
ROTORUA DISTRICT COUNCIL

REPORT TO: David Hill (Independent Hearing Commissioner) **FILE NO:** Various – See Site Specific Assessment Reports

FROM: Craig Batchelar (Consultant Planner) **DATE:** 8 October 2024

SECTION 42A – OVERVIEW REPORT

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

SUMMARY

This Section 42A report provides an overview evaluation of the Ministry of Housing and Urban Development’s applications to extend the use of seven motels as Contracted Emergency Housing (CEH) for an additional year, until December 2025. Site Specific Assessment Reports are also provided for each application.

The applications are made against a backdrop of a significant reduction in the number of motels being used for emergency housing (EH) through the Ministry of Social Development’s (MSD) Emergency Housing Special Needs Grant system (EH-SNG). The reduction of EH has been the product of increased delivery of new permanent housing and a shift away from interim housing solutions.

The report outlines the planning framework, focusing on the impact of CEH on Rotorua’s community, economy, and environment, and assessing how these impacts align with the Rotorua District Plan and the Resource Management Act (RMA). It takes into account concerns from the community, expert evidence, and MHUD’s proposals for site management, wraparound support services, and an exit strategy.

While there is specific provision under the Operative Rotorua District Plan (District Plan) for residential activities with wrap around support services (which specifically includes ‘emergency housing’), this is at a much smaller scale than that proposed. The CEH proposals are assessed as “an activity that is not expressly stated...”, which is a Non-Complying Activity under the District Plan.

Key community concerns raised in submissions are related to social effects, including increased crime, antisocial behaviour, and pressure on social services. Residents in areas near the motels, especially in the Fenton Street corridor, continue to have concerns over increased theft, vandalism, and personal safety risks. Additionally, submitters emphasise the economic impacts on tourism, property values, and Rotorua’s reputation as a travel destination.

Cultural concerns were also highlighted, particularly by those living near the traditional Māori village of Whakarewarewa, where three of the CEH motels are located nearby. Submissions raised concerns about the infringement on the spiritual and cultural significance of the area, noting a lack of adequate consultation with iwi.

The report balances these issues against the social benefits of CEH, noting that the motels have provided essential housing for people who would otherwise be homeless or living in unsuitable conditions. The managed CEH motels offer better living standards and access to support services

compared to alternative emergency housing solutions, such as motels operating under the Ministry of Social Development's EH-SNG system.

Despite the positive social outcomes of CEH, the report acknowledges that the existing motels do not meet the internal amenity standards expected for residential accommodation. A recent change to the District Plan has new objectives and policies that reinforce the importance of quality on-site living environments for people in both commercial and residential zones, as part of supporting a well-functioning urban environment.

Many of the motels lack sufficient outdoor space and other facilities needed for family living, especially for children. The short-term nature of the accommodation coupled with good access to off-site amenities mitigates these concerns to some extent, but specific conditions have been recommended to address site-specific issues, such as restrictions on the age groups of children allowed to stay at certain sites.

The report recommends granting the applications for a further one-year term, subject to strict conditions. These include continued compliance with site management plans, more frequent monitoring and reporting on occupancy and incidents, as well as continued stakeholder engagement via a Community Liaison Group (**CLG**). The proposed conditions also emphasize the importance of adhering to an exit strategy, which outlines how motels will be progressively returned to their original use as tourist accommodation as permanent housing supply increases and the demand for emergency housing decreases.

REPORT STATUS

1. This is a report prepared under Section 42A of the RMA.
2. This report provides an overview of the applications made by Te Tūāpapa Kura Kāinga Ministry of Housing and Urban Development (**MHUD**) on behalf of the motel operator(s) (the **Applicant(s)**) to continue to use seven motel sites for CEH , and addresses matters common to the seven applications.
3. This report should be read in conjunction with the Site Specific Assessment Reports prepared for each of the seven application sites and the statements of evidence filed by Rotorua District Council (**Council**), including those on social effects, economic effects, the suitability of the CEH application sites for play, and outcomes of monitoring of the previously consented CEH motels.
4. This report is not a decision on the applications. It provides opinions and assessments and recommendations to the Independent Hearings Commissioner (**Commissioner**) on whether the applications should be granted or declined consent.
5. This report will be considered by the Commissioner in conjunction with all other evidence and submissions which have been received. The Commissioner will determine the weight to be given to this report and to any other evidence or submissions that are presented when making the decision.

REPORTING OFFICER

6. My name is Craig Batchelar.
7. My planning qualification is Bachelor of Regional Planning (1st Class Hons) obtained from Massey University in 1984. I have been a full member of the New Zealand Planning Institute since 1988. I am currently a member of the Institute's governing board.
8. I have worked in the planning profession for 39 years in central and local government and the private sector.
9. I am a Director of Cogito Consulting Limited, a planning consultancy established in April 2021. I am a sole practice planner and undertake a range of work for private and public sector clients.
10. From 1989 to 2000, I was employed by Tauranga City Council as a planner in a variety of roles including leadership and management of its Environmental Services Group from 1995 to 2000. From 2000 to 2004 I was self-employed as a planning consultant. I was a planner and partner at Boffa Miskell Limited from 2004 to 2021.
11. I have provided independent planning consultant services to Council, which also goes by the name 'Rotorua Lakes Council', in several capacities since 2017. I was one of the reporting planners for the CEH applications made by MHUD to RLC in 2021, where I also provided an Overview Report.
12. I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 in preparing this report. I agree to comply with it in presenting this report. The opinions and assessment within this report are within my area of expertise, except where I have stated my reliance on other identified evidence. I have considered all material facts that are known to me which might alter or detract from the opinions I express in this evidence.

APPLICATION SITES AND SURROUNDING ENVIRONMENT

Application Sites

13. A detailed description of each of the application sites and surrounding environment is provided in the Site Specific Assessment Reports. These reports also include property information and the consent history for each site.
14. 13 resource consents for the use of visitor accommodation facilities (motels) for CEH were granted following a public notification and hearings process in 2022, enabling the motels to be used for a two year period up until 15 December 2024. The total maximum occupancy was for up to 868 people. The scope of these consents and the reasons for granting consent are outlined in more detail in a later report section.
15. MHUD has decided to apply for a further term of one year for seven of the 13 sites. The new applications are to use the sites through to 15 December 2025. The total maximum occupancy proposed is 529 people (a 39% reduction from the currently consented occupancy).
16. The location of the seven application sites is shown on the map below.

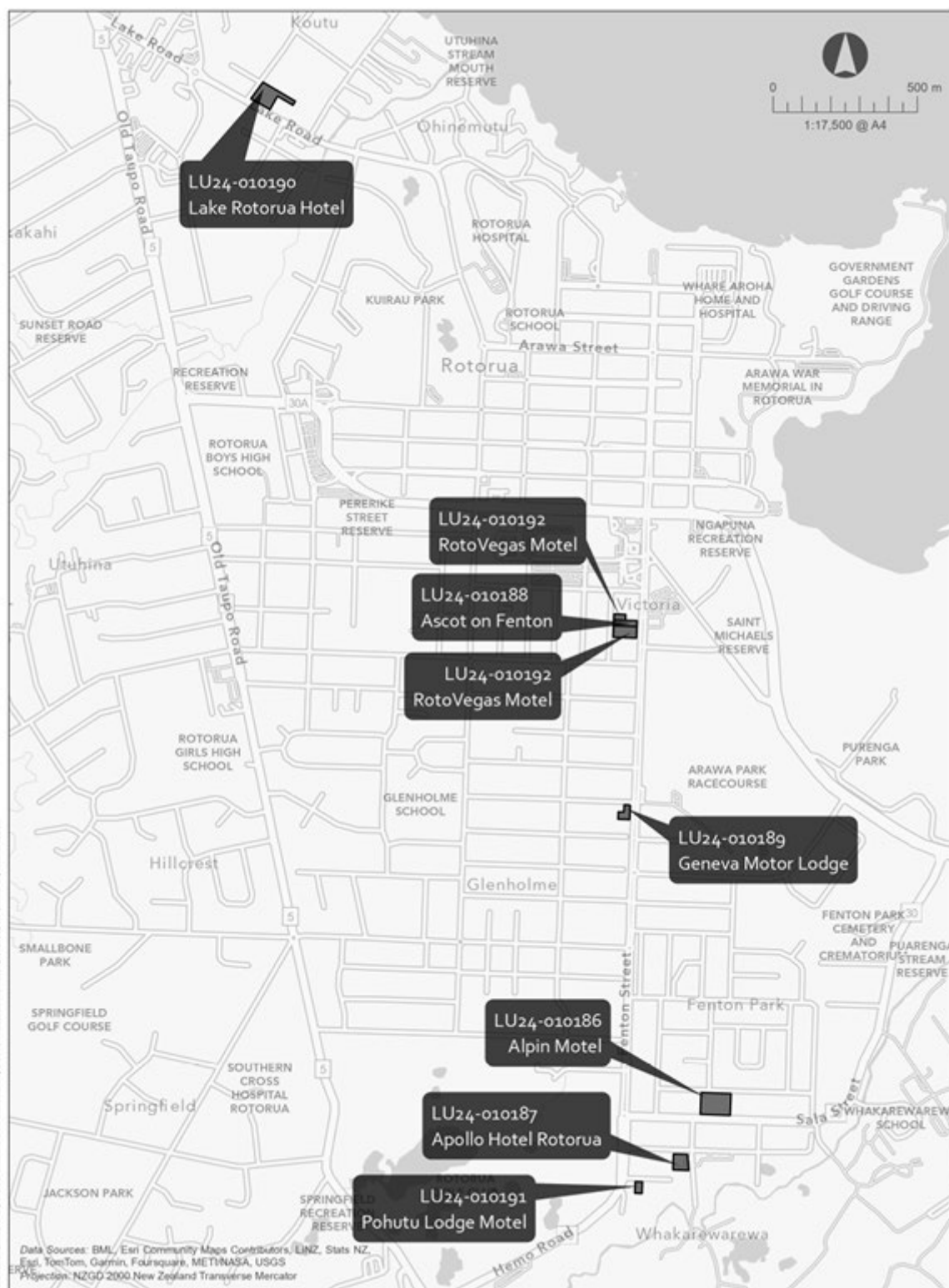


Figure: Location of Application Sites

Surrounding Environment

18. Three of the application sites are located within the Fenton Street corridor which has been the main tourist accommodation precinct in Rotorua for at least 50 years. This area is

sometimes referred to as ‘Motel Mile’. The corridor also contains residential activities and discrete commercial sites.

19. Three of the application sites are located in the general vicinity of the traditional Māori village at Whakarewarewa which has historical and cultural significance to tāngata whenua, and significance as an internationally renowned visitor destination.
20. One of the application sites is located at Koutu on the interface between a mixed commercial business area and residential area, 500m from the shore of Lake Rotorua.
21. The number of motels being used for emergency housing (EH) in Rotorua through the MSD EH-SNG model has reduced significantly with 27 households in July 2024, down from over 300 in 2021). Four motels in Rotorua are currently being used for EH-SNGs.
22. The applications explain that the significant reduction of EH has been the product of increased delivery of new permanent housing and a shift away from interim housing solutions.
23. The remaining motels in Rotorua that have EH residents are continuing to operate without the resource consents required under the District Plan. Council’s approach has focused on cessation of the use of any premises that may be unsafe or unsanitary, or a significant source of behavioural issues, including those subject to complaints. Through a range of enforcement actions, Council has applied a “sinking lid” approach, with an emphasis on shifting people into a reducing pool of CEH facilities with wrap around support services.

EXISTING RESOURCE CONSENTS FOR CEH

24. Resource consents to use 13 motels in Rotorua exclusively for CEH with associated support services were granted on 15 December 2022.
25. The Hearing Panel reached the following conclusions after hearing extensive submissions from expert witnesses and the local community:

This was not an easy decision. At the heart of the matter is a community clearly experiencing degrees of anxiety, dread, material inconvenience, significant loss of residential amenity, and a loss of business confidence. On the other hand the Applicants propose to use facilities that have been underutilised for their express purpose for a much-needed social purpose with wrap-around support.

However, at the end of the day this is a resource management decision and the ability to resolve the contradiction is constrained. By granting a realistic short-term consent(s) we are effectively giving the parties the opportunity to find a better solution – aware also, as we were advised, that RLC is intending to promote a plan change shortly on the matter (although we were not told what the policy basis for that might be). Certainly, amending the plan to directly address the matter with submitter input is one practical and appropriate way forward in the time we have made available¹.

