity will occur or any land adjacent to that land.

Property Number	Owner	Address	Legal Description
2	SAAb Trustee Company Ltd, Sahid Patel, Shehnazbi Ahmeddbhai Patel	263 Fenton Street	LOTS 1 2 3 DPS 23739 LOT 49 DP 2865
3	Flat 1 - Neval Legacy Company Ltd Flat 2 – Eileen LC Smith-Marks Flat 3 - Parapadoo Investments Ltd Flat 4 - Joy C Golding & Simon R Needham Flat 5 – Neval Legacy Company Ltd	14A Malfroy Road 14B Malfroy Road 14C Malfroy Road 14D Malfroy Road 14E Malfroy Road	FLAT 1 DPS 22005 FLAT 2 DPS 22005 FLAT 3 DPS 22005 FLAT 4 DPS 22005 FLAT 5 DPS 22005 LOT 36 DP 2865
4	Flat 1 – Vicky K Hartwell Flat 2 – Paul H Fletcher Flat 3 – Alfred L Harwood, Carol A Harwood & Gail L Upton Flat 4 – Valerie J Wilson Flat 5 – Grant T Melville & Lynette Melville	7A Seddon Street 7B Seddon Street 7C Seddon Street 7D Seddon Street 7E Seddon Street	Flat 5 DPS 22086 Flat 4 DPS 22086 Flat 3 DPS 22086 Flat 2 DPS 22086 Flat 1 DPS 22086 Lot 37 DP 2865
5	Flat 1 & 3 (Fengying Wang) Flat 2 (Jane M Woolf)	13A, Malfroy Road 13B Malfroy Road & 13C Malfroy Road	FLAT 1 DPS 34849 FLAT 2 DPS 34849 FLAT 3 DPS 34849 Lot 22 DP 2851
6	CP Rotorua Ltd	273 Fenton Street	LOT 1 DPS 17555
7	Flat 1 (Donna M Slattery, John Dudley Hughes, Kathryn M Slattery & Mary C Slattery), Flat 2 – Andra MM Cornwall & Murray B Piesse), Flat 3 – (Leanne S Hodge, Mokoia Trustees 2010 Ltd)	6A Seddon Street 6B Seddon Street 6C Seddon Street	FLAT 1 DPS 14111 FLAT 2 DPS 14111 FLAT 3 DPS 14111 LOT 42 DP 2865
8	FENTON PARK RECREATION RESERVE	260 Fenton Street	SECTION 23 SBRS OF ROTORUA (SO 27004)



Figure 3 – Locations of persons/properties who have been disregarded under section 95D(a)

Section 95D(b)

Pursuant to section 95D(b), if a rule or national environmental standard permits an activity with that effect then that adverse effect of that activity may be disregarded (“permitted baseline”).

The applicant provides the following assessment in Section 5.1 of the application:

The District Plan provides for 'Community Housing' (up to eight residents) as a permitted activity in both the Commercial 4 Zone and Residential 2 Zone of the District Plan. As the site is currently made up of six separate Records of Title, a relevant permitted baseline would be Community Housing for 48 people (including resident staff) on the subject site. The Community Housing would be required to have some element of support (like the support proposed in the subject application).

The applicant also provides an assessment of tourist accommodation as a permitted activity in the Commercial 4 Zone.

In addition to the above two activities assessed by the applicant the following are permitted in the either the Residential 2 Zone or the Commercial 4 Zone:

- One dwelling per lot in the Residential 2 Zone.
- Household units on the ground floor and above the ground floor are permitted activities in the Commercial 4 Zone
- One household unit per 450m² nett site area in the Commercial 4 Zone
- Bed and Breakfast for a maximum of 8 guests including the owner or manager who is a resident onsite.
- Short term holiday accommodation for up to 12 people at any one time is a permitted activity in the Residential 2 Zone.

The above activities have the potential to generate adverse effects associated with noise, amenity, density, and traffic generation of a type and scale similar to that of the effects associated with the proposal. Accordingly, these effects have been disregarded and therefore the "permitted baseline" has been applied in part to this proposal.

In this case, the baseline of effects from the existing, consented activity are a more relevant consideration, forming part of the existing environment and this is addressed further in the AEE in Section **D.4.1.2**.

Section 95D(c)

As this proposal is for a Non-Complying Activity this section is not relevant to this application.

Section 95D(d)

Section 95D(d) of the RMA requires that Council must disregard trade competition and the effects of trade competition. Trade competition and the effects of trade competition are not considered relevant and have been disregarded in the assessment of this application.

Section 95D(e)

Section 95D(e) of the RMA requires that Council must disregard any effect on a person who has given written approval to the application. No written approvals have been provided as part of this application.

D.4.1.2. Assessment of Adverse Environmental Effects – s95A(8)(b)

The following assessment is for the purposes of identifying whether the activity will have, or is likely to have, adverse effects on the environment that are more than minor.

Applying the principle of bundling, the proposal is a Non-Complying Activity, therefore all relevant matters can be considered in this assessment of adverse effects on the environment.

The Assessment of Environmental Effects provided by the applicant considered the following effects:

- Character and amenity effects, including internal amenity effects and external amenity effects
- Design, scale, appearance and layout

- Streetscape, neighbourhood character, visual effects
- Access and parking effects
- Intensity of use effects
- Earthworks effects
- Positive effects

The following effects are relevant to the application, adopting the applicant's assessment where applicable:

- Appropriateness of the site for the proposed activity
- Character and amenity effects (internal and external amenity)
- Access, parking and turning
- Traffic generation

D.4.1.2.A. Appropriateness of the site for the proposed activity

The site straddles the Residential 2 Zone and the Commercial 4 Zone in generally equal proportions.

The Rotorua District Plan envisages the character of the Residential 2 Zone as dominated by buildings and man-made features with lower levels of on-site planting. Smaller households and apartments with limited outdoor space are anticipated, and there is to be a reliance on surrounding open space to soften the built environment. Similarly, the Commercial 4 zone is anticipated to be dominated by buildings with minimal yards, and landscaping on the road boundary.

The current and proposed layout of the site (being largely unchanged) will be consistent with this policy direction.

In relation to the residential aspect of the proposed activity, both the Residential 2 Zone and the Commercial 4 Zone provide for residential activities.

The Residential 2 Zone provides for medium density residential activity which is consistent with the number of units to be provided on-site.

The policy direction of the Commercial 4 Zone to "provide for development of tourism enterprises and Maori cultural experiences that maintains or enhances the amenity and vibrancy" of Fenton Street as the southern entranceway to the City. The proposed activity will remove a tourism enterprise from Fenton Street and replace it with a residential activity. The Commercial 4 Zone rule framework also provides for the conversion of tourist accommodation to residential units as a controlled activity under matters of control that do not include assessment of the effects of loss of tourism enterprises.

The site is assessed as appropriate for the proposed activity having regard to the overall land use strategy in District Plan.

D.4.1.2.B Character and amenity effects

The applicant has assessed the amenity effects of the proposal in two parts: assessing the 'internal' amenity effects on future tenants, and the 'external' amenity effects on the surrounding environment. This is an appropriate approach and is followed below.

Internal amenity effects

With the site functioning as a motel, there is an established level of on-site amenity that has been provided for guests. This includes areas of shared open space in the western half of the site, access to a pedestrian

internal courtyard for (proposed) units 11 through 15, private outdoor space for the five-bedroom house, and the pool and mineral spas.

