

**NOTICE OF MEETING**

**HEARINGS COMMITTEE**

I hereby give notice that an Ordinary Meeting of the Hearings Committee will be held on:-

**DATE:**        **Friday,        29 November 2002**        **TIME:**        **9.30 am**

**VENUE:**        **Civic Centre, 6 Waipareira Avenue, Lincoln, Waitakere City**

to consider the business as set out herein and to take any necessary action connected therewith.

20 November 2002



Owena Schuster  
**COMMITTEE SECRETARY**

Telephone (09) 836 8000 extn 8864

**MEMBERSHIP:**

Councillors	GE	Nash, JP (Chairperson)
	DA	Yates, JP (Deputy Chairperson)
	DQ	Battersby, JP
	BA	Brady, JP
	PA	Hulse
	VS	Neeson, JP

Ward Representative  
Ms C Nakhid (Henderson Community Board)

Alternate Representative  
Mr DB Shaw, JP (Henderson Community Board)

(Quorum 4 members)

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(The reports and recommendations contained in all agendas are reports and recommendations only and are not to be construed, in any way, as Council policy until adopted.)

**AGENDA FOR AN ORDINARY MEETING OF THE HEARINGS COMMITTEE TO BE HELD  
IN THE CIVIC CENTRE, 6 WAIPAREIRA AVENUE, LINCOLN, WAITAKERE CITY,  
ON FRIDAY, 29 NOVEMBER 2002, COMMENCING AT 9.30 AM.**

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**1 APOLOGIES**



**2 URGENT BUSINESS**

Section 46A(7) and (7A) of the Local Government Official Information Act and Meetings Act 1987 provides that where an item of business is not on the agenda, it may only be dealt with at the meeting if:

- (i) the item is a minor matter; and
- (ii) the Chairperson has explained at the beginning of the meeting (when open to the public) that the item will be raised for discussion, why the item is not on the agenda, and why it cannot be delayed until a subsequent meeting; and
- (iii) the Committee resolves to deal with the item.

No resolution, decision, or recommendation may be made in respect of the item except to refer the item to a subsequent meeting for further discussion.

**NOTE:** Urgent Business need not be dealt with now and may be delayed until later in the meeting.



**3 NOTIFIED APPLICATION FOR RESOURCE CONSENT UNDER SECTION 88 OF THE  
RESOURCE MANAGEMENT ACT 1991 BY MG AND YS KO TO CHANGE CURRENT  
MOTEL USE TO STUDENT ACCOMMODATION AT 65-71 SWANSON ROAD,  
HENDERSON**

**HENDERSON WARD**

**RMA 20020909**

**N.B. This report sets out the advice of Consent Services to the Hearings Committee on the environmental issues raised by the application for resource consent. It is not the decision of the Council. The decision will be made after consideration of the application by the Hearings Committee.**

## APPLICATION DETAILS

Planner: Bruce Hawkins

Site Address: 65-71 Swanson Road, Henderson

Applicant: MG & YS Ko

Date Received: 21 May 2002

Building Consent No: NA

Legal Description: Lots 42 - 44 DP 80623, & 55 - 58 DP 79875

Address for Service: Loughlin McGuire Barristers and Solicitors  
CPO Box 312, Auckland

Site Area: 4789 m<sup>2</sup>

Unit Site Area(s): NA

Transitional Plan: Zoning: Residential  
Section: Henderson Borough Council  
Third Review District Scheme

Hazards:

Proposed Plan:

Human Environment: Living

Natural Area: General

Landscape Elements: NA

Hazards: NA

Roading Hierarchy: District Arterial.

Further Information Required:

Date Requested: 4 June 2002

Date Received: 29 July 2002

## 1.0 INTRODUCTION AND RECOMMENDATION

### 1.1 Nature of the Application

The applicant seeks retrospective consent for student accommodation for five staff members and 34 students. The development would provide 30 Beds in 21 Bedrooms for the students, an upstairs accommodation area for the family of the applicant, a Restaurant for use of the occupants of the facility only, an internet room with computers, two classrooms for study, a pool and outdoor recreation area already established within the existing motel complex.

## 1.2 Resource Management Issues Raised

The Resource Management Act 1991 requires that, when considering an application for a resource consent, a consent authority shall have regard to the environmental effects of the proposed activity, together with any relevant objectives, policies and rules of the Transitional and the Proposed District Plan.

This present application has been precipitated by adverse neighbour reaction to perceived greater levels of disturbance associated with the more intensive use of the site under the student accommodation activity than was typical of the previous motel activity.

Most complaints centre around generation of adverse noise effects associated with student recreational activity in the pool and the car park; the noise created by 5-6 dogs housed on the property; and music associated with Christian worship services and student recreational activity; particularly the playing of drums.

## 1.3 Planner's Recommendation

The planner who has prepared this report recommends that, subject to any contrary or additional evidence submitted at the Hearing, **consent be granted** to the application for the proposed student accommodation proposal. It is considered that the environmental effects that may be generated by the activity would be no more than minor or could be adequately avoided, remedied or mitigated by the imposition of conditions, and that the relevant objectives and policies of both the Transitional and Proposed District Plans will be satisfied.

## 2.0 LOCATION PLAN



65 -71 Swanson Road

Lots 42 - 44 DP 80623 (3-9 Papatahi Place) and Lots 55 - 58 DP 79875 (65-71 Swanson Road.)

Human Environment; Living. Natural Environment; General.

### 3.0 PROPOSAL

#### 3.1 Background

The applicant seeks retrospective consent for accommodation for overseas students within an existing motel located at 65-71 Swanson Road, Henderson.

The motel and associated restaurant was established by way of resource consent in 1987 to cater for a maximum of 60 motel guests. (20 units with a maximum of three persons per unit). The restaurant was to cater for a maximum of 120 persons and a small conference room catering for 10 - 16 persons. Conditions of consent of particular relevance to this present application were imposed covering the car parking, landscaping and fencing, restaurant hours and noise limits.

The applicant purchased the motel and has used it for overseas student accommodation for almost two years. Council first requested that a resource consent for the change of use from motel to student accommodation be lodged back on 18 September 2001. The applicant wished to secure finance for the purchase of the facilities before lodging the application. Difficulties experienced with the arrangement of finance delayed lodgement of the consent application until 21 May 2002.

This present application has been lodged at the request of Council to address this change of use and to address neighbour concerns relating to perceived greater levels of disturbance associated with the more intensive use of the site under the student accommodation activity than was typical of the previous motel activity. Most complaints centre around generation of adverse noise effects associated with student recreational activity in the pool and the car park; the noise created by 5-6 dogs housed on the property; and music associated with Christian worship services and student recreational activity; particularly drums. A resource consent application, whether granted or refused, was also considered to be the best way to regulate activity on the site. The numbers for the student accommodation activity together with staff students and the applicant's family presently varies between 50 and 60 persons. The current application seeks a maximum of 39 persons; 34 students and 5 family members. (Initially there were to be live-in staff occupying the upstairs area now reserved for the family members). The students will typically stay for between three months and a number of years depending on the course of study chosen. Stays of this duration qualify the facility for consideration as a residential activity.