26. The reasons for the Panel’s decision were summarised as follows:

¹ Independent Hearings Panel (David Hill, Greg Hill and Sheena Tepania), Decision following the hearing of the bundled non-complying activity applications, dated 15 December 2022 at paragraph 237.

- (a) the adverse effects of the proposed activity on the environment are not able to be determined with any particularity, but in the round, associated as they are with all EH, are significant;
- (b) while elements of the proposed activities are not entirely consistent with all relevant provisions of the District Plan, overall the application is not contrary to those provisions;
- (c) submitter concerns will be more appropriately managed through the conditions and the two year consent duration imposed; and
- (d) granting consents in this manner is consistent with promoting the sustainable management purpose and principles of Part 2 of the RMA, and the relevant provisions of the statutory plans².

27. Consent was granted for a two year duration, less than the five year duration sought in the applications.

28. A comprehensive set of conditions was imposed for each consent, including requirements for the following:

Cessation of the CEH activity on the site through an “Exit Programme”;

Scale and intensity limits;

Record keeping and reporting of occupancy, incidents and complaints;

Landscaping, open space, boundary fencing and signs;

Streetscape amenity;

On site management, including a formal Site Management Plan (SMP); and,

Engagement with consent holders and community stakeholders through regular meetings with Council and a CLG.

29. The evidence of Ms Lorelle Barry on behalf of Council concludes that there has been high degree of compliance with the consent conditions across all of the sites:

*Overall, I can conclude that there has been a high degree of compliance with the consent conditions across all of the sites and that the conditions have been reasonably effective to implement. Regular monitoring, coupled with a high degree of consent holder engagement has also ensured ongoing compliance with conditions of consent*³.

30. Council has not received any complaints regarding the 10 existing, or three former, CEH premises.

31. The CLG has met six times. The minutes of these meetings are available on the MHUD website⁴. The minutes show that the initial focus was on compliance monitoring issues,

² Ibid at paragraph 230.

³ Statement of Evidence of Lorelle Barry, dated 8 October 2024 at paragraph 27.

⁴ <https://www.hud.govt.nz/our-work/rotorua-contracted-emergency-housing-community-liaison-group>. September 2024 minutes not available at time of report.

including issues such as signage, shopping trolleys and effectiveness of the 0800 number. Issues associated with other emergency housing, homelessness and housing supply have also been addressed. More recently, the meeting focus has included the exit strategy and the current consenting applications. Meetings have been well supported with each meeting attended by at least 10 people, including community and consent holder representatives.

32. Coupled with the two-year duration, each consent contains a cessation condition which requires:

No later than 6 months prior to the consent expiry under Condition 4(a), the consent holder shall submit to the Manager, Planning & Development Solutions, Rotorua Lakes Council, or their delegate, for certification, an exit programme to end the use of the site and buildings for CEH within the timeframe granted under this consent. The exit programme shall detail matters such as - the plans to have the residents relocated from the site at the expiry of the consent, when the CEH will not be accepting further residents, and details of any required works to reinstate the buildings as a motel.

33. Three CEH motels have already exited and have returned to commercial operation. MHUD plans to exit a further three CEH motels before the consent expiry on 15 December 2024. These further three motels stopped accepting new occupants from July 2024. MHUD are committed to complete cessation of CEH in these three motels by 15 December 2024.
34. For the remaining seven motels, the current applications for a further one year consent duration represent the exit programme to end the use of the sites and buildings for CEH.
35. Each application includes an "Exit Strategy". This "Exit Strategy" does not meet the terms of the cessation condition within the current consents. However, the Applicant lodged its applications six months prior to the expiry of existing consents. In accordance with s124 of the RMA, the Applicant is entitled to continue to operate under each consent until the replacement application for that consent is determined and any appeals in relation to the decision are resolved. The Applicant must continue to adhere to the scope of the consent and all conditions of consent. However, it would not be appropriate to enforce a condition that requires the operation to cease if the consents applied for now are granted, allowing the CEH operation to continue. This would not constitute a sustainable use of resources and would arguably be contrary to the policy basis underpinning s124 of the RMA.
36. The existing consent to be replaced by an individual application does not form part of the existing environment when determining that individual application. The granted consents will only form part of the existing consented environment until they expire on 15 December 2024. After this date, the existing environment must be considered afresh, as if the consents had not been granted.
37. The performance of the CEH activities under the existing consents and conditions do provide relevant information for decision making for the new applications, as set out in the evidence of Ms Barry.

PROPOSAL DESCRIPTION

38. MHUD has applied for seven separate resource consents to use existing tourist accommodation facilities for CEH accommodation. The applications are to continue use of

the existing sites and buildings for CEH for a period of one year from the expiry of the existing resource consent on 15 December 2024 (i.e. for a term expiring on 15 December 2025).

39. Detailed descriptions of each proposal are provided in the applications, including responses to Section 92 Further Information requests, and Site Specific Assessments. The features common to all applications are summarised below.

Provision of CEH

40. The CEH applications have been made by MHUD on behalf of a specified facility operator and consent holder.
41. The motel facilities have been contracted by MHUD for a period of one further year, as additional housing (including affordable market rental housing and public housing) is anticipated to be supplied in Rotorua. The application notes that any facility may be released from this purpose before the expiry of the one year term. Upon the expiry of the one year term, the facilities will revert to their former use as tourist accommodation, or any other use permitted by the District Plan.
42. The contracts with each facility operator are to provide CEH exclusively to MHUD clients. The facilities are only to be used by MHUD clients, with no other guests able to book and stay at the site during the period of the contract.
43. CEH is described in each of the applications as being “*primarily for whānau with children or rangatahi (young people) and disabled people*”. The response to a Section 92 request seeking information on the number of single-person households being accommodated elaborates further on this as follows:

Notwithstanding, CEH for families with children, young people and people with disabilities as well as kuia, kaumātua and elderly individuals. As per the placement criteria, families, elderly, people living with disabilities, independent youth (under 18 years and engaged with Manaaki Ora Youth services) and Hapū Māmā are eligible for Contracted Emergency Housing.

Length of Stay and Occupancy

44. The stay in CEH is described in the application as “*short duration*” and is elaborated on in the SIA⁵. Most occupancies (65%) have been for less than 6 months. 10% have been for more than a year.
45. The number of CEH units and maximum site occupancy for each of the seven sites is shown in the table below:

Name	CEH Units	Maximum CEH Occupancy (people)
Alpin Motel	40	120
Apollo Hotel Rotorua	39	98
Ascot on Fenton	14	43
Geneva Motor Lodge	14	41
Lake Rotorua Hotel	38	105
Pohutu Lodge Motel	14	42

⁵ Beca SIA, dated 6 June 2024 at Section 5.6.

RotoVegas Motel	26	80
Total	184	529

Physical Changes

46. No further physical changes are proposed to the buildings and site development beyond those made under the terms of the granted resource consents in December 2022. Under these consents, additional fencing and gates were installed to improve privacy, security and traffic safety.

Site Management Plans

47. A SMP has been submitted with each application. The SMPs have previously been certified by Council when considering the existing consents as meeting the requirements of the existing resource consent conditions.

Placement and Support Services

48. Whānau are placed in CEH after a two-step triaging process by Te Pokapū, which is described in detail in each of the applications.
49. Each CEH has on-site support services, and 24/7 security provided and managed by a dedicated Service Provider.
50. Three support services entities are referred to in the applications:
- Visions of a Helping Hand;
 - Emerge Aotearoa; and
 - WERA Aotearoa.
51. Registered and trained social and support workers will be available on-site from Monday to Friday between the hours of 9:00 am to 5.00 pm for admissions, assessment, goal planning and connecting family/whānau with wrap around support to meet their immediate, current, and future needs. The primary purpose is to help the household work towards becoming a self-sufficient, vibrant whānau.
52. An on-call social and support worker will be available 24 hours, 7 days per week via phone, available for crisis and emergency intakes, concerns regarding children, mental health deterioration, health, and wellbeing checks.
53. There is a general “no visitors” policy, however exemptions may be made on a case-by-case basis if preapproval has been given by the site’s security and/or support services provider.
54. Any ancillary restaurant and conference facilities on the sites are closed to the public and used as communal spaces only accessible by MHUD clients and support staff for the duration of the site’s use as CEH.
55. All proposals have manager’s accommodation provided on the site.

Conditions of Consent

56. Conditions of consent have been proposed in each of the seven applications. The proposed conditions adopt the conditions imposed on the previous resource consents issued in December 2021, but take into account that:
- Physical works required on some sites have been completed;
 - The development of a SMP has been completed;
 - A MHUD official will be identified as a “suitable representative” to act as contact for Council for all matters relating to the consent.

Exit Strategy

57. An “Exit Strategy” is included in each of the applications. The exit strategy will progressively return the facilities to tourist use as the supply of permanent market and social housing increases. The main measures of the exit strategy are to:
- Prioritise all CEH motels in Rotorua to determine the most appropriate motels to exit and the order in which these exits occur;
 - Exit one motel at a time to ensure the market is not flooded with multiple motels returning to the tourism market at the same time;
 - Work alongside MSD to actively manage exits by stopping new referrals into CEH motels by 30 June 2025; and
 - Issue a 90-day notice period to motels being exited to allow sufficient time for restoration work, if necessary, to take place before the motels return to tourism use.

OPERATIVE ROTORUA DISTRICT PLAN

Plan Status

58. The District Plan was made operative in 2016. It was restructured in July 2021 to meet National Planning Standards.
59. The District Plan now incorporates the decisions on Plan Change 9 - Housing for Everyone. Plan Change 9 is an Intensification Planning Instrument under the National Policy Statement on Urban Development 2020 (NPS-UD), aimed at better providing for a “well-functioning urban environment”. The approved plan change supports greater intensification through enabling medium density living across most of the urban area, and high density living close to and in the city centre and in other commercial centre zones.
60. Plan Change 9 had only “proposed” status at the time the existing resource consent applications were being considered.

Zoning, Overlays and Features

61. The operative zoning of each of the seven application sites is shown in the table below.

Trading Name	District Plan Zone
Alpin Motel	Commercial 4 Zone - City Entranceway Accommodation
Apollo Hotel Rotorua	Commercial 3 Zone - Neighbourhood Centre
Ascot on Fenton	Commercial 4 Zone - City Entranceway Accommodation, Residential 2 - High Density Residential Zone
Geneva Motor Lodge	Commercial 4 Zone - City Entranceway Accommodation

Trading Name	District Plan Zone
Lake Rotorua Hotel	Commercial 4 Zone - City Entranceway Accommodation, Residential 1 Zone - Residential Living
Pohutu Lodge Motel	Commercial 4 Zone - City Entranceway Accommodation
RotoVegas Motel	Commercial 4 Zone - City Entranceway Accommodation, Residential 2 - High Density Residential Zone

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

Activity Status Assessment

63. To assess activity status under the District Plan, it is necessary to characterise and define the CEH activities in the context of the District Plan. CEH as proposed in the applications was not an activity that was clearly contemplated when the District Plan was originally drafted between 2010 and 2012.

64. On this basis, four potential pathways to determining the activity status of CEH are identified and assessed below:

- Community Housing;
- Visitor Accommodation;
- Residential Activity/Residential Units; and
- An activity that is “not expressly stated”.

CEH as ‘Community Housing’

65. Community housing is defined in the District Plan in the following terms:

*a place of residence for a **maximum of eight persons** (i.e., all residents including resident staff) where some element of care or support is provided for residents. The definition includes emergency housing (including temporary overnight accommodation) and rehabilitation centres but excludes facilities where the movement of residents is legally restricted.*

[My emphasis added.]

66. The term “Place of Residence” is not defined in the District Plan. However, the District Plan defines a “site” to generally mean an area of land with a separate certificate of title (i.e. a place with an address). Therefore, a place of residence could be either a single dwelling on a site, or a collective of residential units on one site, as it is for the proposed CEH use of tourist accommodation.

67. All the CEH applications are, collectively, for a place of residence with an element of care or support for more than eight people. For this reason, CEH is not defined as “Community Housing” under the District Plan.

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

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

...

*The **scale of the proposal is managed through the performance standards, which ensure that the residential character of the zone is not adversely affected. The provisions benefit the social needs of the district***⁷.

[My emphasis added.]

69. The “scale of the proposal” is not actually managed through the Performance Standards, as stated in the Hearing Committee’s decision, but rather through the scale limits included in the definition of Community Housing. The effect of limiting scale through the definition is that Community Housing proposals that exceed the 8-person scale limit simply fall outside the definition⁸.
70. Although the definition and standards for Community Housing were a response to submissions on residential zone amenity issues, the same provisions for Community Housing have also been imported into the Commercial Zones.
71. Advisors and decision makers clearly did not contemplate the location, scale and extent of EH that has been enabled by central government over the last 5 years when the Community Housing provisions were formulated. The focus of submissions at that time was on the use of isolated residential properties in suburban locations for EH and provision of a ‘night shelter’ for homeless people in the central city.
72. The Community Housing provisions are not affected by the decisions on Plan Change 9.