The proposal includes removal of the pool and mineral spas with the retention of this area as open space, and privatising the outdoor seating area currently occupied by the restaurant for the use of residents.

The western half of the site provides access to outdoor space as shown on the proposed site layout:

- Unit 1 (house) has its own fenced private outdoor space with established vegetation
- Units 2-4 are located on the first floor and have a shared balcony which leads down to a large lawn area which is generally screened from public view
- Units 5-7 have access directly onto lawn area screened from public view
- Units 8-9 have small front porches
- Unit 10 has access to a small lawn area screened from public view
- Units 11, 12, 13, and 15 open up to an internal pedestrian courtyard which leads to a large lawn area
- Unit 14 has a fenced porch and access to the internal pedestrian courtyard

The eastern half of the site (located within the Commercial 4 Zone) does not have the same level of on-site amenity as the western side of the site. The eastern side will be separated from the western side by an internal fence. Units 18-26 have some screening along the shared balcony and being on the second storey, will have views out over Arawa Park Racecourse.

The District Plan recognises on-site amenity as a relevant resource management matter. The Residential Zone objectives and policies seek to provide privacy, outlook, and outdoor space². These outcomes are achieved through daylight envelope³, yard⁴ and site coverage requirements.

Site coverage for all residential zones requires a minimum of 10% of the net site area to be provided as *“outdoor recreation and amenity space divided between each dwelling (including decks) but shall not include the required yard areas or any area used for parking and turning of vehicles”*⁵. This rule does not specify where this *outdoor recreation and amenity space* must be located relation to a dwelling.

In the Residential 2 Zone description, expectations for the level of on-site amenity include suitable private, outdoor living space, smaller household units, hard surfacing around buildings to provide for carparking and turning, and a reliance on street-trees to soften the environment.

The Commercial Zone objectives and policies do not include on-site residential amenity even though the Zone provides for several forms of residential use. The rules include a specific outdoor living space requirement, but this is only for “new builds”⁶. In the Commercial 4 Zone description, there is no reference to residential amenity outcomes. However, site coverage and household density standards for the zone imply that amenity outcomes are relevant in this zone. The matters of control for a change in use from tourist accommodation to a permanent residence and community housing both address the provision of private outdoor space and outlook, especially to the north, east or west⁷.

The area of shared open space shown on the site layout plan is approximately 1150m², which is about 17% of the total site area. This meets the quantitative standard for outdoor recreation and amenity space in the Residential Zones.

² Objective 4.3.1 Policy 4.3.1.1, Policy 4.3.1.2 and Policy 4.3.1.3

³ Performance Standard 4.6.1

⁴ Performance Standard 4.6.2

⁵ Performance Standard 4.6.3 d

⁶ Performance Standard 6.6.4 b

⁷ Performance Standards 6.7.2.5 b and 6.7.2.7 b

Most of the shared open space located in the western half of the site cannot be viewed from the street or adjacent properties due to the existing boundary fence. Some parts are visible from the top storey of the adjacent Gateway International Motel which is orientated north. Views from the Gateway International Motel into part of the northern open space has only minor impact on amenity as only part of the space is viewable from the top storey while the rest is screened by established trees within the subject site.

The applicant proposes screening the outdoor seating area that is currently used by the restaurant and located adjacent to Unit 26. This private outdoor area can be accessed by all tenants on the eastern half of the site. Units 27-31 will have direct access to a communal outdoor space north of the units. The Site Management Plan will address the management of resident and visitor use of this area.

The layout of the western side of the subject site is consistent with the amenity anticipated by the District Plan with respect to the size of the proposed units and the presence of hard surfacing for parking and access. A higher level of amenity than is anticipated by the District Plan is provided through the provision of large areas of open space towards Malfroy Street.

Internal amenity effects are assessed as less than minor, and consistent with the outcomes anticipated by the District Plan. Given the reliance placed on the shared open space for on-site amenity, conditions should be imposed to ensure it is retained in a suitable condition for recreational use by residents.

External amenity effects

Landscape

The application proposes minimal visual modification to the site and change to the existing environment.

The fenced interface with the neighbouring residential sites will be maintained, minimising views into the site.

On the Fenton Street frontage, the "City Entranceway Accommodation" Zone description refers to "*minimal yards that are landscaped where they adjoin the road*". There are no front yard setback or landscaping requirements⁸ that apply. For a change of use from motel to residences, the District Plan seeks: "*Maintenance of the amenity of the streetscape and sites in the same and adjacent zones.*"

The Council Landscape Architect has identified the potential for further enhancement of the Fenton Street frontage with additional planting and fencing. However, the District Plan does not provide a basis for requiring this.

Provided the existing external boundary treatments and landscaping features on Fenton Street (large specimen trees, grass, planter, fencing) are maintained, landscape and visual effects are assessed as less than minor, and consistent with the outcomes anticipated by the District Plan.

If additional fencing and landscaping is to be provided this should be provided in way that maintains passive surveillance in and out of the site from Fenton Street. The proposed installation of pool-style fencing to the Fenton Street frontages of the site (adjacent to the road boundary) will meet this criterion.

These outcomes can be assured through conditions.

⁸ 6.1 INTRODUCTION

Noise effects

The applicant provides the following assessment in relation to noise in Section 5.2.2 of the proposal:

“As with any residential activity, general noise may be associated with this activity, however this will be dispersed throughout the site and will be domestic in nature. Overall, it is expected that any noise that is generated from the proposed use of the site will not exceed the permitted noise levels for this environment, nor is it expected to be any greater than the noise generated from the current use of the motel.

To provide additional assurance around the management of potential noise nuisance etc associated with the proposed activity, the implementation of the Site Management Plan attached as Appendix 3 will effectively ensure noise and outdoor activities within the site are adequately managed. The implementation of a site management plan will result in a more restrictive and supervised environment (insofar as managing potential noise and nuisance effects) than would otherwise exist if the subject site were continuing to operate as a motel.

In addition, it is noted that the existing restaurant on the subject site is currently open to the public, rather than to motel guests only. Repurposing this space for the benefit of on-site residents only will reduce the comings and goings of general restaurant patrons and associated noise. In addition, there will be defined and limited hours for utilising shared spaces within the site during the evening, including any outdoor areas and training spaces. Implementation of the proposed draft site management plan will adequately mitigate effects in this regard.”

The application does not seek consent to breach the noise performance standards in the District Plan. With the proposed Site Management Plan and conditions of consent, any potential adverse noise effects of the proposed activity will be avoided. Noise effects can be disregarded as they will meet the District Plan standards for the zone.

Lighting effects

The application states there will be no change to the existing lighting on-site. It is assumed the current on-site lighting complies with the lux requirements under the District Plan. I propose including a condition of consent to ensure compliance with District Plan requirements.

Lighting effects can be disregarded as they will meet the District Plan standards for the zone.

D.4.1.2.C Access, Parking and Turning

The existing access to the site will not be changed.

The applicant has proposed that 37 parking spaces will be provided on the site (as shown on the Site Layout Plan). This will be sufficient for the 31 transitional housing units, plus managers house and support staff to park on the site.

The existing parking and turning within the site will be changed as a result of the proposal to construct a fence separating the western and eastern parts of the site. This will close off the existing circulation route through the site from Fenton Street to Seddon Street, requiring some existing angle parking to be re-configured.