The student accommodation includes:

- (a) 30 Beds in 21 Bedrooms.
- (b) A Restaurant for the preparation of student meals.
- (c) An internet room with 20 computers.
- (d) Two Classrooms for study.
- (e) A hall for private religious services.
- (f) The swimming pool.
- (g) Garden.
- (h) Upstairs accommodation for the owner's family.

#### **4.0 REASONS FOR THE APPLICATION**

Consent is required under those provisions of the Transitional and Proposed District Plans for the following reasons:

##### **4.1 Proposed District Plan**

###### **Human Environment: Living**

Discretionary Activity Rule 2.3. Any residential activity not meeting the standards in rule 2.1 (dwellings) or 2.2 (medium density housing or increased density for dwellings). As an application for student accommodation it does not meet these standards and must be considered as a discretionary activity. (The students will typically stay for between three months and a number of years depending on the course of study chosen. Stays of this duration qualify the facility for consideration as a residential activity.)

###### **Natural Area: General**

Permitted. The application is for a change of use from a motel to the student accommodation activity and does not involve any physical development works on the site and would therefore be a permitted activity.

##### **4.2 Transitional District Plan (Borough of Henderson District Scheme Third Review)**

Discretionary Activity for Boarding House. Rule 2.3.3.

**4.3** Overall, the application is considered to be a Discretionary Activity. The proposal complies with all other development controls under the Transitional and Proposed District Plans.

**4.4** No other consents are required in respect of this application.

#### **5.0 THE SITE AND NEIGHBOURHOOD DESCRIPTION**

The motel complex used for the student accommodation activity is set in a residential context. This level site comprising seven residential titles totalling 4789m<sup>2</sup> fronts onto busy Swanson Road to the south, a small suburban park to the west, a fruit retailer and market garden to the east and residential properties to the east and north accessed from Papatahi Place.

The motel building is in good condition and no external alterations are proposed as part of the application.

Car parking for the development is provided to the East adjoining a walkway connecting Swanson Road to Papatahi Place and to the South adjoining Swanson Road. A swimming pool is located on the northern side of the building set back some 15 metres from the nearest residential boundary to the north.

The northern western and eastern boundaries are screened by a 1.8m close boarded timber fence; substantial landscape planting is located between the northern boundary and the pool.

## 6.0 ISSUES IDENTIFIED THROUGH THE SUBMISSION PROCESS

*A20-A72*

The application was publicly notified on 20 August 2002 and the period for submissions closed on 18 September 2002. Fourteen submissions were received. Six submissions supported the application, and eight submissions opposed the application. Copies of the submissions that were received are attached at pages A20 to A72. Submissions have been received from tenants, landlords and owner occupiers associated with the residential areas to the North and East of the site. Residents in nearby Ti Nana crescent to the north of the site have also submitted on the application.

6.1 Submissions in Support identified the following issues.

- The facility will meet a need for Overseas Student Accommodation.
- The facility will provide a family environment.

6.2 Submissions in opposition identified the following issues.

- Barking fighting and aggressive dogs kept by the applicants disturb the neighbours.
- Use of drums in worship and by individual students is disturbing.
- Potential for noise disturbance from worship services in the complex.
- Credibility issues about the applicants ability to meet conditions of any consent that might be issued are raised because of the applicants unfulfilled promises to remove dogs and stop drumming.
- Use of the eastern car park as a playground for basketball is noisy.
- The proposed Student accommodation activity is more intensive than the previous motel and generates greater levels of noise.
- The application as submitted does not tally with the current use of the site as there are greater numbers of students, drumming still occurs, and the dogs are still there.
- Unruly student behaviour disturbs adjoining residents.
- Current levels of occupation represent over crowding.
- The pool is unfenced and in breach of safety rules.

6.3 Refer to the next page for a more detailed summary of each submission.

6.2 Submissions

**SUMMARY OF SUBMISSIONS: 65-71 SWANSON ROAD, HENDERSON  
(COMPLETE SUBMISSIONS ARE ATTACHED AT PAGES A20 TO A72)**

A20-A72

	Submitter	Address	Oppose / Support	Issue	Relief Sought	Wishes to be Heard
A21-A22	1. Greta Guildford	1 Ti Nana Crescent	Support	Supports initiative in creating a service; doesn't believe she will be adversely affected.	Approval	No
A23-A24	2. Bruce Guildford	1 Ti Nana Crescent	Support	Supports initiative in creating a service; doesn't believe he will be adversely affected.	Approval	No
A25-A26	3. Matilda E Brooker	1 Papatahi Place	Oppose	Disturbance to quiet residential street; barking dogs; additional noise disturbance if activity is approved.		Yes
A27-A28	4. Robin William Brooker	1 Papatahi Place	Oppose	Residential zone keep it that way; surprised at Motel use; Owners have not removed dogs as promised; this raises credibility issues.		Yes
A29-A30	5. Mary Edwards	1/6 Papatahi Place	Support	Does not anticipate any problems if occupants are law abiding and well supervised		No
A31-A32	6. Mahendra and Pushpa Sharma	15 Ti Nana Crescent	Oppose	No proper playground; use of car park for this purpose noisy at times.		No
A33-A34	7. Lianfu Wang	1/78 Swanson Road	Support	Likes the family environment for students; and will benefit overseas students.	Consent granted	No
A35-A36	8. Hong Zheng	1/78 Swanson Road	Support	Likes the family environment for students; and will benefit overseas students.	Consent granted	No
A37-A54	9. Martin William Emery	28 Ti Nana Crescent	Oppose	1. Inappropriate to favourably compare Mission with previous Motel use. The mission has higher occupancy rates; more continuous and more intense recreational noise.	Decline Application If minded to Approve: 1. No more than 21 persons resident. 2. No music unless	Yes