CEH as ‘Tourist Accommodation’

73. Tourist accommodation is defined in the District Plan in the following terms:

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

[My emphasis added.]

⁶ Doc No RDC – 462978 at paragraph 4.4.7.

⁷ Ibid at paragraph 4.4.10.

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

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

74. CEH clients are obviously not tourists. However, other than the plain meaning of ‘tourist’¹⁰, the District Plan definition of “tourist accommodation” does not expressly restrict the type of person who may stay as a guest in tourist accommodation. The only stipulation is that the accommodation cannot be their normal place of residence.
75. Tourist accommodation can sometimes provide temporary accommodation for guests who are not engaged in activities that are considered *tourism*. A person may use temporary accommodation for business travel or for social events. A person may also occasionally use temporary accommodation for other reasons such as when renovating their residence, their residence being affected by a natural disaster, or when confronted by challenging personal circumstances, etc.
76. While none of these types of guests are engaged in tourism activities per se, no reasonable person would question the acceptability of this use of tourist accommodation, given the similarity to tourists use of the accommodation (the accommodation is temporary, short term and not their *normal place of residence*). This use of tourist accommodation does not detract from the tourist accommodation being provided primarily for tourists.
77. In contrast, the CEH facilities are only to be used by MHUD clients. The activity is characterised by the exclusion of tourists and all other types of guests while the facility is being used for CEH.
78. While the CEH activity has the characteristic of being temporary accommodation, those that reside in CEH do so because they do not have any other *normal place of residence*; the MHUD-contracted facility has become, by default, their normal place of residence.
79. It is on this basis that the CEH activity does not meet the District Plan’s definition of *tourist accommodation*.
80. The tourist accommodation provisions are not affected by the decisions on Plan Change 9.

CEH as a ‘Residential Activity’ and as ‘Residential Units’

Residential Units

81. CEH could be characterised as a complex of “residential units” used for a “residential activity” with support services, including security services.
82. The CEH residential activities come within the following District Plan definitions which were recently included as a result of decisions on Plan Change 9:
 - Residential Activity: “means the use of land and building(s) for people’s living accommodation”.
 - Residential Unit: “means a building(s) or part of a building that is used for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities.”
83. CEH is the use of land for people’s living accommodation and is therefore a “residential activity”.

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

84. Similar to the previous District Plan definition of “household unit”¹¹, the definition of “residential unit” which replaces it does not distinguish between household types on the basis of whether they are vulnerable, supported, dependent or otherwise in need. The CEH use of motel units is made exclusively by one household, and all of the sites include sleeping, cooking, bathing and toilet facilities.
85. Residential units are a permitted activity in the applicable Commercial and Residential Zones, subject to meeting performance standards¹². Non-compliance with any of the performance standards is a Restricted Discretionary Activity, other than in the COMZ3 Zone where the residential units located on the ground floor are a Non-Complying Activity.
86. Conversion of buildings (including tourist accommodation) to residential units is a Restricted Discretionary Activity in the applicable Commercial Zones¹³, other than in the COMZ3 Zone where residential units on the ground floor are a Non-Complying Activity.
87. Conversion of tourist accommodation to residential units is a Restricted Discretionary Activity in the applicable Residential Zones¹⁴.
88. The District Plan therefore contemplates and provides for the re-purposing of tourist accommodation units, as well as other buildings in the Commercial Zones, for residential activities and residential units.

Ancillary office

89. The CEH support activities reasonably come within the scope of an “ancillary office” under the District Plan. Support services are provided from an office on the site as well as to people throughout the site.
90. “Office” is defined in the District Plan as having its “ordinary and customary meaning”. The support services offered on site have an administrative and client service focus common to that of an office. “Ancillary office” is not defined in the District Plan. However, “ancillary retail” is defined with its essential characteristics identified as being “subsidiary” and “of secondary nature to the main purpose of the site”. Taking the same approach, the support services activity would reasonably fall within the definition of ancillary office and, therefore, do not detract from the primary use of the site for household units.
91. The proposed support and security activities are generally a Permitted Activity in the applicable Commercial Zones, and Non-Complying Activities in the applicable Residential Zones.

Conclusion

92. Assessing CEH as a ‘Residential Activity’ and ‘Residential Units’, activity status varies according to location and zoning, as summarised in the following table:

¹¹ “...any building, part of a building or vehicle, whether temporary or permanent, that is occupied as a residence, including any structure or outdoor living area that is accessory to and used wholly or principally for the purposes of the residence”.

¹² COMZ-R32 and RESZ-R3.

¹³ COMZ-R33.

¹⁴ RESZ-R8.

Trading Name	District Plan Zone	Activity Status
Alpin Motel	Commercial 4 Zone - City Entranceway Accommodation	Restricted Discretionary Activity
Apollo Hotel Rotorua	Commercial 3 Zone - Neighbourhood Centre	Non-Complying Activity
Ascot on Fenton	Commercial 4 Zone - City Entranceway Accommodation, Residential 2 High Density Residential Zone	Non-Complying Activity
Geneva Motor Lodge	Commercial 4 Zone - City Entranceway Accommodation	Restricted Discretionary Activity
Lake Rotorua Hotel	Commercial 4 Zone - City Entranceway Accommodation, Residential 1 Zone - Low Density Living	Non-Complying Activity ¹⁵
Pohutu Lodge Motel	Commercial 4 Zone - City Entranceway Accommodation	Restricted Discretionary Activity
RotoVegas Motel	Commercial 4 Zone - City Entranceway Accommodation, Residential 2 Zone High Density Residential Zone	Non-Complying Activity

93. The inclusion of support and security services, and not the use of motels as residential units for CEH, is the reason for the overall Non-Complying Activity status for the CEH application sites located wholly, or partly, within Residential Zones under the District Plan.
94. The counterfactual is that, were it not for the addition of the wrap around support services in CEH, the activities would all be Restricted Discretionary Activities.

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

95. As already noted, the District Plan does provide for a place of residence with wrap around support services as a permitted activity under the definition of ‘Community Housing’, but only for a maximum of eight persons.
96. Supported residential units for more than eight persons is a situation which falls under the catch-all “where an activity is not expressly stated” as per the activity table for the Commercial or Residential Zones. Where an activity is not expressly stated in the activity tables, the activity status defaults to a Non-Complying Activity ¹⁶¹⁷ in the District Plan.
97. Adopting this approach, all the applications for CEH are Non-Complying Activities.

Conclusion

98. The CEH activities cannot be characterised as ‘Community Housing’ or ‘Tourist Accommodation’ as the activities fall outside the relevant District Plan definitions.
99. The CEH activities could be characterised as a ‘residential activity’ within ‘residential units’, with ancillary on-site support services. However, this approach requires an interpretation that was not clearly contemplated when the District Plan was drafted. While there is specific

¹⁵ Mixed zoning of the site in this case is a technicality as none of the activity is located on the Resz1 land, which is vacant.

¹⁶ COMZ-R1 Where an activity is not expressly stated in this table.

¹⁷ RESZ-R2 Where an activity is not expressly stated in this table.

provision under the District Plan for residential activities with wrap around support services as 'Community Housing', this is only at a smaller scale.

100. It is appropriate to assess the CEH proposals as "an activity that is not expressly stated in this table", which is assessed as Non-Complying Activities under the District Plan. This is, in effect, the same approach to activity status taken by the Applicant. Notably, it is the inclusion of support and security services in the CEH activity that results in Non-Complying Activity status, and not the use of motels as residential units for CEH.

NOTIFICATION AND SUBMISSIONS

Notification

101. MHUD requested that all seven applications be publicly notified. Public notification occurred on 20 July 2024.
102. Notice of the applications was served on the owners/occupiers of immediately adjacent properties and owners/occupiers of neighbouring properties, owners/occupiers of the subject site, and the following organisations:

- Rotorua Housing Taskforce
- Te Pokapū
- Ngāti Whakaue
- Te Arawa Lakes Trust
- Restore Rotorua Incorporated
- Rotorua Economic Development Limited
- Bay of Plenty Regional Council
- Waka Kotahi
- Tuhourangi Tribal Authority
- Ngati Wahiao
- Te Komiti Nui o Ngati Whakaue
- Whakarewarewa Living Village
- Visions of a Helping Hand
- Wera Aotearoa Charitable Trust
- Emerge Aotearoa
- New Zealand Police
- Chamber of Commerce

Submissions

103. A Submissions Summary Report is provided on the Council website. This includes the methodology used to analyse the submissions¹⁸.
104. In overview:
 - Council received 176 submissions from 37 submitters.
 - Across all seven applications there were 36 submitters in opposition and 1 submitter in support. 27 submitters wish to be heard at the hearing.

¹⁸ <https://www.rotorualakescouncil.nz/our-council/consultation-and-public-notices/publicnotices/public-notice-for-contracted-emergency-housing>.

- 21 submitters submitted on all seven applications and 10 submitters submitted on just one application.
- No submitters outlined conditions or changes they would like to see if the applications were granted consent.

105. The themes most frequently raised in submissions were, in summary:

- Social effects: crime (theft, vandalism) and undesirable behaviour (intimidation, aggression, violence, verbal abuse), providing emergency housing for people who are not from Rotorua, and pressure on social services;
- Economic: negative impact on tourism, unavailability of accommodation for tourists, effects on Rotorua's reputation and image, effects on property sales and nearby businesses;
- Character / amenity: impact on surrounding residents, safety, noise and rubbish;
- Planning: extension of consents, possible future extensions, and inconsistency with public policy direction;
- Exit strategy: lack of or inadequacy of strategy;
- Cultural: disruption to cultural landscape and infringement on the spiritual and historical integrity of Whakarewarewa, lack of consultation;
- Traffic: parking, pedestrian safety especially for children; and
- Other: lack of consultation, profiteering by facility operators, broken promises by government, information discrepancies.

106. Although there are fewer submitters on the present applications than the applications received in 2021 (37 versus 350), the issues are very similar and remain of significant concern to the affected community.

107. There remains a focus on the social and economic effects of EH. Many submissions do not distinguish between the CEH facilities that are the subject of the applications from other tourist accommodation being used for EH. Several submitters refer to 'MSD motels', that is those motels accepting holders of MSD-issued EH-SNGs, in their submission.

108. For submissions on a specific application, a detailed analysis is provided in the Site Specific Assessment Report for that particular application.

109. The locations of submitters who oppose or support the applications are shown on the following plan. The majority of submissions have been made by residents in the Fenton Street corridor and in the vicinity of Whakarewarewa Village, with some clustering around the CEH application sites.

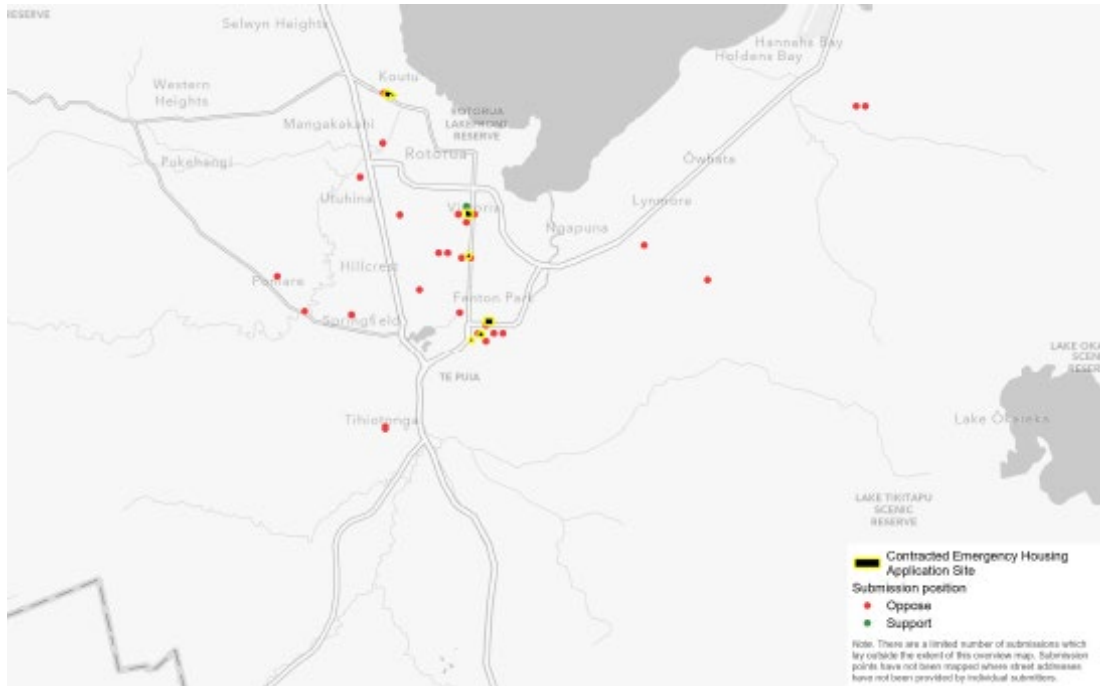


Figure: Location of Submitters

SECTION 104(1) CONSIDERATION OF APPLICATIONS

Part 2 – Purpose and Principles of the RMA

110. Consideration of an application for a resource consent and any submissions received includes a range of matters under Section 104(1) of the RMA, all of which are subject to Part 2 (Purpose and Principles).

