ROTORUA DISTRICT PLAN

SECTION 42A REPORT FOR PROPOSED PLAN CHANGE 10 (DEFINITIONS AND RULE REFINEMENTS)

ADDENDUM 3 – Response to Matters Arising During the Hearing

October 2026

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1. Introduction

2. This third addendum to the Section 42A Report for Plan Change 10 (Definitions and Rule Refinements) ("**PC 10**") to the Rotorua District Plan has been prepared to respond to matters raised by submitters at the hearing, as well as matters of clarification sought by the Commissioner. This addendum should be read in conjunction with the Section 42A Report and the previous addenda to that report.

3. It has been prepared by Craig Batchelar (community housing matters of discretion and the visitor accommodation provisions) and Jason Ward (in relation to the boundary adjustment provisions).

4. Updated recommended changes to the annotated text of the District Plan and recommended decisions on submissions are provided in Appendix 1 and Appendix 2 to this addendum respectively.

2. Community Housing Matters of Discretion

Background and further assessment

1. During the hearing, Kāinga Ora questioned the drafting of the proposed matters of discretion for community housing, particularly effects on adjoining properties. I clarified that a new set of criteria are needed for the restricted discretionary activity. Since the hearing in an email of 12 October 2026, Ms Lezel Beneke clarified that she supported incorporating wording from existing District Plan assessment criteria into the matters of discretion, rather than referring directly to criteria for discretionary activities.

2. I have reviewed the provisions on that basis. Using existing wording where suitable improves consistency without limiting the assessment of relevant effects. Kāinga Ora have reviewed and agree with the changes. I recommend the following:

Residential Zones
No further amendments. The previously recommended matters of discretion remain appropriate.

Commercial Zones
Incorporate the wording of clause 2 of COMZ-AC1 General into the community housing matters of discretion.

City Centre Zone
Retain the specific matter addressing adverse effects on adjoining sites. CCZ-AC1 General does not contain a suitable equivalent criterion.

Rural Zones
Replace the previously proposed character and amenity matters with wording drawn from clause 1 of RURZ-AC1 General (rural character and amenity) and clause 2 (neighbouring resident amenity). Correct the typographical error in clause 1.

Section 32AA evaluation and recommendation

3. These drafting changes do not alter activity status or performance standards. They improve clarity and consistency, and I consider them a more effective and efficient way to identify the relevant matters of discretion. They do not change my earlier section 32AA conclusions.

4. I recommend that the Hearing Commissioner adopt the amended matters of discretion shown in the updated annotated District Plan provisions accompanying this addendum.

3. Visitor Accommodation Provisions

Background

1. In legal submissions dated 7 October 2026, The Ministry for Cities, Environment, Regions and Transport (MCERT) focused on whether motel accommodation used by people receiving Emergency Housing Grants (EHGs) falls within the District Plan definition of visitor accommodation. MCERT questioned the effects-based justification for distinguishing visitor accommodation use from residential activity and sought a general direction from the Hearing Commissioner.

2. MCERT also maintained its request for the additional performance standards proposed by Ms Stevenson.

Interpretation and the existing District Plan approach

3. “Emergency housing” describes a response to housing need, not a distinct physical land use. Central government policy, funding and delivery arrangements change over time, as Rotorua’s experience with contracted emergency housing and EHG-funded motels demonstrates.

4. I therefore do not support assigning a general District Plan activity status by reference to those arrangements or occupants’ personal circumstances. The nature and effects of the use should govern its planning treatment.

5. In my opinion, the activity classification requires a case-specific assessment. I do not support a general conclusion that EHG-funded accommodation necessarily constitutes either visitor accommodation or residential use.

6. The occupants’ circumstances, funding source, payment of a nightly tariff or receipt of motel services do not, on their own, determine the land use. Nor should “visitor” receive an unduly narrow interpretation based on whether a person ordinarily resides in Rotorua or has another residence.

7. The District Plan nevertheless distinguishes “visitor accommodation” from “residential units” and specifically provides for conversion of visitor accommodation to residential units. PC 10 does not seek to change this underlying distinction. It clarifies the definitions and, under my recommended amendments, enables conversion of up to three residential units per site as a permitted activity where the relevant requirements are met.

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8. The distinction has a rational planning basis. Motels generally provide temporary accommodation and are not necessarily designed for longer-term residential occupation. Although visitor and residential activities may generate similar effects in individual cases, longer-term and more extensive occupation can raise questions about living space, outdoor areas, on-site facilities and the relationship with surrounding activities. It is appropriate that the District Plan provides a point at which the suitability and effects of residential use can be assessed.

Case Specific Assessment

9. The relevant facts vary between sites and over time. In particular:
    - Planning histories and consent conditions differ; some authorisations expressly allow longer-term accommodation or residential occupation.
    - The number of units in use, continuity and duration of occupation, and household size and composition vary.
    - Some motels offer spacious family units, outdoor areas and suitable facilities, while others provide more basic accommodation with limited amenities.

10. The assessment should consider the authorised use and the overall character of the activity. None of these factors alone determines its status.

11. Small-scale or intermittent use of visitor accommodation for residential purposes may have de minimis effects and should be assessed accordingly.