Submitter	Address	Oppose / Support	Issue	Relief Sought	Wishes to be Heard
			<p>2. Submitter's tenants made no complaints about noise from the previous motel use.</p> <p>3. There is significant adverse noise effect on 1/3 and 2/3 Papatahi Place.</p> <p>4. Council noise bylaws are being infringed.</p> <p>5. Principal noise sources are; 4-6 Dogs; Drums; Intensive boisterous use of Pool.</p> <p>6. Credibility issues with applicants given inability to perform on past undertakings over noise complaints.</p> <p>7. Application as submitted does not tally with the facts; there are still drums, dogs, Pool noise; occupancy rates exceed those applied for; believes applicants intend to establish a church.</p> <p>8. Noise report too theoretical; does not tally with the facts. (Continuing presence of dogs, drums, worship services, higher occupancy rates.)</p> <p>9. Track record of not delivering on promises suggests applicant cannot be trusted to operate the Mission in accordance with any stipulated consent conditions and Council's general bylaws.</p>	<p>soundproof room provided.</p> <p>3. No dogs/ other animals allowed.</p> <p>4. Close pool till it is soundproofed by acoustic barrier or completely enclosed in a soundproof enclosure.</p> <p>5. Restrict pool usage to Monday, Wednesday, Friday, one hour per day.</p> <p>6. Enforceable, strict, noise control conditions.</p>	

A59-A63

Submitter	Address	Oppose / Support	Issue	Relief Sought	Wishes to be Heard
10. Jeanne P Emery	28 Ti Nana Crescent	Oppose	Continuing noise from Dogs; Drums; Playing of music.	Refuse consent; revert to a Motel/ Restaurant.  If minded to approve: 1. No music. 2. No dogs. 3. Fully enclose and soundproof pool. 4. Maximum of 21 residents; no additional students allowed during the day or for religious services.	Yes
A55-A58 11. LM Gibbs	1/3 Papatahi Place	Support; subject to conditions.	Noise from Dogs, Drums, Playing of Music, Students in the Pool, Unruly student behaviour.	If approved: 1. No music. 2. One dog. 3. Soundproof fence or fully enclose and soundproof pool. 4. Maximum of 20 residents four staff 16 students. 5. Curb unruly behaviour.	Yes

A64-A67

Submitter	Address	Oppose / Support	Issue	Relief Sought	Wishes to be Heard
12. Mrs Maisie Morris	2 Papatahi Place	Oppose	Noise and threat from Dogs, Noise from Drums, basketball / football / baseball in car park areas. Playing of Music, Noise from Students in the Pool, Noise from unruly student behaviour, Litter problems. Greater intensity of use from long term stay rather than short term motel accommodation. No designated play areas shown on application plans for students. Contrary to the claims of the application a family environment with close supervision for students is not provided see behaviour issues cited above. Current occupation levels of about 51 including staff, students and owners well above proposed occupancy levels of 30 or 34 mentioned in the application. Actual levels of occupation represent overcrowding given the 20 bedrooms shown on the plan.	Refuse consent return to Motel use only.  If consent granted: 1. 20 students. 2. No dogs. 3. Put children's recreation on Featherstone Park or Swanson Road side. 4. Screen fence with noise baffling materials, and heavy planting on Papatahi Place side.	Yes.
A68 13. Diana Jackson	2/3 Papatahi Place	Oppose	Noise from dogs, noise from drums, noise from pool, unruly student behaviour, unfenced pool.	If consent granted: 1. Limit numbers accommodated. 2. Reduce the dog count. 3. Forbid drum playing.	Not indicated.

A69-A72

Submitter	Address	Oppose / Support	Issue	Relief Sought	Wishes to be Heard
14. Graeme & Karen Brooks	11 Ti Nana Crescent	Oppose	Noise from dogs, drums, students in the swimming pool, potential church services and incessant basketball playing in the rear car park. Number of Students, the residents are mainly teenagers / young adults not as children as stated in the application.	Careful consideration before granting consent. If consent granted: 1. Strict control on numbers no more than 28 Students. 2. Strict control on noise related to dogs, Basketball; re-located to front of premises; worship service times and instrument types strictly controlled. 3. Application should be assessed on student status not as children but young adults / teenagers.	Yes



**Location of Submitters.**

◆ Submissions in Support

⊘ Submissions in Opposition

(Some households sent two submissions.)

## 6.2 Pre Hearing Meeting

A pre-hearing meeting was held at the Council Offices at 5.00 pm on Tuesday, 22 October 2002 and was attended by the following persons.

### Council Officers

Bruce Hawkins - Chairperson  
Lee Ogilvie - Taking Minutes

### Submitters

Martin and Jean Emery  
Graeme and Karen Brooks  
Anna Jackson  
Lilian Gibbs  
Maisie Morris

### Applicant

Mr, Mrs and David Ko  
Judith Bolton

### Henderson Community Board

Wayne Davis

A full discussion of the concerns of the submitters ensued. The applicants offered to reduce dog numbers and to relocate the basket-ball hoop to the front of the building. Questions of clarification were asked and the applicant offered to forward an updated site plan showing the locations of bedrooms and the outdoor recreation areas associated with the accommodation complex and a summary of their position following the pre hearing meeting.

Their summary position was:

1. Relocate basketball hoop in southern car-park area.
2. Maximum of three dogs.
3. Want a short period during the week for the use of drums in worship services and teaching drums. (The initial application offered to exclude the use of drums from the facility; the issue of drum playing featured strongly in submitter concerns raised within the meeting.)
4. The applicant believes Asian students use the pool less than motel patrons did; but is willing to restrict hours of operation to 9.00 am till 9.00 pm daily.
5. Plans were submitted indicating 21 Bedrooms downstairs and a further five Bedrooms upstairs; 26 in total.
6. No allowance on the revised plans was made for additional recreation areas.

A copy of the agenda, attendance list and minutes from the meeting and the revised position and site plan of the applicant is attached in the appendices to this report.

## **7.0 STATUTORY REQUIREMENTS**

### **7.1 The Weighting of District Plans**

The Council is obliged to administer both the Transitional District Plan and the Proposed District Plan. Once a proposed plan is notified, an application must be considered in terms of that plan as well as the existing plan. The weight to be given to a proposed plan depends on what stage the relevant provisions have reached, the weight generally being greater as a proposed plan moves through the notification and hearing process. In this case the Proposed Plan is at the stage where there are still outstanding references to the Environment Court. However, there are no outstanding references affecting this specific site or the relevant development controls. Therefore the Proposed Plan is considered to have greater weight in this particular case.

### **7.2 Discretionary Activities**

The relevant objectives policies and assessment criteria which apply under the Proposed District Plan and the Resource Management Act 1991 are set out in more detail in section 8.2.2. This should be referred to as the legal framework within which the application should be addressed.

Section 104 of the Resource Management Act 1991 sets out those matters to be considered when assessing an application for resource consent. Amongst other things, these matters require consideration of any actual and potential effects on the environment arising from the proposal, together with an assessment as to whether the application is consistent with relevant objectives, policies and rules of the Transitional and Proposed District Plan. All considerations are subject of the provisions of Part II of the Resource Management Act 1991, which sets out the purpose and principles that guide this legislation.