111. Case law dictates that:

If it is clear that a plan has been prepared having regard to Part 2 and with a coherent set of policies designed to achieve clear environmental outcomes, the result of a genuine process that has regard to those policies in accordance with s 104(1) should be to implement those policies in evaluating a resource consent application. Resort to pt. 2 in such a case would likely not add anything. It could not justify an outcome contrary to the thrust of the policies.¹⁹

112. In this case, some policies in the District Plan do lack coherence.

113. Specifically, for Community Housing (which includes reference to EH) the District Plan is reasonably clear in its intention to permit only small scale supported residential activities without resource consent. However, the District Plan rules do not reflect the intended discretionary consenting pathway of the District Plan Review decision makers for larger scale Community Housing activities. There are no coherent policies on desired environmental outcomes (including social or economic) for larger scale Community Housing. Incoherence is a reflection of the unanticipated scale, extent and complexity of the emergency housing sector of the housing market that has emerged over the last five years, rather than any shortcomings in plan drafting.

¹⁹ *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 at [74].

114. In this context, consideration under Part 2 of the RMA is appropriate in evaluating social and economic aspects of the resource consent applications.
115. While a Plan Change was signalled by Council in 2022 to directly address the incoherence of the Community Housing provisions in the District Plan, this has not been progressed. Since that time, the Council priority has been placed on completing Plan Change 9, supporting delivery of additional social housing capacity, and on the exiting of EH uses in motels as outlined.

Section 5 – Purpose

116. Section 5 provides that:

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

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

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

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

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

117. Since 2016, EH has been provided by central government as a way to address a critical shortage of affordable housing which has been driven by unanticipated levels of population growth, and low incomes and slow delivery of housing. EH clearly enables people and communities to better provide for their social, economic, and cultural well-being and for their health and safety. However, this should be provided for in a way which avoids, remedies, or mitigates any adverse effects of activities on the environment.

Section 6 - Matters of National Importance

118. Section 6 specifies the matters of national importance that must be recognised and provided for in achieving the purpose of the RMA.
119. Several submissions have raised issues that are potentially matters for consideration under Section 6(e), the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga. This is specific to CEH sites near Whakarewarewa and Te Puia.
120. I agree with the findings of the Hearings Panel who granted the existing consents in 2022 that there had been an over-reliance on the role of Te Arawa on the Taskforce and Te Pokapu to “justify a divergence from RMA best practice in terms of consultation and consistency with

other Part 2 matters, including recognising and providing for the relationship of Ngāti Whakāue and Tūhourangi Ngāti Wāhiao.”²⁰

121. Although further engagement has occurred with iwi representatives since 2022, the significant concerns over CEH at Apollo Motel, Pohutu Lodge Motel and Alpin Motel infringing on spiritual and historical values remain, as evidenced in the submissions received. The pre-application consultation was also considered by submitters to lack genuineness.
122. The short duration sought for the consents is the primary measure taken by the Applicant to address cultural issues, as well as other concerns. An exit strategy for Whakarewarewa, including a timeline for the three CEH motels nearby, was discussed by the CLG in June 2024 which resulted in an outcome for MHUD to provide an exit strategy for the three CEH sites in Whakarewarewa²¹. This issue is not addressed in the applications.
123. No other matters of national importance are identified that are relevant to the consideration of the CEH applications that are not otherwise addressed under the District Plan.

Section 7 - Other Matters

124. Section 7 specifies other matters that must be given “particular regard” in achieving the purpose of the RMA.
125. Three matters warrant consideration in relation to the CEH applications:
 - (b) the efficient use and development of ... physical resources:*
 - (c) the maintenance and enhancement of amenity values:*
 - (f) maintenance and enhancement of the quality of the environment:*
126. The CEH activity is generally an efficient use of physical resources, given it will use existing buildings with minimal changes being required for occupation by short duration residential activities. Although reducing in significance as demand for tourist accommodation has increased since Covid 19, the CEH has allowed a beneficial use of underused building resources.
127. Under the District Plan, the focus for amenity values and environmental quality in the Commercial and Residential Zones is primarily on the design and appearance of buildings and other physical amenity considerations at a site level. The effects of the concentration of wider amenity effects caused by off-site behaviour of EH residents were not contemplated.
128. The evidence on social and economic effects identifies other adverse effects that arise from a concentration of EH that affect amenity values and environmental quality including:
 - Crime and other incidents;
 - Property value effects;
 - Effects on tourism; and
 - Social effects.

²⁰ Independent Hearings Panel (David Hill, Greg Hill and Sheena Tepania), Decision following the hearing of the bundled non-complying activity applications, dated 15 December 2022 at paragraph 197.

²¹ www.hud.govt.nz/assets/Uploads/Documents/rotorua-clg-minutes-of-the-meeting-26-june-2024.pdf.

129. These matters can appropriately be considered in making decisions on the CEH applications, and in setting conditions.

Section 8 - Treaty of Waitangi

130. In achieving the purpose of the RMA, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, must take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

131. The principles, as expressed by the Courts and the Waitangi Tribunal, are²²:

- partnership;
- duty to act reasonably, honourably, and in good faith;
- reciprocity;
- mutual benefit;
- duty to make informed decisions;
- active protection; and
- redress.

132. Tangata whenua interests are represented in some facets of EH through partnerships that include the Housing Task Force and the Te Pokapū housing hub. There is a strong and clear need for partnership with a high proportion of EH occupants being of Māori ethnicity.

133. Treaty principles have not been specifically raised in submissions although submitters refer to this in relation to the District Plan provisions, stating a “...lack of genuine engagement and recognitions of the concerns of Tūhourangi Ngāti Wāhaio regarding these developments highlights a significant oversight in adhering to these provisions...”.

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

Meaning of Effect

134. Under Section 3 of the RMA, the meaning of ‘effect’ is:

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

(a) any positive or adverse effect; and

(b) any temporary or permanent effect; and

(c) any past, present, or future effect; and

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

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

(e) any potential effect of high probability; and

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

²² He Tirohanga o Kawa ki te Tiriti o Waitangi, Te Puni Kokiri, 2001.

Scope of Effects

135. Having regard to the nature of the applications, the District Plan provisions, and the issues raised in submissions, effects have been considered under four broad headings:

- Economic Effects;
- Social Effects;
- Site Specific Amenity Effects; and
- Permitted Baseline Effects.

Economic Effects

136. I rely on the evidence of Ms Hampson in assessing economic effects of the proposals.

137. The economic evidence takes into account analysis and evidence that informed the 2022 hearing and the significant changes that have occurred in overall EH supply and the tourism industry (nationally and in Rotorua). The existing environment is assessed as being very different to what it was in 2022. The cumulative effects of EH-SNG and CEH motels has substantially reduced in quantum and is less concentrated. The scale of CEH will also be reduced by the time the proposed consents would commence.

138. The conclusions of the economic assessment are summarised below.

Property values/rental returns:

139. No worse than already felt in the market under the current consents. That is, more than minor, but not significant reductions within 500m of CEH motels in Victoria and Whakarewarewa and minor reductions within 500m of CEH motels along Fenton Street and in Koutu. These economic effects are considered temporary. Reductions in value and rental returns attributable to CEH are expected to last only as long as the CEH motels are operating in each community.

Tourism capacity

140. Any loss of capacity to accommodate tourism demand would be minimal at the district level, and temporary.

Rotorua's tourism reputation

141. A less than minor accumulative effect and noting that there are some indications that there has been some recovery of Rotorua's reputation since 2022.

Crime and anti-social behaviour

142. Any adverse effect would be minor at the community level, and temporary.

143. Previously positive economic effects of CEH, including sustaining employment during the Covid-19 impacted period and net additional spending by non-local CEH clients is no-longer occurring. The minor benefit of sustained employment is diminished now that the tourism sector has further recovered from the effects of Covid-19.

144. Overall, while the adverse economic effects are not expected to be significant, the economic costs of approving the proposed consents are likely to be greater than the economic benefits. The potential economic costs for Rotorua of not approving the consents (that is, the

counterfactual of increased homelessness, domestic harm, and use of EH-SNGs) would be far worse in the short-term, than approving the consents for a further twelve month period.

Social Effects

145. I rely on the evidence of Ms Foy in assessing social effects of the proposals.
146. Ms Foy concludes that there are both positive and negative social effects that have arisen from the use of motels for CEH activities in Rotorua. These effects have been assessed in the context of impacts on three groups: homeless people, neighbours and immediate community in the immediate vicinity, business (especially tourism operators) in the wider economy.

Homeless People

147. By providing short-term EH accommodation in managed CEH motels, occupants have better living conditions than the alternative of being homeless or living in unsuitable living environments. They are also supported to access other social services that they require.

Neighbours and Immediate Community

148. Neighbouring property owners and the immediate community have the right to have homes which feel safe and secure. The core social concerns raised in the 2022 hearing are still present within the community. There is very little substantive evidence provided that proves or disproves causation with the CEH activity, however the community perceives that the effects are real and, for some, those effects have been significant.
149. The SMPs and other mitigation measures under the existing consent conditions are reducing adverse effects, but they are not capable of avoiding off-site anti-social behaviour. Beyond limiting the consent duration, these residual effects must fall to other mechanisms to address them, including police intervention.

Business

150. Undesirable behaviour of EH residents (intimidation, aggression, violence, verbal abuse) remains a significant concern of the community represented through the submissions.
151. Overall, it is concluded that granting resource consents subject to the conditions recommended by the Section 42A writers, for a reduced number of CEH motels is likely to provide an appropriate balance between achieving the positive outcomes for vulnerable populations who would otherwise be living in sub-standard conditions and providing certainty to the community that the use of CEH motels, and the associated adverse social effects will be likely to cease in one year.

Site Specific Amenity Effects

152. Site specific effects are assessed for each application in the Site Specific Assessment Reports.
153. The scope of effects which are assessed in the Site Specific Assessment Reports are informed by relevant District Plan objectives and policies, zoning, performance standards, and matters of discretion, as well as matters raised in submissions that relate directly to the site.
154. Several key issues arising from this assessment that are common across all of the applications are identified and discussed below.

Character and Amenity Effects

External Amenity

155. For external character and amenity effects, the general conclusion is that effects will be less than minor due to existing buildings and site development remaining largely unchanged.
156. Maintenance of buildings and landscaping, keeping sites and street berms clear of rubbish, and removal of motel signage for the duration of consent are recommended as conditions of consent.

Internal Amenity

157. Most of the facilities do not provide a level of internal amenity equivalent to typical residential units due to their small size and the lack of private or shared outdoor living space. Mitigating factors for this across the sites include the short duration of stay and that, in most cases, the surrounding area is well served with local amenities and social infrastructure.
158. A detailed assessment has been made of the suitability of each of the sites for children's play, with children seen as a vulnerable group within EH (see the evidence from Mr Peacocke).
159. This assessment finds that some of the CEH application sites have unacceptable play space provision for certain age groups of children, which is a potential detriment to a child's development. Where this is the case, and there are no mitigating factors, consent conditions are recommended to restrict these age groups from staying within that CEH facility.

Transportation

160. Several submitters have stated that due to a lack of off-street parking, CEH occupants were parking on the berms and causing damage.
161. Parking on berms is managed through Council's bylaws. Proposed consent conditions include a requirement that the SMP address parking allocation for visitors to reduce congestion on the street.
162. In general, the transportation effects are acceptable.