The final configuration of the parking will need to be determined when the final location of the fence is determined. This will have no off-site effect provided the parking and access functions well and doesn't lead to residents choosing to park on the street. Vehicles will be able to manoeuvre so that they can exit the site in a forward-facing direction.

These effects can be managed appropriately through resource consent conditions on the number of car parks, compliance with minimum standards and inclusion of signage.

D.4.1.2.D Traffic generation

The proposed maximum occupancy of the site as transitional housing will be less than the existing maximum occupancy of the motel, (88 residents compared with 132 guests respectively⁹).

The proposed activity is likely to generate less traffic than the current activity.

The character of traffic generation is also likely to change with the change in use. Residents are more likely to stay on site during the day or go to or from the site for work purposes, compared with tourists who may travel in and out several times a day, and checking in and out at different times.

Less traffic will exit from the Seddon Street access point as result of the internal fencing proposal which will contain the traffic from the western portion of the site, with all access and egress from Fenton street .

Visitors to the site will be managed by the Housing Service Provider and through the site management plans.

Traffic generation effects are assessed as less than minor, having regard to the existing environment.

D.4.1.2.E Waste Management

No specific details of on-site waste management have been provided with the application. This will be addressed by the service provider.

The District Plan does not identify on site waste management as a resource management issue. This issue 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 developments¹⁰ which will apply to the transitional housing.

The bylaw provides a means to mitigate potential adverse waste management effects including access, and minimising noise and odour and vermin.

There is no need to impose resource consent conditions and this issue can be addressed through an advice note.

D.4.1.2.F Summary of Effects

It is concluded that the effects on the environment will be no more than minor, being no greater than the effects from the existing consented motel activity, or disregarded because the effects are compliant with District Plan standards.

In reaching this conclusion, regard was given to the conditions that would be imposed if consent is granted, which would mitigate or avoid effects so that they are no more than minor.

⁹ Both figures exclude on-site management staff.

¹⁰ Multi-unit development means a development consisting of 10 or more residential or residential and commercial units on any premises. It includes a unit title development and any development with controlled or restricted access.

D.5 Step 3: Public Notification Required in Certain Circumstances – s95A(7)

Criteria		Yes/No
(a)	The consent authority decides in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor – s95A(8)(b)	No

D.6 Step 4: Public Notification in Special Circumstances - s95A(9)

There are no special circumstances as there is nothing that is unusual, abnormal, or exceptional about this application.

It is recognised that transitional and emergency housing is a controversial issue in Rotorua and other parts of New Zealand, with concerns about crime and violence, and risks to public safety¹¹. The Resource Management Act and District Plan do not provide scope to manage households based on people's circumstances, behaviour or socio-economic status. These issues are managed under other legislation and through agencies other than the council such as the Police and other government service providers. Public notification based on these circumstances will likely serve to confuse the issues that are relevant to resource consent decision making.

Community housing is clearly envisaged by the District Plan, albeit with a scale limit. The core residential activity “fits” within the policy/rules of the DP (i.e. household units, or conversion of a motel to household units).

The non-compliant element of on-site management/supervision is accessory to the core housing activity and isn't a detraction as it serves to ensure that the activity and any effects are better managed. The onsite management is likely to improve the way in which community housing needs are met. The corollary to this is that if the support activities were not provided on site, the application would be for a restricted discretionary activity.

D.7 Conclusion on Public Notification

It is concluded on the findings of the above assessments under s95A of the RMA that the application does not need to be publicly notified.

E. SECTION 95B ASSESSMENT FOR THE PURPOSE OF LIMITED NOTIFICATION

A consent authority must follow the steps set out in sections 95B(2) – 95B(10) to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under section 95A.

E.1 Step 1: Certain Affected Groups and Affected Persons must be notified - s95B(2)-(4)

Criteria		Yes/No
(a)	Are there any affected protected customary rights groups – s95B(2)(a)	No
(b)	Is the activity on or adjacent to or may affect land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11 – s95B(3)(a)	No

¹¹ <https://www.mnz.co.nz/news/national/440745/alcoholics-drug-deals-gang-affiliations-domestic-violence-emergency-housing-labelled-as-dangerous>

E.2 Step 2: Limited Notification Precluded in Certain Circumstances – s95B(5)(6)

Criteria		Yes/No
(a)	The application is for one or more activities and each activity is subject to a rule or NES that precludes Limited Notification – s95B(6)(a)	No
(b)	The application is a Controlled Activity landuse - s95B(6)(b)(i)	No

E.3 Step 3: Certain other persons must be notified – s95B(7)

The application is not a boundary activity therefore an assessment is now required under s95B(8) to determine whether a person is an affected person in accordance with section 95E.

E.4 Effects that must be disregarded – s95E(2)(b)

The application is a non-complying activity under the operative district plan therefore this section is not relevant to this application.

F. Assessment of adversely affected persons under Section 95E

No written approvals have been received from the following parties which are referenced to properties identified above in Figure 2.

Property Number	Owner	Address	Legal Description	Principal Use
2	SAAb Trustee Company Ltd, Sahid Patel, Shehnazbibi Ahmeddbhai Patel	263 Fenton Street	LOTS 1 2 3 DPS 23739 LOT 49 DP 2865	Residential
3	Flat 1 - Neval Legacy Company Ltd Flat 2 – Eileen LC Smith-Marks Flat 3 - Parapadoo Investments Ltd Flat 4 - Joy C Golding & Simon R Needham Flat 5 – Neval Legacy Company Ltd	14A Malfroy Road 14B Malfroy Road 14C Malfroy Road 14D Malfroy Road 14E Malfroy Road	FLAT 1 DPS 22005 FLAT 2 DPS 22005 FLAT 3 DPS 22005 FLAT 4 DPS 22005 FLAT 5 DPS 22005 LOT 36 DP 2865	Residential
4	Flat 1 – Vicky K Hartwell Flat 2 – Paul H Fletcher Flat 3 – Alfred L Harwood, Carol A Harwood & Gail L Upton Flat 4 – Valerie J Wilson Flat 5 – Grant T Melville & Lynette Melville	7A Seddon Street 7B Seddon Street 7C Seddon Street 7D Seddon Street 7E Seddon Street	Flat 5 DPS 22086 Flat 4 DPS 22086 Flat 3 DPS 22086 Flat 2 DPS 22086 Flat 1 DPS 22086 Lot 37 DP 2865	Residential
5	Flat 1 & 3 (Fengying Wang) Flat 2 (Jane M Woolf)	13A, Malfroy Road 13B Malfroy Road & 13C Malfroy Road	FLAT 1 DPS 34849 FLAT 2 DPS 34849 FLAT 3 DPS 34849 Lot 22 DP 2851	Residential
6	CP Rotorua Ltd	273 Fenton Street	LOT 1 DPS 17555	Motel


7	Flat 1 (Donna M Slattery, John Dudley Hughes, Kathryn M Slattery & Mary C Slattery), Flat 2 – Andra MM Cornwall & Murray B Piesse), Flat 3 – (Leanne S Hodge, Mokoia Trustees 2010 Ltd)	6A Seddon Street 6B Seddon Street 6C Seddon Street	FLAT 1 DPS 14111 FLAT 2 DPS 14111 FLAT 3 DPS 14111 LOT 42 DP 2865	Residential
8	FENTON PARK RECREATION RESERVE	260 Fenton Street	SECTION 23 SBRS OF ROTORUA (SO 27004)	Racecourse





Table 2 - List of adjoining persons from sites shown in Figure 2 above:




Other than those people identified as adjacent parties in Figure 2 above, no other parties have the potential to be adversely affected by the proposal. As such the assessment of effects on people only relates to those people identified in Figure 2 above.