The Proposed District Plan has been prepared with an “effects based” emphasis, in keeping with the Resource Management Act 1991. As such, consideration of the application in relation to each of the assessment criteria relating to the various infringements would ensure that all the relevant matters contained in Section 104 of the Resource Management Act 1991 would have been addressed. In addition, a brief summary is presented below of the main effects on the environment generated by the application.

## **8.0 EVALUATION IN ACCORDANCE WITH SECTION 104 OF THE RESOURCE MANAGEMENT ACT 1991**

### **8.1 Assessment of Environmental Effects (104(1)(a)): Actual and potential effects on the environment.**

#### **8.1.1 Natural and Ecological values**

Because the activity involves no physical change to the site no adverse effects will arise in terms of the Natural values of the city.

#### **8.1.2 Visual Amenity, Neighbourhood Character, Streetscape, On-site amenity.**

No exterior changes to the building are proposed. The building and associated gardens with the exception of the Swanson Road frontage have been well maintained in accordance with the original Motel Resource consent. However this is not the case with the Swanson Road frontage planting incorporated as part of the initial Motel resource consent, to mitigate the larger scale of the building in this residential context, has either not been established, or has disappeared over the life of the consent. Enhancement to the presently rather bland Swanson Road streetscape is considered to be appropriate to return this frontage to the amenity standards anticipated in the original motel resource consent and considered to be still appropriate in association with the proposed change in use. A condition of consent to this effect has been recommended.

Adequate on-site amenity for the students is provided when the application is considered in the context of the lower occupancy rate proposed for the activity and the on site amenities provided. The proposed total staff student population of 39 persons is approximately 50% of the designed maximum for the Motel of 60 persons.

The internal walls between the accommodation units have been clad with double layers of 12.5mm Gib board with noise control batts installed between which provide for aural privacy between units. Each bedroom measures 3.6 x 4m and has it's own en-suite attached. Seventy percent of the bedrooms have access to morning or afternoon sun and all have access to the substantial outdoor living area and landscaped gardens associated with the pool and located to the north of the building.

These features and the improved ratio of communal interior space and accommodation unit space per capita compared to the Motel Unit design maximum are considered to provide adequate on-site amenity for the proposed student population.

#### **8.1.3 Traffic generation, on-street parking, driver safety, pedestrian safety, roading capacity and roading network, traffic noise, vehicle movements, access and driveway manoeuvring, driveway width and gradient.**

*A88-A106*

Council's Transport Assets engineer has reviewed the application and is satisfied that minimal adverse effect will arise from the development as proposed, as attached at pages A88 to A106. He considers that the number of vehicle movements associated with the proposed activity will be no more than that which is associated with the previous motel activity. Personal observation of the car-parking occupancy rates on the three occasions revealed an occupancy rate of no more than 20 percent of the available spaces. Should the nature of car ownership within the student population of the facility change in the future adequate room exists for expanded car ownership numbers.

#### 8.1.4 Safety Issues

A86-A87

Given the change from temporary motel accommodation to more long term student accommodation the application has been reviewed by Council's Fire Safety specialist; Building Surveyor Terry Brown, as attached at pages A86 to A87. He has identified a number of fire rating issues that will need to be addressed. A condition of consent requiring a satisfactory fire safety report has been recommended. The absence of a safety fence around the swimming pool was also noted; a condition of consent requiring a fence to be constructed has been recommended.

#### 8.1.5 Noise

A78-A85

Most submissions in opposition to the application centre around generation of adverse noise effects associated with student recreational activity in the pool and the playing of ball games in the car park; the noise created by 5-6 dogs housed on the property; and music associated with Christian worship services and student recreational activity. (The playing of drums.) An Acoustic report was lodged by the applicant with the application and an acoustic report was lodged by a submitter along with a submission in opposition to the application, as attached at pages A78 to A85.

##### 8.1.5.1

Neither acoustic assessment appears to have been developed on the basis of any objective measurement of the actual noise generated by the activity but is reliant on the experience of the two experts on the dynamics of noise generation and suppression and their assumptions on the nature and intensity of the activities. Measurement of noise generated by pool usage element of the activity would in any case have to wait until summer when the pool is in regular use.

##### 8.1.5.2

Mr J Cawley of 'Kingett Mitchell' wrote the acoustic report submitted by the applicant and concluded that:

- There was adequate separation between the sources of noise and the nearest residential boundaries (10m in the case of the pool and 35m in the case of the musical Christian worship activity).
- That the part of the building proposed for worship was suitably constructed to manage noise to appropriate levels.
- A stable student population would be easier to manage in terms of noise generation than a transient motel population.
- There would be no change in the level of usage related to the pool and the communal dining and meeting room facilities associated with the change from Motel to Student accommodation.
- He recommended that Council apply the 'non residential activity' noise control standards for the Living Environment zone of the Proposed District Plan.

##### 8.1.5.3

Mr AD Paterson of 'Acoustics and Noise control Consultancy' wrote the acoustic report submitted together with the submission in opposition by Mr Martin Emery and concluded that:

- The Non Residential Activity noise controls were designed with continuous steady noises associated with commercial or industrial machinery and were not appropriate for the control of the tonal characteristics of the noises associated with loud music, dogs barking, teenagers playing in the pool or playing ball sports in the car park. For this reason he considered that an additional 5db penalty be applied. This would drop the daytime noise level to the Non Residential Activity rule night time level of 40dbA.

- Noise associated with communal worship activities could be mitigated by modifications to the building such as double glazing, permanently sealed shut windows.
- Ten meters is not sufficient separation from a residential boundary for an intensively used swimming pool and that the pool should be fully enclosed in a sound-proof structure.
- Fighting and barking dogs were a real concern and were something that Council by-laws should control.
- Student accommodation has different higher intensity noise characteristics compared to motel activities because it involves a concentration of teenagers for long periods of time. This is not typical of a motel which has a fluctuating population drawn from a wide age spectrum of the community.

#### 8.1.5.4

A78-A85

Council's noise assessment specialist, Andrew Chalton, Environmental Compliance officer (Health), has assessed the application and both of the above mentioned acoustic reports and considers that noise elements associated with the student accommodation activity can be satisfactorily controlled by two conditions on the consent, as attached at pages A78 to A85. A general noise control condition based on the Non Residential Activity standard within this zone and a condition restricting hours of usage for the swimming pool. He does not consider the noise associated with the 5-6 dogs to be part of the student accommodation activity and considers this issue to be more appropriately controlled by Council's animal control staff.

#### 8.1.5.5

Whilst the submitters may have well founded concerns about the noise generated by the 5-6 dogs on the premises this aspect is not considered to be relevant to this application. The applicant has not included the keeping of the dogs as part of his application and there are no controls within the Transitional or Proposed District Plan related to the keeping of dogs or limiting dog numbers kept within the Residential zones. There are avenues under Council's animal control powers to address adverse effects associated with the keeping of dogs and general powers under Section 16, 322(1)(c), and 326 - 328 of the Resource Management Act 1991 for Council to address the control of unreasonable or excessive noise.