Noise

163. Several submitters have raised concerns about increases in noise disturbance from police sirens, motor vehicles, and noise from CEH occupants (yelling, late night parties, etc.).
164. The Applicant proposes the implementation of the SMP to manage potential noise effects. Noise measures referred to in the SMP include not disturbing the "quiet and peaceful enjoyment" of neighbours, and compliance with the noise limits of the District Plan. In general, noise effects are acceptable.

Infrastructure

165. The applications have been assessed by the Council's development engineering team who have no concerns about infrastructure effects.

Financial Contributions

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

Cultural Effects

167. Three of the CEH applications are for sites near to the Whakarewarewa Village (Pohutu Lodge, Apollo Motel and Alpin Motel). The Village is recognised as an exceptional and unique cultural and historic place within the district, with a specific zoning of Residential 3 – Ōhinemutu, Whakarewarewa, Ngāpuna. There are also several scheduled heritage features within the Village.
168. Several submissions have been made by Village residents and nearby businesses raising concerns about the localised social effects of CEH activities on various aspects of Village life.
169. The District Plan recognises the need to protect the Village from the effects of activities on adjacent land, but this refers specifically to noise, smoke, dust, vibration or traffic, and visual effects.
170. The assessment recommends continuation of the conditions requiring CEH Resident induction, information provision, and engagement meetings with the village.

Permitted Baseline Effects

171. At application site level, the permitted baseline or consented baseline are relevant considerations. These effects relate to the design and appearance of buildings and sites, and their physical properties such as noise, traffic and infrastructure effects. Effects from the permitted baseline can be disregarded in assessing effects of the CEH activities.
172. The residential use of tourist accommodation is not a permitted activity. In general, the motel units do not meet permitted activity standards under the District Plan for density and outdoor living space. They were not designed for long term residential use by families, and do not have same the level of on-site amenity.
173. At an aggregate level, the existing environment is not currently a reflection of a permitted or consented activity, with the remaining EH-SNG activities in motels not having the required resource consents. This issue is substantially less significant than it was when the 13 original CEH applications were considered.

Conclusion on Effects

174. The most significant of the adverse effects identified are the cumulative off site social and economic effects of EH. The SMP conditions are aimed at mitigating these effects. Decisions on individual CEH applications do not provide an effective framework for completely avoiding these effects, other than by limiting the duration of consent. Too short a duration will result in consequences of homelessness and the economic evidence is that 12 months is an appropriate term.
175. A broader public policy response is the most appropriate way forward overall, centred on providing suitable alternative housing supply with a progressively sinking lid on EH provision.

176. At an aggregate level, the cumulative social and economic effects of the CEH activities are assessed as acceptable, subject to the recommended conditions being complied with.
177. At the site level, when assessed against the permitted baseline, effects are assessed as acceptable subject to the recommended consent conditions being complied with. This assessment also includes the consent conditions offered by the Applicant, as well as those recommended by the Section 42A writer.

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

178. As noted in the proposal description, the Applicant has proposed a set of conditions for each of the applications.
179. The proposed conditions adopt the conditions of consent imposed on the previous resource consents, but take into account that:
- The physical works required on some sites have been completed;
 - The development of a Site Management Plan has been completed; and
 - A MHUD official will be identified as a “suitable representative” to act as contact for RLC for all matters relating to the consent.

180. The evidence of Ms Barry addresses the effectiveness of the conditions from a monitoring and enforcement perspective. Ms Barry concludes:

Given the new consents are for a duration of one year, if the current consent conditions were adopted carte blanche for the replacement consents, and regular monitoring was continued, the effectiveness of the consent conditions would not be diminished.

181. Council’s enforcement team have not suggested any specific changes be made if the existing conditions were to apply to the new consents being sought.
182. Recommended draft conditions for the CEH applications are set out in Appendix 1. These are a starting point for consideration should the Commissioner determine that consent should be granted to some or all of the applications. These conditions have been used as a base for the in the Site Specific Assessment Report recommended conditions.
183. The recommended draft conditions are largely those proposed by the Applicant. Some minor wording and numbering changes are suggested to give greater consistency and certainty (see Conditions 2, 5, and 10).
184. The applications seek a consent duration of one year from 15 December 2024. The economic evidence is that a need and demand for CEH will exist for at least this period. A consent duration of one year from 15 December 2024 is therefore reasonable (Condition 4).
185. For the Record Keeping and Reporting Condition (Condition 8), it is recommended that the frequency of reporting be increased from six monthly to three monthly. The reason for this is to enable closer monitoring and potential response by Council compliance team as the activities draw to a close, with potential for greater concentrations of occupants in fewer locations.
186. For the SMP (Condition 24), the Applicant proposes deletion of the conditions setting out the purpose and content of the SMP on the basis that the SMPs submitted with the applications

have already been certified as meeting these requirements. It is recommended that the purpose and content be retained as criteria on which to base any SMP amendments and recertification should the need for this arise.

187. When considering the seven applications as whole, the issue of the sequence of the cessation of the CEH motels is relevant. While this is beyond the scope of individual consent conditions to address, the s42A reporting team consider there is a sequence to cessation that, if followed, could achieve the greatest overall mitigation of social, economic and cultural effects. The suggested sequence for cessation is:
- a. Whakarewarewa cluster (Alpin, Apollo, Pohutu);
 - b. Fenton Street corridor cluster (Ascot, Geneva, Rotovegas); and
 - c. Lake Rotorua Hotel.
188. However, assigning a timeframe to cessation of any individual motel is not recommended. 12 months is a relatively short period given the range of complexities and uncertainties, and there is no evidence on which to base specific timeframes.
189. A possible way to promote this outcome is through Condition 27 Rotorua Lakes Council Meetings. This condition requires a meeting every six months during the period of the resource consent to discuss operational matters, including cessation of contracts. The scope of this meeting could be extended to directly address the sequence and timing of cessation. However, it is noted that Condition 27 is an offered (Augier) condition so any change would require the Applicant's agreement.
190. Condition 28(c)(ii) proposes a CLG meeting no more than 30 working days after consent commencement. While this is an offered (Augier) condition, it is possibly unnecessary given the cycle of quarterly CLG meetings is in place already.
191. Some site specific conditions are proposed. as explained in the Site Specific Assessment Reports, outlined as follows:

Alpin

- Requirement to update and re-submit the SMP to include additional security measures in relation to the northern and eastern boundaries.

Apollo

- Preventing children between the ages of six months and seven years from residing in a second-floor unit (Units 20 – 39B).
- Requirement to establish a new play area in the carpark.

Ascot on Fenton

- Preventing children between the ages of six months and seven years from residing on site.
- Requirement for vehicles to only enter the site via Fenton Street and exit via Toko Street.

Geneva

- Preventing children between the ages of six months and seven years may from residing in a second-floor unit (Units 9 – 14).

Lake Rotorua

- Requirement to fence off the area on the western side of Units 30 – 38.

Pohutu

- Preventing children between the ages of 8 and 12 years from residing on site.
- Preventing children between the ages of 6 months and 8 years from residing in a studio unit.

RotoVegas

- Preventing children between the ages of six months and three years from residing in Units 1-6, 12-15, 22 or 23.

SECTION 104(1)(b) POLICIES AND PLANS

National Environmental Standards

192. There are no applicable National Environmental Standards.

Other Regulations

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

National Policy Statements

NPS-UD

194. The NPS-UD sets out the objectives and policies for planning for well-functioning urban environments under the RMA.

195. Objective 1 and Policy 1 of the NPS-UD are relevant considerations in all urban planning decisions, including the Commissioner's decisions on the CEH applications:

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

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

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

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

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

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

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

- (d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and*
- (e) support reductions in greenhouse gas emissions; and*
- (f) are resilient to the likely current and future effects of climate change.*

196. The housing crisis in Rotorua is a case where there is not the variety of homes available to meet the needs, in terms of type, price, and location, of different households. The Council's Future Development Strategy, including implementation of the medium density residential standards under Plan Change 9 Housing for Everyone, are examples of planning decisions that address this critical issue.
197. The provision of CEH has been a necessary component of meeting housing needs in Rotorua in the past. It remains necessary today, and in accordance with the information provided in the applications and expert evidence, will continue to be necessary in Rotorua up until December 2025. However, this should be implemented in a manner that is not detrimental to people and communities being able to provide for their social, economic, and cultural wellbeing over that period. This includes consideration of both on and off site environmental quality. Plan Change 9 has aligned the District Plan with national direction on these issues.
198. Notwithstanding the community concerns with the concentration of CEH effects, the Fenton Street corridor and its adjacency to the Central City does provide a location that has many of the qualities of a well-functioning urban environment with good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by public or active transport. As noted in the Assessment of Environmental Effects submitted with each of the applications, this level of accessibility is a mitigating factor for some of the on-site amenity constraints faced by each of the sites.

Regional Policy Statement

199. The Bay of Plenty Regional Policy Statement, which applies to the Rotorua urban area, has no specific policies relevant to the CEH applications that have not been otherwise incorporated into the District Plan. This includes Policy UG 8B: Implementing high quality urban design and live-work-play principles²³.

District Plan Objectives and Policies

Strategic Direction

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

Economic Development

201. The Economic Development Strategic Direction identifies the District Plan as having a key role in encouraging economic growth throughout the district. It enables investment in Rotorua's key economic drivers including tourism.
202. Tourism is recognised in the Strategic Direction chapter as follows:

²³ Part of Rotorua Lakes District is in Waikato Region, but this does not include any of the Rotorua Urban Area.

Our district is one of the country's leading tourism centres, offering a wide variety of tourist accommodation and attractions including experiences featuring Māori culture, lakes, geothermal features and adventure opportunities. At any one time there can be 8,500-10,000 tourists in our district in addition to the base population. Projections suggest an overall increase in visits to Rotorua is anticipated. Cultural and sporting events are also major draw cards to our district. Many of the events focus on mountain biking, walking and running in the forests or around one or more of the lakes. The city is a preferred destination for major conferences, due to the Energy Events Centre and supporting hospitality facilities and infrastructure.²⁴

203. The Economic Direction objective is SDED-O1:

Sustainable Rural, Residential, Industrial and Business Innovation Zones where activities contribute to the economic, social, cultural and environmental wellbeing and prosperity of the community.²⁵²⁶

204. The related tourism policy is SDED-P4:

Manage the environment to enable ongoing growth of tourism and recreational activities that support the social, cultural and environmental attributes that are valued by the community and contribute to the identity of Rotorua.²⁷

205. The economic evidence is that the CEH proposals are likely to have minor effects on tourism. For this reason, granting consent to the CEH applications is not contrary to the Economic Development Strategic Direction.

Urban Form and Development

206. The Urban Form and Development section of the District Plan was comprehensively updated through Plan Change 9 to give effect to the NPS-UD.

207. The issues statement for a "Well-functioning urban environment"²⁸ in the Strategic Direction chapter recognises the requirement to enable communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future. This includes:

- The need for a wider range of housing types to provide for changing demographics and market demands.
- More residential units are required in Rotorua to keep up with demand. A lack of housing supply and diversity has adverse consequences on the health and wellbeing of our communities.
- To meet the demand for housing existing urban areas will need to change over time providing a greater density of development than previously provided. Enabling the greatest level of density around centres, employment opportunities or in areas accessible to existing or planned public or active transport will support a well-functioning urban environment.

²⁴ SDED-I1 Enable sustainable development and economic growth.

²⁵ SDED-O1.

²⁶ Commercial Zones, where most Tourist Accommodation is located, are not listed in this objective. Reading the plan as a whole, including an advice note to the policy, this is a clear omission.

²⁷ SDED-P4.

²⁸ SDUD-I1

208. The related Objectives for a well-functioning urban environment are as follows:

<i>Well-functioning urban environment</i>	
<i>SDUD-O1</i>	<i>A well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future:</i>
<i>SDUD-O2</i>	<i>A relevant residential zone provides for a variety of housing types and sizes that respond to—</i> <ul style="list-style-type: none"><i>i. housing needs and demand; and</i><i>ii. the neighbourhood’s planned urban built character, including three storey buildings within the Residential 1 Zone and up to six storeys in the Residential 2 Zone.</i>
<i>SDUD-O3</i>	<i>There is at all times at least sufficient development capacity and land supply to meet expected demand for housing and business land over the short term, medium term and long term.</i>
<i>SDUD-O4</i>	<i>The primary focus for higher residential intensification and additional business or community services include areas:</i> <ul style="list-style-type: none"><i>a) within and adjacent to centres or employment opportunities;</i><i>b) well-serviced by existing or planned public or active transport;</i><i>c) where there is high demand for housing or for business land in the area, relative to other areas within the urban environment.</i>

209. The issues statement for “Quality Environments” in the Strategic Direction chapter recognises that neighbourhoods will change over time as more intensive development occurs and land is used more efficiently. This will change the amenity values appreciated by some people in existing neighbourhoods, but may also improve amenity values for future generations, by enabling greater housing choice in the most accessible parts of Rotorua.