As part of this assessment, any adverse effects of the proposal on the persons occupying the application site (Property 1) can be disregarded, with this party having an agreement to sell the site to the applicant.

The actual and potential effects of the proposal on the persons occupying the remaining (Properties 2 to 4) are considered below. The effects on flat unit occupants are assessed as a single property on the underlying parcel as the occupants are affected the same or a similar way.

Property Number	Assessment of Effects	Interface Images
2	<p>There will be no change to the layout or built form interfacing with this site.</p> <p>The shared open space area and boundary fencing and planting adjoining the Gateway motel carparking area will be retained.</p> <p>Noise and lighting will be appropriately managed to meet District Plan performance standards through the site management plan.</p> <p>The proposed activity will remove a tourism enterprise from Fenton Street and replace it with a residential activity. While there is general policy direction to provide for tourism enterprises and Maori cultural experiences in the zone, the rule framework provides for the conversion of tourist accommodation to residential units as a controlled activity. The matters of control do not include consideration of impact from the loss of tourism enterprises.</p>	 <p>Fenton Street</p> <p>Malfroy Road</p>

Property Number	Assessment of Effects	Interface Images
		 <p data-bbox="889 663 1000 688">Malfroy Road</p>
3	<p data-bbox="363 695 878 758">There will be no change to the layout or built form interfacing with this site.</p> <p data-bbox="363 800 878 894">The shared open space area and boundary fencing and planting adjoining the Gateway motel carparking area will be retained.</p> <p data-bbox="363 936 878 1031">Noise and lighting will be appropriately managed to meet District Plan performance standards through the site management plan.</p> <p data-bbox="363 1073 878 1199">The existing waste management area located on the site boundary will be removed and repurposed as an addition to the other open space located on this boundary.</p>	 <p data-bbox="889 1119 1000 1144">Malfroy Road</p>
4	<p data-bbox="363 1209 878 1272">There will be no change to the layout or built form interfacing with this site.</p> <p data-bbox="363 1314 878 1409">The shared open space area and boundary fencing and planting adjoining the Gateway motel carparking area will be retained.</p> <p data-bbox="363 1451 878 1545">Noise and lighting will be appropriately managed to meet District Plan performance standards through the site management plan.</p>	 <p data-bbox="889 1686 1008 1711">Seddon Street</p>
5	<p data-bbox="363 1713 878 1850">There will be no change to the layout or built form interfacing with this site. The site is separated by a road and intervening fencing and landscaping within the streetscape.</p> <p data-bbox="363 1881 878 1913">Noise and lighting will be appropriately</p>	 <p data-bbox="889 1896 1008 1921">Malfroy Road</p>

Property Number	Assessment of Effects	Interface Images
	managed to meet District Plan performance standards through the site management plan.	
6	<p>There will be no change to the layout or built form interfacing with this site. The site is separated by a road and intervening fencing and landscaping within the streetscape.</p> <p>Noise and lighting will be appropriately managed to meet District Plan performance standards through the site management plan.</p> <p>The proposed activity will remove a tourism enterprise from Fenton Street and replace it with a residential activity. While there is general policy direction to provide for tourism enterprises and Maori cultural experiences in the zone, the rule framework provides for the conversion of tourist accommodation to residential units as a controlled activity. The matters of control do not include consideration of impact from the loss of tourism enterprises.</p>	 <p data-bbox="889 604 1023 632">Seddon Street</p>
7	<p>There will be no change to the layout or built form interfacing with this site. The site is separated by a road and intervening fencing and landscaping within the streetscape.</p> <p>Noise and lighting will be appropriately managed to meet District Plan performance standards through the site management plan.</p>	 <p data-bbox="889 1108 1023 1136">Seddon Street</p>
8	<p>There will be no change to the layout or built form interfacing with this site. The site is separated by a road and intervening fencing and landscaping within the streetscape.</p>	 <p data-bbox="889 1461 1023 1488">Fenton Street</p>

Overall, the proposal will not result in change in effects, or new adverse effects on persons occupying the adjoining properties and therefore any effects are assessed as less than minor. Therefore these persons are not adversely affected by this proposal.

G.1 Step 4: Limited Notification in Special Circumstances - s95B(10)

There are no special circumstances as there is nothing that is unusual, abnormal or exceptional about this application, for the reasons as set out above in Section D.4.1.2 of this report.

G.2 Conclusion on Limited Notification

It is concluded on the findings of the above assessment under s95B of the RMA that the application does not

need to be limited notified.

G.3 Notification Recommendation

It is recommended that the resource consent application made by The Property Group to use the existing motel site and buildings at 265 Fenton Street for transitional housing, numbered RC17556 by Council, be processed in the following manner: **The application be processed non-notified.**



Bethany Bennie
Consultant Planner

Date: 23 September 2021

Reviewed by



.....
Craig Batchelar
Consultant Planner on behalf of Rotorua Lakes Council

Date: 23 September 2021

Peer Reviewed by



.....
Lorelle Barry
Team Lead Planning, Consenting

Date: 23 September 2021

Authorised Officer Signature



.....
Jason Ward
Manager, Planning & Development Solutions

Date: 23 September 2021

G. SECTION 104

A decision was made under section 95 of the Act to process the application on a non-notified basis. An assessment of the application under section 104 of the Act is provided below.

G.1 ASSESSMENT UNDER OPERATIVE DISTRICT PLAN

G.2 Section 104(1)(a) - Actual and Potential Effects on the Environment

The actual and potential effects of this proposal have been identified and assessed above under Part E of the notification report.

G.3 Operative District Plan - Effects Disregarded

Pursuant to s104(2), when forming an opinion for the purposes of s104(1)(a), a council may disregard an adverse effect of the activity on the environment if the plan or a NES permits an activity with that effect (i.e. a council may consider the “permitted baseline”).

The “permitted baseline” is discussed in section D of the approved notification report in relation to the Operative District Plan. This discussion and conclusion are also considered relevant for the purposes of the Operative District Plan assessment under s104(1)(a).

Accordingly, the “permitted baseline” has been applied in part to this proposal.

Pursuant to s104(3)(a), when forming an opinion for the purposes of s104(1)(a) under the Operative District Plan, a council must not have regard to any effect on a person who has given written approval to the proposal, nor any trade competition or effects of trade competition.

G.4 Operative District Plan - the following actual and potential effects are relevant to this proposal:

The assessment of adverse effects in the approved notification report is also relevant for the purposes of the assessment required under s104(1)(a) and therefore will not be repeated here.

In terms of positive effects, the applicant stated the following in Section 5.8 of the application:

The purpose of this application is to provide those local community members, who have an urgent need for housing, access to transitional residential accommodation... The proposed onsite social wrap-around services will assist with the daily functioning of the site and will help provide a pathway for tenants to obtain more permanent occupancy elsewhere.

It is accepted that that the proposed activity will have a positive effect on those community members in urgent need of housing.