#### 8.1.5.6

Noise generated by the playing of basketball and other ball games in the eastern car park can be relatively easily controlled by shifting the basketball hoop to the south-western car park adjacent to Swanson Road and far away from the nearest affected resident. The applicant intends to fence this part of the site and is happy to relocate this activity to this corner of the site. A condition of consent requiring this has been recommended.

#### 8.1.5.7

Both acoustic consultants consider that there is potential to keep noise associated with church services held in the communal worship hall / conference area within the Non Residential Activity noise limits of the Proposed District Plan. Given the 35m separation from the nearest residential boundary it is considered to be reasonable to rely on the proposed plan Non residential Activity noise limits to control this aspect of the activity. A condition of consent requiring monitoring of this activity and satisfactory mitigation measures if breaches of this condition occur, has been recommended. The applicant initially offered within the text of the application to dispense with the use of drums on the site; a condition of consent to this effect has been recommended.

As a result of the pre hearing meeting the applicant has changed their position on the drums and is now seeking limited use of them for the worship services and drum tuition. As the application was notified with the offer of no drums to be used on the site, and the issue is of concern to submitters the condition excluding the use of drums has been retained. A reconsideration of this matter could only be considered via a fresh resource consent.

#### **8.1.5.8**

The swimming pool noise is a more problematic issue given the absence of any simple mitigation options and the inherently subjective nature of the perceived impact of noise. Residents of 1/3 and 2/3 Papatahi Place adjoin the northern boundary closest to the pool. The rear unit 2/3 Papatahi Place owned by Mr and Mrs Emery (submitter numbers 9 and 10) and tenanted by the Jacksons (Submitter number 13) is directly opposite the pool. Their Lounge is located on the Northern side farthest from the pool, however the dining / kitchen areas and the main out-door living area of the unit are located close to the common boundary between the proposed student accommodation and this unit. (Given the layout of the front unit 1/3 Papatahi place with indoor and outdoor living areas oriented to the street this unit is considered to be sufficiently separated from the pool.)

#### **8.1.5.9**

The 10m separation of the pool from the nearest residential boundary is more than would be typical of a residential pool and is combined with a 1.8m close boarded fence on the boundary and extensive landscaping in between. Despite this level of screening the problem for the neighbours still exists. It seems unlikely that a more solid plaster or block boundary wall would do much more to mitigate adverse noise effects generated by the pool and the more extreme solution of fully enclosing the pool is an expensive option that would generate it's own set of adverse visual amenity effects. Provision of double glazing at the applicant's expense to the windows on the south side of unit 2/3 Papatahi Place is another option but would result in some reduction in convenience to the owner / occupier of that unit. (Double glazing reduces ventilation options.)

#### **8.1.5.10**

The pool will attract larger numbers of users than a typical residential pool and enthusiastic games even in a typical residential pool have the potential to generate considerable amounts of noise. Whether the Non Residential Activity noise limits of the Proposed District Plan will be continuously or even occasionally breached by this activity is a moot point. As the acoustic consultant for Mr Emery pointed out such noise controls are geared towards the control of continuous steady noise levels rather than the fluctuating intermittent sound levels associated with a swimming pool.

#### **8.1.5.11**

Even if the noise limits were not breached it may still be arguable that levels of noise generated, given their intrusive nature, are unreasonable. Given the essentially subjective nature of sound perception this is a difficult call to make. On the one hand submitters in opposition consider the disturbance levels to be greater than those experienced with the previous Motel operation, on the other hand the applicant considers that the change in use from Motel to Student accommodation has had the reverse effect. Certainly there is evidence on Council files that pool noise associated with the Motel operation has been a problem as far back as 1992 and is not peculiar to the Student accommodation activity.

#### 8.1.5.12

Given the dynamics of the sound generated by the pool activity and the difficulty of applying the Non Residential Activity noise control to this type of sound Council's noise assessment specialist Andrew Chalton considers control over the hours of use of the pool a more appropriate approach and has recommended hours of use between 7.00 am and 10.00 pm at night.

#### 8.1.5.13

Control over hours of operation together with the other aspects of the proposed activity discussed below are considered to provide adequate mitigation for adverse noise effects associated with the pool.

- The pool usage is unlikely to breach the only noise guidelines provided within the plan for control of noise effects within the Living environment and it is therefore questionable as to whether it is reasonable to impose a more stringent regime than this.
- The pool is a summer activity dependant on the weather and therefore only an issue for the better days over the summer. It is not therefore a continuous problem.
- The pool is located to the south of the most affected dwelling and away from the main living room.
- The occupancy rate proposed by the applicant is for a maximum of 34 students; considerably less than the present estimated occupancy rate of between 50 and 60 students and considerably less than the maximum occupancy capacity of the previous motel at 60 guests. The reduction in the maximum number of occupants from those currently present in the establishment will have a mitigating influence on the frequency and intensity of noise disturbance currently associated with the pool.
- Noise complaints associated with the use of the pool are not peculiar to the student accommodation activity and evidence on Council files as far back as 1992 register complaint on a wide number of issues associated with the Motel / restaurant activity including pool related noise. It seems likely that some level of disturbance has been present for most of the life of the pool with the potential for more intrusive levels of activity on occasion associated with groups visiting under the previous motel activity.
- Because of the lower maximum population under the student accommodation option, the absence of a licensed restaurant, the reduced likelihood of related late night partying by motel \ restaurant patrons, and musical entertainment associated with receptions held at the restaurant the overall potential for noise disturbance associated with the Student Accommodation activity is considered to be inherently lower than that associated with the previous Motel / restaurant activity. Therefore whilst a higher level of disturbance may at times be associated with pool usage on balance the potential of the overall activity for noise disturbance is lower.

### 8.1.6 Summary

#### 8.1.6.1

Noise complaints associated with the site and with use of the pool have a long history. They are not peculiar to the student accommodation activity and evidence on Council files as far back as 1992 register complaint on a wide number of issues associated with the Motel / restaurant activity and associated liquor licence. These include late night partying; pool related noise; and music associated with restaurant entertainment.

#### 8.1.6.2

Apart from the pool related noise, which may be greater given the ongoing and exclusively young adult population, it would seem likely that in overall terms, given the proposed occupancy rate of no more than 34 students, and the nature of the activity that the present student accommodation activity has the potential to generate much less noise than would be typical of a Motel / restaurant activity.