210. The related Objective for quality environments is:

<i>Quality Environments</i>	
<i>SDUD-O9</i>	<i>Urban development results in attractive, safe and healthy environments.</i>

211. Provision of CEH as sought in the applications is consistent with this policy in that it meets a known housing need and demand and is located near to accessible and well serviced centres and public or active transport. The policy statement recognises the consequences of a housing shortage, and CEH is expressly targeted to address these consequences through a well-managed temporary delivery framework while supply issues are addressed.

212. However, provision of CEH should be implemented in a manner that ‘*results in attractive, safe and healthy environments*’ that are not detrimental to other people and communities being able to provide for their own social, economic, and cultural wellbeing. The Quality Environments objective is supported by the recommended conditions.

Commercial Zones

213. Commercial Zones are included in the District Plan within Part 3 - Area - Specific Matters.

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

215. Commercial Zones provide a hierarchy of commercial areas based on the role and catchment area of each. The City Centre is the principal commercial centre for the Rotorua District and

is managed through a separate City Centre Zones chapter. There are six other zones in the hierarchy:

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

216. The COMZ3 and COMZ4 zones are relevant to the CEH applications.

217. Four issues with respect to CEH activities and Commercial Zones have been identified and are summarised below:

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

Commercial Centre activities and services

218. The relevant objectives and policies with respect to Commercial Centre activities and services are:

<i>Commercial centres</i>	
<i>COMZ - 01</i>	<i>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.</i>
<i>COMZ-P3</i>	<i>Neighbourhood Centres Provide for small neighbourhood centres within easy walking distance that support the day to day needs of the surrounding residential area.</i>
<i>COMZ – P5</i>	<i>City Entranceway Accommodation Enable a mix of high density residential uses, accommodation activities, including visitor accommodation, and supporting commercial activities.</i>
<i>COMZ – P6</i>	<i>Entranceway 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.</i>
<i>COMZ-P8</i>	<i>Enable an increase in the density, diversity and quality of housing in identified zones, while maintaining their commercial function and managing potential reverse sensitivity effects.</i>

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

220. The existing tourist accommodation on the Apollo Motel site is a Non-Complying Activity which does not support the “day to day needs of the surrounding residential area”. Residential units are generally a permitted activity within the COMZ3, other than units at

ground level which are Non-Complying, to ensure that there is provision of local convenience retail. While the CEH activity is contrary to this policy, there is no significant change to the existing degree of policy non-conformity.

221. The COMZ4 Zone along Fenton Street applies to all other applications over part, or all, of each site, with some sites having a split Residential Zone component.
222. The COMZ4 Zone provides for the development of tourism enterprises as a Permitted Activity. The policy is to provide for the development of tourism enterprises, and this is achieved through tourist accommodation generally having permitted activity status.
223. The conversion of buildings to residential use is a Controlled Activity within the COMZ4 Zone if all performance standards are met, and a Restricted Discretionary Activity if they are not. None of the 'matters of control' or 'matters of discretion' for conversion require consideration of the economic or any other effects of removing tourist accommodation from the city's pool of tourist accommodation.
224. On this basis, the proposed CEH activity (use of tourist accommodation) is not contrary to the commercial centres objectives and policies for the Commercial Zones.

Design and appearance of buildings

225. The relevant objective and policies with respect to design and appearance of buildings in the Commercial Zones are:

<i>Design and appearance of buildings</i>	
<i>COMZ - 02</i>	<i>Buildings and activities positively contribute to the mixed use character, safety and efficiency, and attractiveness of commercial centres and entranceways to Rotorua.</i>
<i>COMZ – P8</i>	<i>Enable and encourage high quality development that positively contributes to the safety and attractiveness of streets and public open spaces.</i>
<i>COMZ – P9</i>	<i>Manage the design of activities within commercial centres to maintain or enhance the character, public safety and efficient functioning of the transport network.</i>
<i>COMZ-P13</i>	<i>Require the design of residential units to achieve quality on site living environments for people by providing:</i> <ol style="list-style-type: none"><i>i) Private outdoor living that is functional and accessible;</i><i>ii) A reasonable level of visual privacy and outlook;</i><i>iii) Safe and convenient pedestrian access to residential units from the street; and</i><i>iv) Where located outside of commercial centres:</i><ol style="list-style-type: none"><i>i) Opportunities for on-site landscaping; and</i><i>ii) Opportunities for passive surveillance of the street, while allowing privacy for residents.</i>

226. Plan Change 9 introduced "quality on site living environments" (amenity) policies that were previously absent from the Commercial Zones.
227. As assessed in the Site Specific Assessments, the CEH activities have a less than minor effect on design and appearance of buildings given:

- The ‘design of the activity’ (i.e. design and appearance of buildings) is unchanged for each site;
- Public safety is appropriately managed through the SMP; and
- The activities will have an acceptable effect on the efficiency of the transport network.

228. While many of the individual CEH units do not meet the performance standards for residential units with respect to outdoor living, visual privacy and outlook, or on-site landscaping, the temporary nature of stay and accessibility to open space and other amenities in the locality mitigates this impact on people occupying the CEH units.

229. On this basis, the proposed CEH activity is not contrary to the design and appearance of buildings objective and policies for the Commercial Zones.

Commercial activities located within Non-Commercial Zones

230. The relevant objective and policy with respect to commercial activities located within non-commercial zones are:

Commercial activities located within Non-Commercial Zones

COMZ - 04 Efficient use and development of commercial centres by the establishment of activities consistent with the intended purpose of each zone.

COMZ – P14 Restrict the location of retail and commercial activities in other zones of the district to maintain and enhance the vibrancy and amenity of the commercial zones.

231. Support services provided for CEH located in Residential Zones are effectively “out of zone uses” under this policy. However the uses are unique to CEH, and on site provision is essentially part of wrap around support. There is no impact on the vibrancy and amenity of the commercial zones.

Reverse Sensitivity

232. The relevant objective and policy with respect to reverse sensitivity within the Commercial Zones are:

Reverse Sensitivity

COMZ - 05 Subdivision, use and development that enables the continued efficient operation of existing development and activities.

COMZ – P4 Manage the location and design of new subdivision, use and development within each zone to avoid adverse reverse sensitivity effects on existing activities.

233. Reverse sensitivity is the vulnerability of an established land use (such as state highways) to complaints from a newly establishing, more sensitive land use (for example, new houses and other noise-sensitive activities)²⁹.

234. As assessed in the Site Specific Assessments, the CEH activities have no greater reverse sensitivity effects on existing activities than the consented visitor accommodation activity.

²⁹ Waka Kotahi, Guide to the management of reverse sensitivity effects on the state highway network.

On this basis, the proposed CEH activity is not contrary to the reverse sensitivity objective and policies for the Commercial Zones.

Residential Zones

235. Residential Zones are included in the District Plan within Part 3 - Area - Specific Matters of the District Plan.
236. The Site Specific Assessments address the Residential Zone objectives and policies for matters of a site specific nature.
237. Across the district there are five Residential Zones with objectives, policies and rules that address the amenity values and character of each zone:
- Residential 1 - Medium Density Residential Zone RESZ1
 - Residential 2 - High Density Residential Zone RESZ2
 - Residential 3 - Ōhinemutu, Whakarewarewa, Ngāpuna RESZ3
 - Residential 4 - Lakeside settlement RESZ4
 - Residential 5 - Residential lifestyle (Wharenui Road area) RESZ5
238. Two CEH application sites are located within RESZ1 and two CEH application sites within RESZ2.
239. Three issues within the Residential Zones are identified as relevant to CEH, as follows:
- Activities within the Residential Zone: Amenity that is primarily residential in character, peaceful and safe, and mitigating the effects of density and loss of open space:
 - Residential 1 - Medium Density Residential Zone: a transition from low density to medium density residential urban built character is expected. This will provide greater housing diversity and choice within existing neighbourhoods that have reasonable access to commercial activities, public open space and community services.
 - Residential 2 - High Density Residential Zone: greater focus on enabling the planned urban built character for the zone rather than maintaining the existing character, which may detract from the amenity values appreciated by some people but improve amenity values appreciated by others.
 - The design, layout and appearance of residential sites: Where there will be a greater number of people on site and living spaces are generally more compact, design will address:
 - off-site issues of quality frontage to the street, through the use of windows, low or permeable fencing, visible pedestrian entries, and landscaping on the front boundary, promotes a pleasant and safe street environment for pedestrians;
 - on site issues of access to private open space, landscaped areas, and sufficiently sized living spaces, that optimise sunlight access; and
 - transitioning to medium density and high density living will change the amenity values experienced by neighbouring sites, including the potential loss of existing outlook, privacy and sunlight.

- Reverse Sensitivity
 - Activities within the Residential Zone and design, layout and appearance of residential sites

240. The relevant objectives and policies for the above issues with respect to the Residential Zones are:

<i>Activities in the Residential 1 Zone</i>	
<i>RESZ - 01</i>	<i>Land is used efficiently for medium density residential living that increases housing supply and choice.</i>
<i>RESZ - 02</i>	<i>Development contributes to the creation of neighbourhoods with an overall medium density residential urban built character comprising residential buildings in a variety of forms and including three storeys, integrated with on-site landscaped areas.</i>
<i>RESZ - 03</i>	<i>Development contributes to attractive and safe streets and open spaces.</i>
<i>RESZ - 04</i>	<i>Development provides healthy, safe and quality living environments that contribute to the well-being of residents, within the context of a medium density residential environment.</i>
<i>RESZ - 05</i>	<i>Development is supported by adequate infrastructure.</i>
<i>RESZ - 06</i>	<i>Development supports the use of public and active transport.</i>
<i>RESZ - 07</i>	<i>Non-residential activities in residential zones that are domestic in scale and character and do not have an adverse impact on the amenity values and character of the residential zones, or the vitality and viability of the City Centre or Commercial zones.</i>
<i>RESZ – P1</i>	<i>Enable a variety of housing typologies with a mix of densities within the zone, including 3-storey attached and detached dwellings, rest homes, and low-rise apartments.</i>
<i>RESZ-P2</i>	<i>Achieve the planned medium density residential urban built character by:</i> <ol style="list-style-type: none"> <i>1. Enabling a variety of housing types and sizes, including 3-storey buildings; and</i> <i>2. Encouraging development to provide a quality edge to the street through building design and orientation, setbacks, low or visually permeable fencing, and landscaping; and</i> <i>3. Providing opportunities for space around buildings and on-site landscaping.</i>
<i>RESZ-P3</i>	<i>Encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.</i>
<i>RESZ-P4</i>	<i>Enable housing to be designed to meet the day-to-day needs of residents.</i>
<i>RESZ-P5</i>	<i>Require development to achieve quality living environments for residents on site by providing:</i> <ol style="list-style-type: none"> <i>1. private open space that has access to sunlight;</i> <i>2. a reasonable level of visual privacy and outlook;</i> <i>3. opportunities for on-site landscaping; and</i> <i>4. safe and convenient pedestrian access to residential units from the street.</i>
<i>RESZ-P6</i>	<i>Manage the potential adverse effects of development on adjoining sites, without limiting the ability to achieve the planned medium density residential urban built character, including by:</i> <ol style="list-style-type: none"> <i>1. Setting buildings back from side and rear boundaries;</i> <i>2. Managing the effects of the length of buildings along side and rear boundaries;</i>

	<p>3. Providing opportunities for sunlight access to adjoining sites;</p> <p>4. Encouraging the use of other design techniques such as building recesses, varied architectural treatment and landscaping along side and rear boundaries.</p>
RESZ-P9	<p>Manage the location and design of buildings for non-residential activities to ensure that the activity is in keeping with the appearance and character of the residential zone sought in RESZ-O2 and Policies RESZ-P7 to RESZ-P11.</p>

Activities in the Residential 2 Zone

RESZ - 08	<p>Land that has good accessibility by existing or planned active or public transport to a range of commercial activities, public open space and community services, is efficiently used for high density urban living that increases housing supply and choice.</p>
RESZ - 09	<p>Development contributes to the creation of neighbourhoods with an overall high density residential urban built character, comprising residential buildings in a variety of forms and including six storeys, integrated with on-site landscaped areas.</p>
RESZ - 010	<p>Development contributes to attractive and safe streets and open spaces.</p>
RESZ - 011	<p>Development provides healthy, safe, and quality living environments that contribute to the well-being of residents, within the context of a high density residential environment.</p>
RESZ - 012	<p>Development is supported by adequate infrastructure.</p>
RESZ - 013	<p>Development supports the use of public and active transport.</p>
RESZ - 014	<p>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.</p>
RESZ – P10	<p>Enable a variety of housing typologies with a mix of densities within the zone, including attached and detached dwellings, rest homes, and low-rise apartments.</p>
REZ-P11	<p>Achieve the planned high density residential urban built character by:</p> <ol style="list-style-type: none"> 1. Enabling a variety of housing types and sizes, including 6-storey buildings; 2. Encouraging development to provide a quality edge to the street through building design and orientation, setbacks, low or visually permeable fencing, and landscaping; and 3. Providing opportunities for space around buildings and on-site landscaping.
RESZ-P12	<p>Encourage development to achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.</p>
RESZ-P13	<p>Enable housing to be designed to meet the day-to-day needs of residents.</p>
RESZ-P14	<p>Require development to achieve quality living environments for residents on site by providing:</p> <ol style="list-style-type: none"> 1. private open space that has access to sunlight; 2. a reasonable level of visual privacy and outlook; 3. opportunities for on-site landscaping; and 4. safe and convenient pedestrian access to residential units from the street.