In summary, the actual and potential effects of the proposal can be avoided, remedied or mitigated through the imposition of conditions and are therefore acceptable.

G.5 SECTION 104(1)(b) - RELEVANT PLAN PROVISIONS

G.6 National Environmental Standard

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES)

The NES is not applicable to this proposal as outlined in Section C.3 of this report.

G.7 National Policy Statement

The National Policy Statement on Urban Development (NPSUD which took effect on 20 August 2020) has been considered. The relevant objectives and policies are identified below:

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

Objective 4: New Zealand's urban environments, including their amenity values, develop and change over time in response to the diverse and changing needs of people, communities, and future generations.

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

- (a) have or enable a variety of homes that:
 - (i) meet the needs, in terms of type, price, and location, of different households; and
 - (ii) enable Māori to express their cultural traditions and norms; and
- (b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and
- (c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and
- (d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and
- (e) support reductions in greenhouse gas emissions; and
- (f) are resilient to the likely current and future effects of climate change.

Policy 2: Tier 1, 2, and 3 local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing and for business land over the short term, medium term, and long term.

Policy 5: Regional policy statements and district plans applying to tier 2 and 3 urban environments enable heights and density of urban form commensurate with the greater of:

- (a) the level of accessibility by existing or planned active or public transport to a range of commercial activities and community services; or
- (b) relative demand for housing and business use in that location

Policy 6: When making planning decisions that affect urban environments, decision-makers have particular regard to the following matters:

- (a) the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement
- (b) that the planned urban built form in those RMA planning documents may involve significant changes to an area, and those changes:

- (i) may detract from amenity values appreciated by some people but improve amenity values appreciated by other people, communities, and future generations, including by providing increased and varied housing densities and types; and
- (ii) are not, of themselves, an adverse effect
- (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1)
- (d) any relevant contribution that will be made to meeting the requirements of this National Policy Statement to provide or realise development capacity
- (e) the likely current and future effects of climate change.

Policy 11: In relation to car parking:

- (a) the district plans of tier 1, 2, and 3 territorial authorities do not set minimum car parking rate requirements, other than for accessible car parks; and
- (b) tier 1, 2, and 3 local authorities are strongly encouraged to manage effects associated with the supply and demand of car parking through comprehensive parking management plans.

The applicant has provided the following assessment of the NSPUD in Section 8.2 of the application which I repeat below:

The subject application is to enable those with urgent housing needs to have safe and stable accommodation while a more permanent housing solution can be found. The transitional housing model supports families and individuals in urgent housing need with a short-term place to live, and support to find and maintain stable and permanent housing. In relation to access and parking, the NPSUD requires that District Plans do not set minimum car parking rates. While the proposal includes over 38 carparks, and easily meets the 1 carpark per household unit ratio in the District Plan carparking requirements will soon be removed from the Rotorua District Plan.

The assessment provided by the applicant is accepted. The proposed activity will be consistent with the relevant objectives and policies in the NPSUD

G.8 Bay of Plenty Regional Policy Statement

The proposal is not contrary to the relevant provisions of the BOP Regional Policy Statement in relation to the sustainable management of the natural and physical resources of the region. There are no specific objectives and policies relevant to this proposal. The proposed activity is not contrary to the objectives and policies in the RPS.

G.9 Bay of Plenty Natural Resources Regional Plan

As there are no aspects of the proposal that directly affect the matters managed under the NRRP, the proposal is not expected to have any adverse effects in this regard.

G.10 He Mahere Taiao mo ngā Wai o The Arawa – The Arawa Lakes Trust Environmental Management Plan

Regard has also been given to He Mahere Taiao mo ngā Wai o The Arawa – The Arawa Lakes Trust Environmental Management Plan as lodged with Council in December 2019. There are no potential adverse effects directly pertaining to Lake Rotorua or its waterways as a result of this proposal.

G.11 Operative Rotorua District Plan

An assessment of the Objectives and Policies of the Operative District Plan relevant to the proposal has been

completed by the Agent and submitted as part of the Application (refer to section 6 of the application). The Objectives and Policies relevant to this application are found in Part 4 (Residential), and Part 6 (Commercial) of the District Plan, as well as in Appendix A11 (Noise). An assessment of the Objectives and Policies in addition to that provided by the applicant is outlined is below:

Objectives & Policies	Comment
<p>Objective 4.3.1 A level of amenity that provides residents with:</p> <ul style="list-style-type: none"> • A northerly outlook • Side and rear yards that provide aural and visual amenity • Residential levels of noise • Safe parking and turning areas where required • Street surveillance • Orientation to maximise energy efficiency 	<p>As detailed in Section 3 and Section 6.1 of the application, the proposed activity does not involve the construction of any new buildings so the activity's ability to be consistent with the objectives and policies of the District Plan is somewhat constrained by the existing built form.</p> <p>Regardless, while the orientation of the existing units does not allow all units to have a northerly outlook, each unit has access to morning and/or afternoon sun.</p> <p>The existing side and rear yards of the site generally consist of grassed open space with some established vegetation.</p> <p>Residential levels of noise are expected and will be managed through the Site Management Plan and proposed conditions of consent.</p> <p>The applicant proposes to install a pool style fence through the centre of the site to separate families from couples and singles. This fence interrupts the parking and turning areas on the southern side of the site. Parking and turning areas will need to comply to comply with the relevant NZ standard and have appropriate signage.</p> <p>Passive surveillance is also able to occur on both Seddon Street and Malfroy Street due the orientation of windows from the two storied block and the existing house.</p> <p>In terms of orientation to maximise energy efficiency, the proposal is again constrained by the existing buildings. As mentioned above, all units have access to at least morning and/or afternoon sun.</p> <p>The proposal does not meet every factor in objective 4.3.1. However, on balance the development is generally consistent with the anticipated level of amenity values for a residential activity. The carparking and turning</p>

	areas should be amended to allow for safe turning areas.
Policy 4.3.1.3 – Require on-site outdoor space for each household unit.	Each proposed unit has access to on-site outdoor space.
Policy 4.3.1.4 – Ensure the design and location of access, on-site parking and turning areas do not detract from the safe and efficient functioning of the transport network or dominate the streetscape.	All carparking is expected to be catered for on-site with little need for overflow carparking on Seddon Street or Malfroy Street. All vehicles will be able to enter and exit the site in a forward-facing direction.
Policy 4.3.1.5 – When considering a resource consent application, require the landscaping to mitigate the adverse effects of activities and to enhance the character and amenity of the zone.	The applicant has not offered any additional landscaping as part of the application. In regard to the part of the site that falls within the Residential zone, there is already landscaping along the road boundary with Malfroy Street and Additional landscaping along Malfroy Street will not necessarily enhance the character and amenity of the zone. There is limited room for landscaping along the site boundary with Seddon Street.
Policy 4.3.1.6 – Require noise mitigation measures for household units that adjoin strategic roads to avoid reverse sensitivity effects.	The units located within the part of the site contained within the residential zone do not directly adjoin the strategic road network.
Objective 4.3.2 The character and amenity values of the residential zones are maintained and enhanced.	
Policy 4.3.2.2 – Maintain the following qualities and characteristics of the Residential 2 zone: <ul style="list-style-type: none"> • Medium density residential areas • A mix of single storey and two-storey buildings • Smaller household units and apartment style living • Limited outdoor space • Built elements dominate the environment • Much of the space around buildings is taken up by hard surfacing for car parking and turning • Reliance on street trees to soften the built environment 	The proposal is consistent with the factors in policy 4.3.2.2. While there is policy direction to provide for tourism enterprises and Maori cultural experiences, the rule framework also provides for the conversion of tourist accommodation to residential units as a controlled activity under matters of control that do not include assessment of the effects of loss of tourism enterprises. The site is unique in that it straddles both the Residential 2 Zone and the Commercial 4 Zone. So, while the proposed activity may best be suited to the Residential 2 Zone, the policy framework does anticipate residential activities within the Commercial 4 Zone.
Objective 4.3.3 Non-residential activities in residential zones that are domestic in scale and character and do not have an adverse impact on the amenity values and character of the residential zones, or the vitality and viability of the City Centre or Commercial zones.	
Policy 4.3.3.2 - Prevent the establishment of non-residential activities where they would be more appropriately located in a commercial, industrial or city centre zone and would have an adverse effect	The applicant provided the following assessment: <i>In our view, the proposal falls somewhere</i>