#### 8.1.6.3

Relocation of the basket ball court to the south of the complex, imposition of the Non Residential Activity noise limits from the Living Environment section of the Proposed District Plan in association with the worship activity, restrictions on hours of usage of the pool from 7.00 am to 10.00 pm, and a review condition to ensure that noise effects associated with the worship activity keep within the recommended noise levels should ensure that adverse effects associated with the activity will have no more than minor adverse effect.

#### 8.1.6.4

In all other respects the proposed activity, as a change of use to an existing development is considered to generate no more than minor adverse effect.

It is the report writer's opinion, that the potential adverse effects of the proposed activity are *no more than minor*, and can be adequately mitigated through appropriate conditions of consent. Further, having regard to the meaning of the word 'effect', the potential adverse effects are such that this activity can meet the requirements of Section 104(1)(a).

### 8.2 District Plan Considerations (104(1)(d)): Relevant Objectives, Policies, Rules and Other Provisions of a Plan or Proposed Plan

#### 8.2.1 Proposed District Plan

##### 8.2.1.1 Rules and Assessment Criteria

##### 8.2.1.2

Discretionary Activity Rule 2.3 Any residential activity not meeting the standards in rule 2.1 (dwellings) or 2.2 (medium density housing or increased density for dwellings). As an application for student accommodation it does not meet these standards. The rule applies assessment Criteria 2(a) - 2 ( e) and the Medium Density Housing assessment criteria to applications of this nature.

##### 8.2.1.3

Assessment Criteria 2 (a) - 2(d) are intended to be applied to new developments rather than conversion of an existing development as is the case with this application. The physical characteristics of the existing motel complex have already been fixed. Notwithstanding this, the existing nature of the development is considered to be compatible with these criteria. Because of the single storey residential character of the building and the relatively spacious nature of the site it is considered to complement the visual amenity values and neighbourhood character of the area (Criteria 2a) and to be suitable in terms of scale, separation from adjoining sites and visual appearance (Criteria 2b & 2c). Assessment criteria 2d addresses the extent to which more than minor adverse effects associated with the development can be mitigated. Neighbour concerns regarding noise generation associated with the student accommodation activity are discussed in section 8.2.1.9 below and within the assessment of effects section 8.1.5 above.

#### 8.2.1.4

Relevant Medium Density housing criteria. Assessment of this application against these criteria is complicated by the relatively short duration of stay typical of Student accommodation, the combined nature of living arrangements (sharing of dining and recreational facilities / outdoor space) and the reduced amenity expectations associated with such accommodation. The accommodation is not permanent accommodation in the nature of a household unit but neither is it temporary in the nature of motel or hotel accommodation. (Verbal advice from David Ko, son of the applicants and the most fluent English speaker, is that students would stay for between three months and a number of years depending on course enrolments and family circumstances.)

#### 8.2.1.5

Medium Density Housing assessment criteria cover nine topic areas; **Neighbourhood Character; Site Layout; Building Location; Visual and Acoustic Privacy; Car Parking and Vehicle Access; On - Site Outdoor Space; Entries to Buildings; Site Facilities; and Landscape Treatment.** The 'Site facilities' and 'Entries to buildings' categories are relevant only to multi unit housing and will be discussed no further.

#### 8.2.1.6

**Car - parking and vehicle access** (Design element e) has been addressed by Council's transport assets department who are satisfied that, subject to imposition of recommended conditions on marking dimensions and placement of car park spaces no more than minor adverse effect will arise from the proposed change in use.

#### 8.2.1.7

**Landscape Treatment** (Design Element i) Mature landscape planting is established on the northern part of the site in association with the previous Motel use of the site and enhances privacy from northern neighbours and provides valuable on-site amenity (Criteria i 8). No further planting is considered to be necessary on this part of the site. Some up-grading of planting on the southern Swanson Road boundary is considered to be appropriate to improve integration of the development with the surrounding residential environment. The landscape requirements imposed under the original Motel Land Use consent are no longer present; the proposed planting would return this frontage to a level of amenity appropriate to a structure of this scale within this environment. (Criteria i 3 & i 10) (The parts of the site adjacent to the southern boundary which are not occupied by car parking are currently in grass.) A condition of consent has been recommended accordingly.

#### 8.2.1.8

**Neighbourhood Character; Site Layout; Building Location; On-Site Outdoor Space.** (Design elements a, b, c & f.) As discussed in the assessment of effects in section 8.1.2 this building is already established but is considered to be appropriate in this residential context and to provide adequate on site amenity by virtue of it's single storey residential character, adequate aural buffering between student bedrooms, northern orientation of 70% of bedrooms, northern orientation of in door and outdoor living space, proposed lower occupancy rates than the building was designed for as a motel (34 students rather than a peak motel occupancy of 60 people), landscaping, boundary screening and degree of separation of the building from adjoining residential boundaries. (Criteria a 2, a 3, a 8, b 3, b 6, b 8, b 9, c 2, c 5, c 6, c 7, f 1, f 3.)

### 8.2.1.9

**Visual and acoustic privacy.** (Design element d). The proposed activity is considered to be consistent with assessment criteria d 1 & d 2 related to off site visual privacy concerns as the development is very well screened from adjoining neighbours. Assessment criteria d 4, d 5 & d 6 focus on adverse noise effects particularly those with the potential to adversely affect the sleeping areas of adjoining houses. As discussed in section 8.1.5 a significant number of submissions have been received from neighbours in relation to noise generated by the activity. It is considered that noise generated by the barking of dogs on site is an issue that falls outside the ambit of this consent and can be satisfactorily controlled by Council's animal control bylaws and general noise control powers under the Resource Management Act. In the context of the change in activity from a potentially more noisy Motel / restaurant Operation to the Student Accommodation activity noise generated by the worship services, playing of drums, playing of ball games in the Eastern Car Park and use of the swimming pool can be controlled by recommended conditions of consent.

## 8.2.2 Objectives and Policies

### 8.2.2.1

The proposed activity is a change of use within an existing development located in the highly modified residential environment typical of Swanson Road. No changes to the physical environment will therefore result in negligible adverse effect on the natural and ecological values of the city. Objectives and Policies relevant to this application are therefore considered to be restricted to those which address issues generated within the Human and built environment.

#### 8.2.2.2 Issue 5.10 Effects on Amenity values: Health and Safety

##### Objective 10

To maintain and enhance those natural and physical characteristics (amenity values) that contribute to the wellbeing of residents and workers, including maintaining:

- an acceptable level of quiet and freedom from nuisance created by noise, odour, dust and vibration;
- adequate levels of daylight and sunlight in dwellings;
- adequate levels of darkness for sleep;
- a safe environment;
- an accessible environment, which includes enhancing public access to and along the coast and waterways and between areas of public land;
- adequate levels of on-site privacy;
- healthy air quality.

##### Policy 10.2

Activities should not emit noise such that it causes a nuisance to occupants of surrounding properties.