<i>RESZ-P15</i>	<i>Manage the potential adverse effects of development on adjoining sites, without limiting the ability to achieve the planned medium density residential urban built character, including by:</i> <i>1. Setting buildings back from side and rear boundaries;</i> <i>2. Managing the effects of the length of buildings along side and rear boundaries;</i> <i>3. Providing opportunities for sunlight access to adjoining sites;</i> <i>4. Encouraging the use of other design techniques such as building recesses, varied architectural treatment and landscaping along side and rear boundaries.</i>
<i>RESZ P16</i>	<i>For proposals of four or more residential units ensure adequate infrastructure can be provided to support the development.</i>
<i>RESZ P17</i>	<i>For proposals of four or more residential units, provide adequate storage for cycles on site.</i>
<i>RESZ-P18</i>	<i>Manage the location and design of buildings for non-residential activities to ensure that the activity is in keeping with the appearance and character of the residential zone sought in RESZ-O2 and Policies RESZ-P7 to RESZ-P11.</i>

- 241. The proposed CEH activities are an efficient use of existing buildings and increase housing supply and choice for a temporary period while wider supply issues are addressed.
- 242. The proposed CEH activities propose little or no change to the physical properties of design and layout of site development and buildings.
- 243. On site open space and amenity does not meet the expected environmental outcomes for residential living to the level expected, but this is mitigated to a reasonable degree by the temporary nature of occupation and access to off-site amenities. The assessment of effects concludes that these internal amenity effects are acceptable, with reduced levels of occupancy and restrictions on certain age groups of children being resident on the sites.
- 244. The non-residential support activities provided with CEH will not significantly affect the appearance and character of the Residential Zone.

Reverse sensitivity

- 245. The relevant objective and policy with respect to reverse sensitivity in the Residential Zones are:

<i>Reverse Sensitivity</i>	
<i>RESZ-03</i>	<i>Non-residential activities in residential zones that are domestic in scale and character and do not have an adverse impact on the amenity values and character of the residential zones, or the vitality and viability of the City Centre or Commercial zones</i>
<i>RESZ-P6</i>	<i>Manage the location and design of new subdivision, use and development within each zone to avoid adverse reverse sensitivity effects on existing activities.</i>

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

Conclusion on District Plan Objectives and Policies

247. The evidence is that the CEH proposals are likely to have a minor effect on tourism. On this basis, granting consent to the CEH applications is not contrary to the Economic Development Strategic Direction which identifies tourism as key driver of the economy.
248. The applications for CEH are not contrary to the current Urban Form and Development Strategic Direction.
249. The CEH activities are not contrary to the Commercial Zone and Residential Zone objectives and policies which are strongly focused on design and appearance of buildings. The CEH proposals do not change the physical characteristics of built form and site layout. Fundamentally, CEH facilities are residential activities that are generally enabled by the District Plan. Conversion and re-purposing of motels for residential use is clearly contemplated by the District Plan, but this requires a quality environmental outcome to be delivered, appropriate to residential use.
250. District Plan Objectives and Policies do not address the issue of off-site anti-social behaviour of CEH residents within the scope of the commercial and residential zone objectives and policies. While having “healthy, safe and quality living environments that contribute to the well-being of residents” are an objective in the residential zones, the policies and related rules are tied to “design and appearance” outcomes for the built environment.
251. On this basis, the proposed CEH activities are not contrary to the Strategic Direction in the District Plan, and objectives and policies of the Commercial Zones and Residential Zones.

Other Matters

Future Development Strategy

252. Council adopted a Future Development Strategy (**FDS**) in 2023.

253. The FDS recognises the issue of EH in the following terms:

Rotorua has also recently experienced an influx of temporary and emergency housing. The Rotorua community has a strong desire to remove the need for temporary and emergency housing by increasing the supply of new affordable homes. This is the core purpose of the collaborative work between the council, the Government and Te Arawa.

The FDS addresses these issues in two key ways:

- *Enabling significantly greater opportunities for intensification to occur in the urban area, within city centre, local centres and medium and high-density neighbourhoods.*
- *Identifying a range of opportunities for large-scale future greenfield residential development in Ngongotahā and in the Eastside.*

254. The Fenton Corridor is identified in the FDS as an existing High Density Residential Area and Glenholme is identified as a Long Term - High-density Residential Intensification Area³⁰.

³⁰ Map 15: Growth and High-Density Residential Intensification Areas.

255. An FDS is not a specific consideration for resource consent decision making under the NPS-UD³¹. However, a transition away from EH (and CEH) in the current location will be consistent with the FDS. Transitioning tourist accommodation to residential use is also consistent with the FDS, although this is for permanent residential use where there is high quality amenity provided on and off site.

104D PARTICULAR RESTRICTIONS FOR NON-COMPLYING ACTIVITIES

256. A consent authority may grant a resource consent for a Non-Complying Activity only if it is satisfied that either:

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

257. The conclusion on environmental effects is that adverse effects of the CEH activities on the environment will be no more than minor if the recommended conditions of consent are imposed and are complied with, other than effects of off-site antisocial behaviour which could potentially be significant. The causal link between CEH and off-site antisocial behaviour is difficult to confirm one way or the other.

258. The conclusion on objectives and policies is that CEH activities are not contrary to the Strategic Direction in the District Plan, objectives and policies of the Commercial Zones and Residential Zones.

259. On this basis, while the effects test of Section 104D of the RMA is only potentially met, the objectives and policies test will be met so the Commissioner is able to consider whether or not to grant or to refuse consent.

RECOMMENDATION

260. The recommendation is that resource consent be granted to the seven applications for CEH, subject to the recommended conditions set out in **Appendix 1**.

³¹ Policy 3.17 Effect of an FDS.

Appendix 1 – Recommended Conditions

Condition No.	Condition	Comment where changed from Applicants proposed conditions
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General

1	The activity shall be in general accordance with the information and plans submitted with the Application for Resource Consent RC XXXX and Site Plan Entitled XXXX, dated XXXX.	
2	<p>Te Tūāpapa Kura Kāinga – Ministry of Housing and Urban Development (MHUD) shall be the Consent Holders representative who will be the principal contact person for Rotorua Lakes Council in regard to matters relating to this consent, and:</p> <ul style="list-style-type: none"> a. Within two weeks following the commencement of this resource consent MHUD shall inform the Rotorua Lakes Council of the MHUD’s representative’s name and contact details; and b. Should the MHUD’s representative’s name and contact details change during the term of this resource consent, MHUD shall inform the Rotorua District Council as soon as practicable, and within no more than five working days. 	Minor wording and numbering changes for consistency.

Contract for the operation of CEH with MHUD

3	The site must be subject to a contract for the operation of CEH with MHUD at all times.	
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Consent Expiry

4	<p>This resource consent shall expire on the earlier date of either:</p> <ul style="list-style-type: none"> a. 15 December 2025; or b. The date of cancellation of MHUD’s contract for CEH applying to the site under condition 3. <p><u>Note:</u></p> <ul style="list-style-type: none"> 1. Condition 4(b) does not prevent MHUD from renewing its contract with the motel operator within the overall one-year timeframe that is provided for under condition 4(a). 2. Where the consent expires, use of the site may return to tourist accommodation that operated prior to use as CEH, or another use that complies with the provisions of the District Plan. 	
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Condition No.	Condition	Comment where changed from Applicants proposed conditions
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Cessation of the CEH Activity on the site

5	<p>No later than 6 months prior to the consent expiry under condition 4(a), the consent holder shall submit to the Manager, Planning & Development Solutions, Rotorua District Council, or their delegate, for certification, an exit programme to end the use of the site and buildings for CEH within the timeframe granted under this consent.</p> <p>The exit programme shall, at a minimum, detail the following matters:</p> <ol style="list-style-type: none"> a. the plans to have the residents relocated from the site at the expiry of the consent; b. when the CEH will cease accepting further residents; c. and details of any required works to reinstate the buildings as a motel. d. The consent holder shall notify the Council when CEH activities have ceased. 	Minor wording changes for certainty
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Scale and Intensity

6	<p>A maximum of XX occupants shall be permitted to reside within the 39 contracted emergency housing units.</p> <p><u>Note:</u></p> <p><i>To avoid doubt, this resource consent does not:</i></p> <ol style="list-style-type: none"> 1. <i>Restrict the length of stay for residents in the contracted emergency housing units (see Advice Note 1 referring to Building Act requirements); or</i> 2. <i>Limit the number of people residing in the Manager's Accommodation.</i> 	
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Record Keeping and Reporting

7	<p>A written (including electronic) record shall be maintained at all times that states:</p> <ol style="list-style-type: none"> a. The total occupancy numbers across the whole site; b. The number of people within each unit; and c. The details of any complaints received and any incidents where security staff intervention has been required, and responses undertaken by the consent holder to address these incidents or complaints. 	
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Condition No.	Condition	Comment where changed from Applicants proposed conditions
	d. [Apollo Alpin and Pohutu only] Details of any complaints in relation to CEH occupants' behaviour in the Whakarewarewa Village carpark area and responses undertaken by the consent holder.	
8	The information listed in Condition 7 shall be reported to the Council's Compliance Monitoring Officer at three monthly intervals from the date of commencement of the consent and made available at any other time upon request. The information will be provided in a form that does not identify individuals.	Change from six to three monthly to enable closer monitoring and response.
9	<p>The consent holder shall provide a compliance report to the Council's Compliance Monitoring Officer six months after the commencement of the consent outlining compliance with the consent conditions over the preceding six months. At a minimum the compliance report shall include:</p> <ul style="list-style-type: none"> a. An assessment of the Consent Holder's compliance with the conditions in this decision and any recommendations to address any identified non-compliances; b. Recent photographs of landscaping, open space and boundary fencing; c. Recent photographs of play space required by condition 14 (Play Areas); d. Details of how compliance is achieved in respect of Condition 21 (Streetscape Amenity), including any maintenance undertaken in the preceding 6 months and processes for keeping street berms tidy; and e. An assessment of the effectiveness of the SMP and any recommended amendments to the SMP to improve its effectiveness. 	
Landscaping, Open Space and Boundary Fencing		
10	The existing landscaping (trees and other vegetation) along all boundaries of the site shall be retained for the duration of the consent.	Minor wording changes for consistency.
11	The existing shared open space, as shown on the Site Plan (approved under Condition 1), shall be retained in a condition suitable for recreational use by occupants.	
12	All external boundary fencing shall be maintained in the same or similar form to the existing fencing to provide privacy and	

Condition No.	Condition	Comment where changed from Applicants proposed conditions
	security for contracted emergency housing occupants and adjoining neighbours.	
13	<p>The landscaping referred to in Condition 10 and 20 shall be maintained in good condition and kept weed free. If any of the landscaping dies and/or becomes diseased, the dead and/or diseased plants shall be replaced in the same or similar location within the next planting season (generally between May and October) by a same or similar species of plants with a plant size capable of reaching the same height within the following planting season.</p> <p>Note</p> <ol style="list-style-type: none"> 1. <i>This condition does not restrict enhancement of landscaping.</i> 	Added link to waste storage screening

Site specific Open Space and On-site Play Areas

14	<p>[Apollo only] On-site play areas shall be established within one month following the commencement of the consent as set out below.</p> <ol style="list-style-type: none"> a. [Site specific measures to be included]. <p><u>Notes</u></p> <ol style="list-style-type: none"> 1. <i>A children's play area is a dedicated outdoor space that facilitates play. This can include outdoor play equipment such as a trampoline and/or outdoor toys.</i> 	
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Whakarewarewa Village and Te Puia (Apollo / Alpin / Pohutu Only)