<p>on the vitality and viability of those zones.</p>	<p><i>between a residential activity, with support services attached and a community activity. As such it is entirely appropriate for transitional housing to be located in the Residential 2 Zone of the District Plan.</i></p> <p>The proposed activity is appropriately located within the Residential 2 Zone due to its predominately residential nature. The support services are ancillary to the residential activity.</p> <p>The proposal is consistent with policy 4.3.3.2.</p>
<p>Policy 4.3.3.3 - Avoid adverse effects of noise, vibration, light, smoke, fumes, odours, or other sources of disturbance that are detrimental to the amenity of the residential zones.</p>	<p>All sources of disturbance from the proposed activity will be managed through the Site Management Plan.</p> <p>The proposal is consistent with policy 4.3.3.3.</p>
<p>Policy 4.3.3.4 - Ensure the location of community activities avoids, remedies, or mitigates adverse effects on the quality of residential amenity in the residential zones.</p>	<p>The support services associated with the proposed activity are ancillary and necessary to the effective management of the site. Support services will be located within existing buildings on the site and be available only to residents.</p> <p>The operation of support services on site will not result in adverse effects on the surrounding residential environment, rather they will help ensure the primary residential activity avoids or mitigates any potential adverse effects.</p> <p>The proposal is consistent with policy 4.3.3.4.</p>
<p>Policy 4.3.3.5 - Avoid, remedy or mitigate the potential adverse effects of non-residential activities, including community activities, through the provision of;</p> <ul style="list-style-type: none"> • Sufficient on-site parking, loading and turning • Landscaping to maintain and enhance the quality of residential amenity, primarily the streetscape • Noise mitigation measures 	<p>It has been determined in Section E of this report that there will be sufficient parking to cater for residents and staff, and vehicles can enter and exit the site in a forward direction. The applicant has not offered any further landscaping for the proposed activity. The proposed support services will not create any adverse effects on residential amenity or streetscape as they will be hosted within existing buildings.</p> <p>The proposed Site Management Plan will ensure the residential noise character of the surrounding environment will be maintained. The proposal is generally consistent with policy 4.3.3.5.</p>
<p>Objective 4.3.6 Residential site design and development in a sustainable manner that promotes and maintains the character of the zone, residential amenity and community safety.</p>	
<p>Policy 4.3.6.1 – Encourage and promote buildings</p>	<p>While outdoor space is not a key quality or</p>

<p>on residential sites that:</p> <ul style="list-style-type: none"> • Have sufficient space to provide private, useable outdoor open areas for garden and amenity space. • Do not intrude into side, rear, or front yards. • Maximise access to sunlight and daylight to north facing living rooms. • Provide car parking and turning areas that are separate from outdoor garden and amenity space and do not dominate in the streetscape. 	<p>characteristic of the Residential 2 zone (as highlighted in Policy 4.3.2.2), the development has provided sufficient shared outdoor space.</p> <p>It is proposed as a condition of consent that surface marking and signage will be sufficient to ensure the safe and efficient operation of parking and access. This will help define parking areas compared to outdoor amenity areas.</p> <p>The proposal is generally consistent with policy 4.3.6.1.</p>
<p>Policy 4.3.6.2 – Encourage site and building design that provides:</p> <ul style="list-style-type: none"> • Passive surveillance of public space • Front yards that are free of buildings and not screened by high fencing 	<p>The front yard of the part of the site within the Residential 2 Zone, is internal.</p> <p>The proposal is generally consistent with policy 4.3.6.2.</p>
<p>Policy 4.3.6.4 – Provide for residential development to occur in a manner that:</p> <ul style="list-style-type: none"> • Does not detract from the surrounding residential amenity • Provides for a range of residential opportunities • Provides for access by a range of modes of transport • Provides recreation and amenity areas 	<p>Considering the existing amenity of the site in the context of the surrounding residential environment, the proposed activity makes no physical change to the site that would detract from the surrounding residential amenity. Any potential adverse effects of the activity will be managed through proposed conditions or the proposed Site Management Plan.</p> <p>The proposed activity provides a residential opportunity for those with urgent housing needs.</p> <p>The site has access to local recreational areas and access to a range of transport modes including public transport.</p> <p>The proposal is generally consistent with policy 4.3.6.4.</p>
<p>Objective 6.3.1 A hierarchy of vibrant compact commercial and tourism centres that efficiently service and support the needs of the surrounding community and nationally significant tourism sector</p>	
<p>Policy 6.3.1.4 - Entranceway Accommodation and Tourism Provide for the development of tourism enterprises and Māori cultural experiences that maintains or enhances the amenity and vibrancy along the northern and southern city entranceways to the inner city, as shown on Planning Map 206.</p>	<p>The proposal is not consistent with this policy in that it is converting an existing motel into residential activity.</p> <p>While there is policy direction to provide for tourism enterprises and Maori cultural experiences, the rule framework also provides for the conversion of tourist accommodation to residential units as a controlled activity under matters of control that do not include assessment of the effects of loss of tourism enterprises.</p>

	<p>The land use strategy for Fenton Street is addressed in the Councils Spatial Plan. See Section G12 below – Other matters. The proposal is generally consistent with the Spatial Plan strategic direction of consolidating tourism accommodation in the CBD and allowing existing accommodation to change to land for homes.</p>
<p>Objective 6.3.2 Commercial activities that do not adversely affect the character, safety and efficiency of commercial areas.</p>	
<p>Policy 6.3.2.1 - Manage the design of activities within commercial centres to maintain or enhance the character, public safety and efficient functioning of the transport network.</p>	<p>The proposed activity will maintain the existing character of the commercial centre in terms of using the existing buildings and maintaining the existing landscaping.</p> <p>Public safety will be maintained through the implementation of the Site Management Plan, and through continued passive surveillance of the street.</p> <p>The efficient functioning of the transport network will be maintained through the provision of on-site carparks, maintenance of the existing accesses and the ability of vehicles to enter and exit the site in a forward-facing direction.</p>
<p>Objective A11.3.1 A noise environment consistent with the character and amenity expected for the zone</p>	
<p>Policy 11.3.1.1 - Control the potential adverse effects of noise on noise sensitive activities including by setting appropriate standards that reflect the function of the zones and permitted activities within them.</p>	<p>Noise levels generated from the proposed activity will be managed through the proposed conditions of consent and through the Site Management Plan.</p>
<p>Policy 11.3.1.4 - Minimise, where practicable, noise at its source or on the site from which it is generated to mitigate adverse effects on adjacent sites.</p>	<p>As discussed above, noise levels generated from the proposed activity will be managed by the Housing Service Provider through the Site Management Plan.</p>

While the proposal has limited northerly facing units and does not provide for tourism enterprises or Maori cultural experiences along a City Entranceway, the proposal is generally consistent with the objectives and policies of the District Plan.