#### **Policy 10.4**

Wherever possible, buildings should be located on residential sites in a way that provides for an adequate area of outdoor space for recreation and leisure, including providing:

- sufficient outdoor space for the anticipated number of occupants of the dwelling;
- outdoor space which is of a usable shape for recreation;
- sunlight access to the outdoor space area.

Where such outdoor space cannot be provided on-site, the offsetting of consequent adverse effects on public open space that arise from increased usage may be required. Such an offsetting of effects would be in addition to any other requirement to contribute to the provision of public open space made under Policy 10.10.

#### **Policy 10.6**

Buildings, storage and parking areas should be designed and placed on-site, or screened in a way that maintains the privacy and onsite amenity of adjacent residential properties, including the privacy of outdoor space. Particular regard should be had for the protection of privacy within the more intensively settled Living and Rural Villages Environments.

#### **Policy 10.11**

Activities should provide for:

- the on-site parking and loading of motor vehicles;
- the location and design of access to car parking and loading areas, including areas for reverse manoeuvring to ensure that the safe and efficient functioning of adjacent roads, according to the positioning of that road in the Roading Hierarchy, is not adversely affected;

Comment: The proposed change of use to student accommodation occupies a former motel building designed for a much higher occupancy rate than that proposed by the applicant. Whilst it is true that the former motel would not always have operated at capacity, nonetheless it was designed to this capacity and occupation levels well below this capacity result in improved on site amenity for the occupants. It has been laid out in a relatively spacious way on the site well separated from residential neighbours and amply supplied with car parking. It is well screened and provides a good level of visual privacy for adjoining neighbours. Given it's Motel origins the building has been attractively designed and provided with a good level of outdoor amenity associated with a large deck, a pool, landscaping and grassed out-door living areas. The reduced occupancy levels relative to the motel use provide an improved potential amenity for the residents of the complex compared to that of the motel. (Maximum occupancy of 60 persons; proposed occupancy under the Student Accommodation activity of 39.)

Intrusive noise associated with the change of use is considered to be largely capable of mitigation via the recommended conditions of consent. In comparison to the previous, legally established Motel / restaurant activity the proposed Student accommodation activity is considered to present less overall potential for the generation of nuisance noise.

For these reasons the proposed activity is considered to be consistent with the abovementioned objective and policies.

### 8.2.2.3 Issue 5.11 Effects on Amenity Values - Landscapes, Local Areas, and Neighbourhood Character

#### Objective 11

To achieve a quality of settlement and associated activities within each of the City's Human Environments which is sympathetic to, and protects and enhances, the dominant natural and physical (including building) features which contribute to the amenity value and the neighbourhood character of an area, including maintaining and enhancing:

- the quality and character of different patterns of settlement within the City's intensively settled residential areas;
- the pedestrian-oriented amenity values of the town centres and the character of those areas as retail centres;
- the utilitarian nature and character of the industrial areas;
- the natural and physical features that give each rural and coastal village its particular and unique character;
- the pastoral/rural character of the northern parts of the City;
- the complex, mixed landscape of the foothills.

#### Policy 11.1

Settlement should be of a type and a density that protects amenity values, including neighbourhood character of different parts of the City, by:

- maintaining the low density of sites with high levels of private planting, large areas of open space around dwellings and detached housing characteristic in the Glen Eden, Green Bay and New Lynn local character areas and the Coastal and Rural Villages;
- allowing for development within the Kelston, Te Atatu South and Te Atatu Peninsula local character areas, provided that it maintains the existing low-density character high levels of planting, and openness of the area;
- providing for more intensive settlement in other parts of the Living Environment in a way that protects the wellbeing of residents and enhances the amenity of these areas;
- ensuring that settlement densities are consistent with the dispersed pattern of settlement within the Countryside Environment; {See also **A112**, **A113**}
- providing for a pattern of settlement in the Foothills Environment that is in keeping with complex, varied and overall natural character of the area; {See also **A114**}
- maintaining the characteristic patterns of settlement within the Rural Villages Environment and Coastal Villages Environment.

#### Policy 11.3

Buildings and structures should be located so that they maintain the neighbourhood character, visual amenity of the surrounding area and the characteristic streetscape of the area, including providing for:

- the overlooking of streets by buildings;
- maintaining characteristic links between private and public space arising from the orientation of houses and the way they face the street;
- the setback of buildings from the road boundary;
- planting of section frontages in a way that gives particular regard to variations in amenity values, and neighbourhood character.

Comment: The existing development is of good quality in construction landscaping and layout and is considered to be compatible with the local residential context. The mixed reserve, residential and greenhouse developments in the area and the relatively busy nature of Swanson Road mean that a more intensive residential activity can be accommodated with less potential for adverse effect than would otherwise be the case. The change from Motel / restaurant to Student accommodation is considered to represent the potential for an improvement in residential amenity in the local area. The development is well screened and landscaped to most frontages though improvements to the Swanson Road frontage have been recommended by way of a condition of consent so that the development can be returned to the level of amenity anticipated in the original Motel consent and considered appropriate for a building of this scale in the residential environment. The potential for intrusive noise associated with the change of use has been addressed in section 8.2.2.2 above.

### **8.2.3 Transitional District Plan**

As discussed in Part 7 of the report the Proposed Plan is considered to be the dominant document and discussion of the proposal in relation to the objectives, policies and rules of the District Plan has therefore been limited to those of the Proposed Plan.

## **8.3 Any Other Matters the Consent Authority Considers Relevant (104(1)(i))**

### **8.3.1 Other Issues Raised by Submitters Not Covered Elsewhere in Report**

- Credibility issues about the applicant's ability to meet conditions of any consent that might be issued are raised because of the applicant's unfulfilled promises to remove dogs and stop drumming.

Comment: A review condition has been recommended on the consent to allow future issues to be addressed. The dog noise is not considered to be within the ambit of this consent and should be pursued either via the animal control by-laws or via the general noise controls of the Resource Management Act.

- The application as submitted does not tally with the current use of the site as there are greater numbers of students, drumming still occurs, and the dogs are still there.

Comment: The applicant will be required to meet the conditions of any consent as granted.

- Unruly student behaviour disturbs adjoining residents.

Comment: Student behaviour is not within the ambit of the resource consent although generated noise effects can to some extent be controlled by conditions of consent. Any ongoing issues can be addressed by enforcement of conditions or review of the consent at a later date via the review condition recommended.

### **8.3.2 Monitoring**

The performance of the activities under this consent will be subject to Council's standard monitoring procedures. These procedures include scheduled inspections to ascertain compliance with conditions of consent, together with periodic inspections as and when required to establish whether conditions are being complied with on an ongoing basis. In particular, attention is likely to be directed toward the implementation of conditions relating to control of intrusive noise associated with the activity.