12. Where consent is required, the District Plan does not impose significant regulatory barriers to conversion to residential use. Plan Change 10 further simplifies this pathway by permitting the conversion of up to three units per site, subject to compliance with the relevant requirements.

13. For the 2022 Contracted Emergency Housing resource consent applications the residential use of the motel units generally fell within the District Plan provisions for household units, with restricted discretionary activity status applying to conversion from visitor accommodation. In most cases, the inclusion of on-site support services caused the overall activity to default to non-complying status. Without those services, most applications would have required only restricted discretionary consent.

14. Premises with suitable accommodation and facilities should generally have little difficulty meeting the applicable standards and/or gaining restricted discretionary consent. This enables an assessment of suitability where necessary, without creating an unnecessary barrier to residential use.

15. A change to residential use may also trigger the change-of-use requirements under the Building Act 2004, including assessment of compliance with the Building Code. These requirements operate independently of the District Plan and provide an additional mechanism for assessing whether buildings are suitable for their intended use.

Additional performance standards proposed by Ms Stevenson

16. I maintain my recommendation not to adopt the additional standards sought by MCERT because:
    - They do not resolve when visitor accommodation changes in character to residential use.
    - They would apply to new visitor accommodation activities (and there are few of those) and have limited relevance to existing motels at the centre of the Rotorua concerns.

- They impose broad amenity-management obligations without the specificity expected of performance standards. The evidence does not establish a general visitor accommodation effects problem that these standards would address.

Section 32AA evaluation and conclusion

17. I recommend no further changes to the visitor accommodation provisions. Consequently, I do not consider a further section 32AA evaluation necessary and my earlier assessment stands.

18. I recommend that the Hearing Commissioner retain the visitor accommodation provisions previously recommended and decline MCERT's request for Ms Stevenson's additional performance standards.

19. The District Plan should continue to distinguish visitor accommodation from residential use, with classification and any necessary assessment determined by the particular facts and planning history of each site.

20. Where greater certainty is required, an operator may seek a certificate of compliance under section 139 of the RMA to confirm that an activity is permitted. Alternatively, section 87BB provides a mechanism for the Council to treat marginal or temporary non-compliance as permitted, where the statutory tests are met.

4. Boundary Adjustment Provisions

1. In summary, The Operative District Plan has caused uncertainty due to:

   - No definition for a boundary adjustment; and
   - The scope of matters that can be assessed for a boundary adjustment that results in a lifestyle lot where there is no entitlement for a lifestyle lot.

2. The scope of PC 10 is to provide greater certainty without changing the strategic intent of the Operative District Plan. The Objectives and Policies provides this strategic intent.

3. During the hearing, Mr Clark of McKenzie & Co questioned whether the proposed amendments provided clarity and whether the existing provisions were unclear.

4. There was agreement by Mr Clark and Ms Barry that a boundary adjustment's activity status is determined through SUB-R26. SUB-R26 provides the performance standards that are to be met.

5. Where the performance standards are not met the application becomes a Discretionary Activity. The District Plan contains assessment criteria (AC-1) that are to be considered during the assessment of Discretionary Activities.

6. There was agreement that all relevant matters can be assessed as a Discretionary Activity.

7. Through the evidence of Ms Barry, it was explained how the current provisions of the District Plan create confusion for some plan users. The confusion relates to the level of assessment and off-set

mitigation for the creation of rural lifestyle lots through a boundary adjustment where an entitlement does not already exist.

8. There was agreement that the addition of a definition would provide greater certainty.

9. Post hearing, Mr Clark emailed the Hearings Secretary requesting that his further clarification in relation to the definition be recorded. A copy of Mr Clark's email is attached as Appendix 3 to this addendum.

10. I have considered Mr Clark's request and submission point. I remain of the opinion that the boundary adjustment definition should remain as per the National Planning Standard's definition. There are no specific reasons that the Rotorua District Plan is unique and should therefore have a nuanced definition. The definition of "site" is complex. Adding the term "Site" to the boundary adjustment definition may have further unintended consequences. The District Plan contains definitions of both an "allotment" and a "site". The National Planning Standard's definition includes the defined term of "allotment" as per the Resource Management Act 1991. I remain of the opinion that the National Planning Standard's definition of boundary adjustment should be included in whole.

11. Having assessed the submissions and listened to the evidence presented, I maintain my recommendation to adopt those changes outlined in addendum 2. I do not recommend any further changes to addendum 2.

12. During the hearing, Ms Barry confirmed that, following her review of Addendum 2, she is comfortable that the proposed amendments to SUB-S11, including the specific reference to SUB-R26 and the associated AC1 criteria, will provide greater consistency and clarity for practitioners assessing the merits of lifestyle lots. This is particularly where lots have been created through boundary adjustments without a corresponding entitlement, while not limiting discretion.

13. During the hearing Ms Barry was questioned by the Commissioner as to the number of applications processed by the Rotorua Lakes Council for boundary adjustment within the rural zone. At the time Ms Barry estimated that it was more than 20 applications within the last 12 months. Since the hearing Ms Barry has confirmed that the number fluctuates from year to year. As a guide there were at least 20 applications during the 2025 / 2026 financial year and less than 20 this 2026 / 2027 financial year. This decrease is consistent with the general lower number of subdivision consent applications during this period.

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