G.12 Other Matters

The Rotorua Spatial Plan 2018 identifies that there are not enough new homes being built for the number of additional people living in the district and has an objective to “Build Homes to Match Needs”¹².

¹² Objective ne

As part of the strategy of “using our land more efficiently and creating a variety of housing types” Fenton Street is identified as a place with potential for additional residential development

- “Consolidating tourism accommodation in the CBD and allowing existing accommodation to change to land for homes” ...
- “Fenton Street. Entering Rotorua from the south there are a number of older tourist accommodation properties that could be converted or redeveloped with town houses or terrace style homes. New apartments could also be placed on the edges of the CBD.”
- “Consolidating Tourism Accommodation into the CBD...The accommodation along Fenton Street can be transitioned into areas for homes in the longer term, with tourist accommodation moving to the CBD or the surrounding area. This would not only free up land for homes close to transportation and places of work, but would also result in more people moving around the central city, contributing to vibrancy.

The proposal is generally consistent with this Spatial Plan strategic direction.

G.13 PART 2 MATTERS

Having regard to the above assessment it is concluded that the proposal is consistent with the principles (sections 6-8) of the Resource Management Act 1991. Overall, the application meets the relevant provisions of Part 2 of the RMA as the proposal achieves the purpose (section 5) of the RMA being sustainable management of natural and physical resources.

H. CONDITIONS AND ADVICE NOTES

The recommended conditions have been discussed with the applicant’s agent.

Conditions 8, 28 and 29 are conditions offered by the applicant. As offered conditions the applicant has given a clear and unequivocal undertaking and, relying on that undertaking, where the local authority grants consent the applicant cannot say later that there is no power to require compliance with the undertaking.

A point of difference is the applicants request to include the noise and lighting conditions as advice notes. Their reason for this is that they are not applying to breach the performance standards and the conditions simply restate what the District Plan requires. They would prefer these as advice notes. They have advised that there is no intention to breach the noise or lighting standards. Effective noise management measures will be included in the final Site Management Plan. They also note that section 16 of the RMA includes a general duty to avoid unreasonable noise.

In this case it is recommended that the noise and lighting matters be addressed as conditions. This will bring these important amenity matters within the scope of a section 128 review should this be needed and avoid any ambiguity in monitoring and compliance.

The Council Building Services division recommended an advice note relating to the term of occupancy and its relationship with the Building Code “Change of Use” requirements. There is on-going dialogue between the council and the applicant on the application of these provisions to transitional housing. There is no need or benefit in including an advice note in the consent.

I. RECOMMENDATION

The above assessment has concluded that any actual and potential effects of the proposal are acceptable, and the proposal is consistent with the relevant objectives and policies of the operative planning documents as well as consistent with all other matters. The proposed activity meets the purpose and principles of Part 2 of the Act and therefore subject to the conditions listed within the decision to be served under section 113 the proposal can **be granted**.

J. RECOMMENDATION:

23 September 2021

Please Quote: 6221133
Doc Ref: RDC -
Enquiries to: Lorelle Barry

THE PROPERTY GROUP LIMITED
PO BOX 2874
WELLINGTON 6140

Attn: Alice Blackwell

Dear Madam,

NOTICE OF RESOURCE CONSENT DECISION

Consent no:	RC17556
Property file no:	P01842 P01841 P01835 P01836 P01837
Applicant:	KĀINGA ORA – HOMES AND COMMUNITIES
Type of application:	LAND USE – NON-COMPLYING
Proposal:	TRANSITIONAL HOUSING
Site address:	265 FENTON STREET, ROTORUA
Legal description:	LOTS 50 -51 DP 2865 LOT 52 DP 2865 LOT 45 DP 2865 LOT 41 DP 2865 LOT 44 DP 2865 LOT 40 DP 2865

I wish to advise that the following decision has been made under authority delegated to staff in respect of the above application:

- (a) Pursuant to Section 95A of the Resource Management Act 1991, the Rotorua District Council has decided in its discretion not to publicly notify the application. Council is satisfied after due consideration of Section 95D that the adverse effects on the wider environment will be or are likely to be no more than minor. Council is also satisfied that no special circumstances exist that require notification of the consent application in accordance with Section 95A(4).
- (b) The Council has decided after taking into due consideration the requirements of Sections 95B and 95E of the Resource Management Act 1991 that the adverse effects of the activity on the owners and occupiers of adjacent land are less than minor and no persons are considered affected therefore limited notification is not required.

- (c) Pursuant to Sections 34A, 104, 104B and 108 of the Resource Management Act 1991, the Rotorua District Council resolves to GRANT consent for transitional housing at Lots 50-51 DP2865, Lot 52 DP 2865, Lot 45 DP 2865, Lot 41 DP 2865, Lot 44 DP 2865, and Lot 40 DP 2865 subject to the following conditions:

CONDITIONS OF CONSENT:

General

1. The activity shall be in general accordance with the information and plans submitted with the Application for Resource Consent dated 14 June 2021 and the following additional information provided by the applicant:
 - a. Updated Proposed Site Layout - 265 Fenton Street, Rotorua dated 29 June 2021;
 - b. Arrangement for storage - 265 Fenton St dated 1 July 2021.
2. Minor changes may be made to the consented activity, where requested in writing and approved by the Council, provided that the activity is not materially changed, and any adverse effects are the same or reduced.

Scale and Intensity

3. A maximum of 88 residents (excluding children under 18 months of age) shall be permitted to reside within the 31 transitional housing units.
4. A record shall be maintained that states occupancy numbers at any given date within transitional housing units and this information shall be made available to council upon request.
5. To avoid doubt, this resource consent does not:
 - a. Restrict the length of stay for residents in the transitional housing units (See Advice Notes 1 and 2 referring to Building Act requirements).
 - b. Limit the number of people residing in the Manager's Accommodation.

Landscaping – Fenton Street Frontage

6. The existing landscape elements within the Fenton Street frontage including grassed areas, raised planter bed and large specimen trees shall be maintained.
7. Screening, in the form of fencing and/or hedge planting, shall be provided for the Shared Open Space adjacent to the Communal Kitchen and Meeting Space to give privacy to those using the space. Fencing above 1.2m in height shall be visually permeable. These works shall be implemented within 3 months following the commencement of the use of the site for transitional housing and maintained for the duration of the activity.

Signs

8. All existing signage relating to "The Boulevard Motel" shall be removed from the site within one month of the occupation of site by tenants for transitional housing.

External Boundary Fencing

9. External boundary fencing, other than that on the Fenton Street boundary shall be maintained in the same or similar form to the existing fencing to provide privacy for residents and neighbours.