15	<p>The Consent Holder shall offer to meet the representatives from Whakarewarewa Village and Te Puia a minimum of once every six months.</p> <p>The purpose of the meeting(s) is to enable good information to be shared about the:</p> <ol style="list-style-type: none"> a. Implementation of the Site Management Plan in mitigating potential adverse effects of CEH; b. The tidiness of the Whakarewarewa Village carpark; and c. Other initiatives, such as education programmes for CEH occupants, that could be implemented to improve the relationship between the operation of CEH and the operation of cultural and tourism operations on neighbouring sites. 	
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Condition No.	Condition	Comment where changed from Applicants proposed conditions
	<p>Outcomes from each meeting shall be recorded and provided to Council upon request.</p> <p>Note:</p> <ol style="list-style-type: none"> <i>In the event that representatives from Whakarewarewa Village or Te Puia do not want to participate in meeting with the Consent Holder this will not be deemed a breach of this condition.</i> 	
16	<p>Information about the location and cultural significance of Whakarewarewa Village and Te Puia as well as expectations about respecting these neighbouring sites must be clearly displayed within the main circulation areas of the subject site.</p> <p>Expectations about respecting neighbouring sites shall be determined at the first meeting between the consent holder, or suitable representative, and representative(s) from Whakarewarewa Village and Te Puia.</p> <p>Note:</p> <ol style="list-style-type: none"> <i>In the event that representatives from Whakarewarewa Village and Te Puia do not want to participate, expectations shall be determined by a suitable representative from Te Hau ki te Kāinga.</i> 	
Motel Signage and Advertising		
17	<p>All motel signage shall remain covered for the duration of the consent. This includes any vacancy/no vacancy signage and signs advertising the motel's amenities.</p> <p>Note:</p> <ol style="list-style-type: none"> <i>To avoid doubt, reinstatement of motel signage may occur after consent expiry.</i> <i>The purpose of requiring signage to be removed is to avoid tourists pulling into the site or phoning to see if there is vacancy. As such, signage advertising the phone number, number of rooms, or the amenities onsite should be removed, but the name of the motel e.g. "Apollo Hotel" can remain on display.</i> 	
18	<p>The consent holder shall, as far as is practicable, remove all online advertising and websites that promote tourist accommodation and other services at the site for the duration of the consent.</p>	

Condition No.	Condition	Comment where changed from Applicants proposed conditions
	<p>Note:</p> <ol style="list-style-type: none"> <i>It is acknowledged that the nature of the internet is such that it may not be possible to remove advertising from all third-party websites.</i> 	
Storage		
19	Any storage of household effects of contracted emergency housing occupants shall be provided inside existing buildings, including verandas or porch areas, on the site.	Inclusion of verandas/porches
20	Waste storage shall continue to be screened from the road frontage or residential properties.	
Streetscape Amenity		
21	<p>The consent holder shall undertake:</p> <ol style="list-style-type: none"> Daily tidying of the subject site and immediately adjacent street berm to ensure the site contributes to an attractive streetscape; Daily removal of rubbish and graffiti from the subject site and street berms in front of the subject site; and Daily removal of shopping trolleys from public view from the subject site and street berms in front of the property. <p>Note:</p> <ol style="list-style-type: none"> <i>The implementation of this condition is referred to in the Site Management Plan in Condition 24</i> 	
On-site Management		
22	An on-site staffing presence shall be maintained on the site at all times for the duration of the consent. The on-site staff shall be made aware of and understand the resource consent and its conditions and the compliance obligations.	
23	No dogs shall be kept on site by CEH occupants other than disability assist dogs under the Dog Control Act 1996.	
24	<p>The CEH motel shall operate in accordance with the Site Management Plan (SMP) submitted with RCXXXXX.</p> <p>Note:</p>	

Condition No.	Condition	Comment where changed from Applicants proposed conditions
	To avoid doubt, the SMP may be amended from time to time, and provided for recertification by RLC following any subsequent written confirmation by MHUD.	
25	<p>The SMP required by Condition 25 must include:</p> <ul style="list-style-type: none"> a. Details of the systems and procedures for placing people ('triaging') in the contracted emergency housing using the Nga Pou-e-Rima cultural framework including the: <ul style="list-style-type: none"> i. Confirmation of placements primarily for families with children, young people / rangatahi, people with disabilities and elderly; ii. Avoidance of crowding; iii. Placement of families with children having regard to access to appropriate play space; and iii. Management of people whose behaviour may create unacceptable risk to other occupants. b. Details of on-site manager's responsibility for implementation of the SMP; c. Details of the job title and name of the current person fulfilling the appointed suitable representative role required by Condition 2; d. 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; e. Site management details and methods addressing, at a minimum, the following matters: <ul style="list-style-type: none"> i. Visitor numbers and visiting hours, and on-site visitor parking; ii. Staffing; iii. On-site and roaming security personnel, credentials, systems and procedures; iv. Location of carparking (including for visitors); v. Location of open space and play space; v. Meeting /training operation (including hours of use); vi. Use of communal areas and facilities; vii. Details of regular site maintenance, including: 	Retain SMP scope condition to allow Condition 24 amendment and recertification if needed.

Condition No.	Condition	Comment where changed from Applicants proposed conditions
	<ul style="list-style-type: none"> a. Daily maintenance of streetscape amenity under Condition 22; b. Maintenance of landscaping and planting; and c. Programmed maintenance of all buildings. f. Effective noise management measures to avoid, remedy or mitigate potential noise nuisance; g. The set of 'house rules' that will apply to the site; h. Directory provided to neighbours with contact information on who to call if issues arise from the operation of CEH on the subject site; h. Details of a 24/7 0800 number for both the community and onsite occupants to communicate or make complaints about CEH; i. The process for dealing with complaints by or about any occupants of the site; <p>Methodology for receiving, recording and resolving communication or complaints made via the 0800 number outlined under (i) above.</p>	
Whakarewarewa Village Carpark (Augier condition – See Advice Note 7) [Apollo only]		
26	The consent holder shall undertake daily tidying of the Whakarewarewa Village carpark, including removing rubbish and shopping trolleys from the carpark area.	
Rotorua Lakes Council Meetings and Community Liaison Group (Augier Conditions)		
27	<p>Rotorua Lakes Council, MHUD senior management and/or senior advisors and a nominated representative from the CLG shall meet at least every six months during the period of the resource consent to discuss the following matters:</p> <ul style="list-style-type: none"> a. The operation of contracted emergency housing on the site (and within the context of other contracted emergency housing); and b. Whether, in light of the demand for contracted emergency housing on the subject site and other sites, there is the ability for the CEH contract to be cancelled. 	

Condition No.	Condition	Comment where changed from Applicants proposed conditions
	<p><i>Notes:</i></p> <ol style="list-style-type: none"> 1. <i>It is acknowledged that a wide range of matters are likely to be relevant as to whether contracts for emergency housing should be terminated ahead of the one-year period.</i> 2. <i>While Condition 26 (above) is limited to CEH, this does not prevent a broader discussion about emergency housing generally.</i> 	
28	<p>MHUD shall establish and facilitate the continued operation of a Community Liaison Group (CLG) for the duration of this consent in accordance with the following requirements:</p> <ol style="list-style-type: none"> a. The purpose of the CLG to: <ol style="list-style-type: none"> i. To promote effective engagement on an on-going and regular basis about matters associated with CEH; ii. To promote the flow of information between the MHUD, Te Hau ki te Kāinga and the local community so as to, wherever possible, address any issues that may arise; iii. To discuss the results of monitoring CEH and any matters that may arise as a result of the monitoring; iv. To discuss any feedback on effectiveness of Site Management Plans and conditions; and v. To discuss the exit strategy for CEH. b. The CLG shall be comprised of one representative from each of MHUD, Te Hau ki Te Kāinga, the motel operators, Rotorua District Council and Iwi. MHUD must also invite: <ol style="list-style-type: none"> i. Three representatives from the community (where possible these representatives should be from different geographical clusters of CEH); ii. One representative from the tourism industry; and iii. One representative from Restore Rotorua Incorporated. 	

Condition No.	Condition	Comment where changed from Applicants proposed conditions
	<p>c. MHUD shall ensure that members of the CLG are provided with the opportunity and facilities to meet:</p> <ul style="list-style-type: none"> i. No more than 30 working days after the commencement of the consent; and ii. No-less frequently than every six months, unless all members of the CLG agree there is no need for a meeting; <p>d. The time, date and venue of proposed meetings shall be notified to members of the CLG (by email) at least 10 working days in advance of the meeting;</p> <p>e. Minutes of the CLG meetings shall be kept by MHUD and be made publicly available;</p> <p>f. MHUD shall engage an independent chairperson to facilitate CLG meetings;</p> <p>g. MHUD shall meet the reasonable administrative costs of facilitating the CLG meetings (e.g. meeting invitations; meeting venue; preparation of meeting minutes) and chairing duties; and</p> <p>h. MHUD shall, in consultation with the CLG, develop a preferred method for communicating with the surrounding residents and hosting key documents (for example, a website, or other document hosting portal).</p> <p><u>Notes:</u></p> <ol style="list-style-type: none"> 1. <i>Condition 28 governs initial membership for the purposes of convening the first meeting of the CLG. On-going membership requirements will be determined by the CLG including who is best placed to lead the CLG.</i> 2. <i>In the event that it is not possible to establish a CLG or convene meetings through lack of interest or participation from the local community, then such failure to do so will not be deemed a breach of these conditions. Should the local community wish to re-establish meetings after a period of inactivity, then the conditions above shall continue to apply.</i> 3. <i>The purpose of Condition 32 may be achieved through other means such as a modified Rotorua Housing Taskforce or other Rotorua emergency housing liaison group.</i> 	

Condition No.	Condition	Comment where changed from Applicants proposed conditions
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Monitoring Fee

29	The Consent Holder must pay the Rotorua Lakes Council an initial consent compliance monitoring charge, plus any further monitoring charge or charges to recover the actual and reasonable costs incurred to ensure compliance with the conditions attached to these consents. That fee, or those fees to be set by Council according to its normal practice.	
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Review

30	<p>Pursuant to section 128 of the Resource Management Act 1991, Rotorua Lakes Council may, 6 months after this consent is given effect, serve notice on the Consent Holder to review any or all of the conditions of this consent with regard to the effectiveness of the conditions of this consent in avoiding, remedying or mitigating adverse effects on the environment that may arise from the exercise of this consent and, if necessary, to avoid, remedy or mitigate such effects by way of further or amended conditions. In particular, adverse effects may relate to:</p> <ul style="list-style-type: none"> a. Site Management; b. The use of common / shared areas; c. Parking; and/or d. Waste Management. 	
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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.*
2. *Under the Building Act (Section 114), a building owner must give written notice to the territorial authority if they plan to change the use of a building. The consent holder should seek an independent report from a suitably qualified person addressing the potential change of use of the building as described in the Building Act and Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005, and provide written notice to Council as appropriate.*

Waste Management

3. *Waste management is addressed under the Council's Solid Waste Bylaw 2016. The bylaw has a general requirement for a waste management and minimisation plan to be prepared for*

multi-unit developments: 'Collection from Multi Unit Developments' (See Subpart 6 – Clause 20).

Right of Objection

4. *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

5. *Fulfilment of the conditions of this consent within the timeframe specified in the consent is necessary to carry out the proposal for which this consent relates. Your progress towards satisfying the conditions of consent will be monitored by Council's Monitoring and Compliance Officer.*
6. *Please contact Council's Compliance & Regulatory Team (RMACompliance@rotorualc.nz) in relation to the completion and monitoring of the conditions of this consent. The consent holder will be charged for the administration, monitoring and supervision of this resource consent. Notwithstanding the above, where there is good and reasonable cause for unprogrammed monitoring and additional site inspections, the costs of that will be a charge on the consent holder. Such costs are recovered on an actual and reasonable basis as defined in the General Conditions and Notes of the Fees and Charges Schedule as approved by the Council in terms of Section 36 of the Resource Management Act 1991.*

Augier Conditions

7. *Where an applicant gives a clear and unequivocal undertaking and, relying on that undertaking, the local authority grants consent subject to a condition in terms broad enough to embrace the undertaking, the applicant cannot say later that there is no power to require compliance with the undertaking. The consent holder cannot assert after consent being granted that the condition was unlawfully imposed. This is called an "Augier" condition.*