Traffic Management

10. A minimum of 37 car parking spaces shall be provided on the site which shall be sealed and marked.

11. Parking and manoeuvring shall be in accordance with the New Zealand Standard, Parking facilities: Off street car parking, NZS2890.1
12. Surface marking and signage shall be sufficient to ensure the safe and efficient operation of parking and access, including pedestrian safety.
13. Parking and access in accordance with these conditions shall be implemented prior to the commencement of the use of the site for transitional housing and maintained for the duration of the activity.

Noise

14. Noise levels from the activity shall not exceed the following limits when measured at any point within the boundary of a neighbouring residential 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

15. Noise shall be measured and assessed in accordance with NZS 6801:2008 and NZS 6802: 2008.

Glare and Light

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

Earthworks

17. If earthworks are undertaken for the purpose of infilling the swimming pool, they shall be carried out under the direct supervision of a suitably qualified and experienced Geo-professional and an earthworks completion report shall be provided including certification that the filling complies with NZS 4431 to the satisfaction of the General Manager Infrastructure, Rotorua District Council, or their delegate. An earthworks as built plan shall be provided as part of the earthwork's completion report.
18. In carrying out any earthworks, no runoff, silt, sediment, dust, or other materials shall be permitted to discharge off-site that could damage or disturb neighbouring properties, public roads, drains or waterways. This shall be achieved by installing and maintaining appropriate erosion, sediment, and dust controls (in accordance with the Bay of Plenty Regional Council Sediment and Erosion Control Guidelines) prior to and during the works until the site is stabilised.

Communal Kitchen and Meeting Space

19. The use of the Communal Kitchen and Meeting Space shall be restricted to staff, course facilitators and residents living on site.
20. A maximum of fifteen residents, plus staff and course facilitators, shall be permitted to attend the course / training sessions held in the Communal Kitchen and Meeting Space at any one time.
21. To avoid doubt, the resource consent for the Boulevard Motel restaurant granted in 1997 shall not be implemented while the transitional housing use is being undertaken.

Shared Open Space

22. Shared Open Space shown on the approved Site Layout Plan shall be maintained to ensure the spaces are suitable for recreational use by residents.

23. Shared Open Space shown on the approved Site Layout Plan shall not be used for vehicle parking, storage, or occupied by any buildings or structures other than for the purpose of recreational use such as shade structures, seating, and play equipment.

On Site Management

24. An onsite staffing presence shall be maintained on the site for the duration of the consent.
25. A final Site Management Plan shall be submitted to the Manager, Planning & Development Solutions, or their delegate for certification prior to the occupation of the units for transitional housing. The site management plan must include, but not be limited to:
 - a. Details of on-site managers responsible for implementation of the Site Management Plan and responsible for the management of any complaints.
 - 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. Intensity of use (i.e., number of residents)
 - ii. Staffing and security
 - iii. Site maintenance
 - iv. Carparking allocation
 - v. Meeting / training operation (including hours of use)
 - vi. Visitors (including visiting hours)
 - vii. Use of communal areas and facilities
 - d. Effective noise management measures to avoid, remedy, or mitigate potential noise nuisance.

Review Condition

26. Council may, within 36 months of this consent being given effect, initiate a review of the conditions of the consent under section 128 of the RMA 1991 to:
 - a. Assess the adequacy of, and if necessary, changes to the conditions controlling activities on the site; and
 - b. Deal with any significant adverse effects on the environment that may arise from the exercise of the consent (limited to noise, site management, the use of common/shared areas, access and parking, and waste management), and
 - c. Initiate a review of conditions that may allow for new conditions to be applied to the consent.

REASONS FOR COUNCIL DECISION:

- 1. Principal Issues – Activities not specifically provided for in the District Plan can generate unanticipated effects, including those relating to residential density, noise and traffic levels, that do not align with the amenity, character and/or purpose of the underlying zone.**
- 2. Main Findings of Fact – The proposal seeks to use the site and existing motel buildings at 265 Fenton Street for transitional housing accommodation. The proposed activity is not clearly defined under the District Plan and therefore is a non-complying activity in both the Residential 2 Zone and Commercial 4 Zone. Non-complying activities require resource consent.**
- 3. The site is zoned RESIDENTIAL 2 and COMMERCIAL 4 in the Operative District Plan and the proposal is a NON-COMPLYING ACTIVITY.**
- 4. Residential activity is anticipated in both the Residential 2 and Commercial 4 Zone. The use of the existing buildings on site, the minimal changes to site layout, and the reduced number of occupants on-site because of the activity, aligns with the existing and anticipated amenity of**

the surrounding environment. Conditions of consent and the Site Management Plan will further ensure the operation of the activity will continue to align with the amenity of the surrounding residential and commercial environment.

5. Conditions 10- 13 will ensure all on-site parking and manoeuvring areas operate safely and efficiently.
6. The Council has had regard to the provisions of the Operative Rotorua District Plan rules and the relevant assessment criteria. It is also considered that the proposal is consistent with the relevant objectives and policies of Part 4, Part 6, and Appendix A11 the Operative Rotorua District Plan subject to compliance with the conditions of consent.
7. The proposal is consistent with Part 2 of the Resource Management Act 1991.
8. The Council is satisfied that subject to conditions of consent, the proposed activity will not have, or is unlikely to have, any adverse effects that are more than minor.
9. In accordance with s104D(a), the effects of the activity are less than minor. In accordance with s104D(b), the activity is not contrary to the objectives and policies in the Rural 2 Zone. The proposal therefore passes the Section 104D gateway test.

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.

Geotechnical Investigation

2. A geotechnical investigation in accordance with Chapter 3 (Geotechnical Requirements – 2012) of the Rotorua Civil Engineering Industry Standard will need to be undertaken for any new building and submitted to Council in conjunction with any building consent application.

Geothermal Bores

3. Geothermal bores have been identified on this site. For any new building, it will need to be demonstrated that compliance with the Geothermal Bylaw with 5m setbacks to the buildings can be achieved.

Waste Management

4. 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).

Timeframe for Giving Effect to this Consent

5. The above consent lapses on the expiry of 5 years after the date of receiving this letter unless the consent is given effect to.

Right of Objection

6. 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

7. Please contact Council's Compliance & Regulatory Team (RMA.Compliance@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.

Please arrange a meeting with Council's Compliance & Regulatory Team 2 working days prior to the commencement of the works required under this consent.

Other Consents may be required

8. To avoid doubt; except as otherwise allowed by this resource consent, all land uses must comply all remaining standards and terms of the relevant Rotorua District Plan. The proposal must also comply with the Building Act 2004 and Bay of Plenty Regional Plans. All necessary consents and permits shall be obtained prior to development.

If you have any questions regarding this decision, please contact **Lorelle Barry**, or the duty planner.

Yours faithfully



Bethany Bennie
Consultant Planner

K. RECOMMENDATION:

It is recommended that the above decision be approved.



Bethany Bennie
Consultant Planner

Date:23 September 2021

L. REVIEW:



.....
Craig Batchelar
Consultant Planner

Date: 23 September 2021

Peer Reviewed by



.....
Lorelle Barry
Team Lead Planning, Consenting

Date: 23 September 2021

M. DECISION OF COUNCIL:

Pursuant to section 34A of the Resource Management Act 1991 and in accordance with the powers delegated to me under the Rotorua District Council Delegation Manual, I make the decision recommended above to GRANT the application.

Signed for and on behalf of the
Rotorua District Council



.....
Jason Ward
Manager, Planning & Development Solutions

Date: 23 September 2021