#### 8.4 Any Other Relevant Non-Statutory Documents

- 8.4.1 National Policy Statement (104(1)(c))(Not applicable).
- 8.4.2 Regional Plan or Proposed Regional Plan (104(1)(f) (Not applicable).
- 8.4.3 Any relevant regulations made under the Resource Management Act 1991(104(1)(b) (Not applicable).
- 8.4.4 Any relevant designations or heritage orders (104(1)(b)) (Not applicable).

#### 9.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991

For the reasons outlined in the discussion on the District Plan Rules, Assessment Criteria, Objectives and Policies it is considered that the proposal would be consistent/inconsistent with Sections 5, 6, 7 and 8 of the Resource Management Act 1991.

The purpose and principles of the Resource Management Act 1991 have primacy over all other considerations that are set out in section 104 of the legislation. In summary, sections 5, 6 and 7 require that resources must be sustainably managed in such a way that any adverse effects on the environment can be avoided, remedied or mitigated. Furthermore, the Resource Management Act 1991 requires that amenity values and the quality of the environment are to be maintained and enhanced.

It is considered that the granting of this application would not be contrary to the purpose of the Act. The proposal will enable people and communities to provide for their economic, social and cultural well-being and their health and safety without significantly compromising the needs of future generations or the life supporting capacity of natural resources such as air, water and soils. Through the imposition of appropriate conditions of consent, it is considered that the proposed activity can sufficiently avoid, remedy or mitigate any adverse effects on the environment.

#### CONCLUSION

The applicant seeks to establish a student accommodation facility serving the needs of overseas students within an existing motel complex. The complex is to house 34 students and five family members of the applicant. The activity is already established, albeit at greater occupancy levels than those applied for. The change of use has provoked a mixed reaction from the local community. Six submissions were received in support of the resource consent application and eight against.

Submissions against the application focused on intrusive noise associated with student activity. Subject to imposition of recommended conditions it was considered that the adverse effects associated with the activity could be satisfactorily mitigated.

It is considered that the proposal **meets** the criteria for granting consent as the potential adverse environmental effects are **no more than minor** and **can** adequately be mitigated through the imposition of appropriate conditions of consent. It is considered that the establishment and operation of the proposed student accommodation activity **will not** lead to a decline in the amenity values of the area in which it seeks to locate.

The proposed activity is considered to be consistent with District Plan Objectives Policies and Assessment Criteria in terms of neighbourhood character and the on-site aspects of amenity for residents of the accommodation facility and is considered to offer the potential for improved levels of local amenity relative to the motel / restaurant activity which it replaces.

Subject to any additional and/or contrary evidence being presented at the hearing, it is concluded that the application **merits consent** in accordance with Sections 104 and 105 of the Resource Management Act 1991.

## RECOMMENDATIONS

That pursuant to Sections 104, 105, 108 and 113 of the Resource Management Act 1991, and subject to additional or contrary information being presented at the hearing, **consent be granted** to the application by MG and YS Ko to establish a student accommodation facility for a maximum of 34 Students and five Live in staff at 65-71 Swanson Road, Henderson, being Lots 42 - 44, & 55 - 58 DP79875 for the following reasons:

- (i) No more than minor adverse effect will be generated by the proposal because -
  - (a) Adverse noise effects associated with the residential aspects of the activity and within the ambit of this consent can be satisfactorily avoided remedied or mitigated by recommended conditions of consent restricting hours of use of the swimming pool, re-siting of the recreational ball game area to the south of the existing building.
  - (b) Adverse noise effects related to worship activities on the site can be satisfactorily controlled by the imposition of the Proposed District Plan non residential activity noise standards.
  - (c) Adverse effects associated with dog noise are considered to be outside the ambit of this consent as the keeping of dogs as a residential activity in this location, is a permitted activity within the Proposed and Operative District Plans.
  - (d) The change of use from Motel / Restaurant to Student accommodation involves an activity with less potential for noise disturbance given the absence of the late night entertainment component associated with the previous restaurant.
  - (e) The lower maximum occupancy levels proposed for the Student Accommodation Activity relative to the previous Motel / Restaurant activity will result in overall terms in a higher level of local residential amenity.
- (ii) The proposed activity is consistent with the relevant objectives policies and assessment criteria of the Proposed District Plan because it -
  - (a) Provides adequate levels of on-site amenity for residents of the facility given the lower maximum occupancy rate relative to the previous motel activity, the overall design of the facility incorporating adequate indoor and outdoor space and appropriate sun orientation.
  - (b) The exterior design of the facility and associated landscaping and screening is of a scale and character consistent with the local residential environment and thereby retains adequate levels of local residential amenity for the area.
- (iii) The proposal is considered to be consistent with Section 5 of the Resource Management Act provides for the economic social and cultural well being of the community by providing an accommodation service for overseas students whilst retaining on-site and local residential amenity.

Consent shall be subject to the following conditions:

- (1) The proposed activity shall proceed in accordance with the plans titled "Proposed Church and Hostel, 65 Swanson Road" prepared by Paul Travers Dated May 2002 and all referenced by Council as RMA 20020909 and the information submitted with the application except with regard to modifications outlined in the conditions set out below.
- (2) The car parking spaces identified on the site plan shall be marked out in accordance with the following requirements;
  - Spaces 2 - 21 should be widened to 2.5m and marked at 90 degrees to the curb.
  - Space 43 should be deleted from it's shown position and relocated immediately to the north of space number 39.
  - Spaces 41 and 42 should be moved forward 2.5m.

All modifications to car park spaces in to be carried out in accordance with Council's Code of Practice for City Infrastructure and Land Development and to the satisfaction of the Manager Resource Consents and to be carried out within 6 weeks of the granting of this consent.

- (3) Noise from non residential activities on the site including those associated with the conduct of religious services for the students accommodated on the site shall not exceed the following levels:

7.00 am - 7.00 pm Monday to Saturday		7.00 pm - 10.00 pm Monday - Saturday 7.00 am - 10.00 pm Sundays and Public Holidays		10.00 pm - 7.00 am	
L <sub>10</sub> 50dBA	L <sub>max</sub> N/A	L <sub>10</sub> 45dBA	L <sub>max</sub> N/A	L <sub>10</sub> 40 dBA	L <sub>max</sub> 70 dBA

as measured at or near any Living Environment Boundary.

- (4) The swimming pool and immediate area shall not be used between the hours of 10.00 pm and 7.00 am.
- (5) The eastern car park area shall not to be used for recreation purposes. A portion of the hardstand area in the south-western corner of the southern car-park is to be marked out for this purpose and separated with a 1.8m screen fence from the road boundary. This area shall be established to the satisfaction of the Manger Transportation Assets and the Manager Resource Consents within six weeks of the granting of this consent. This area shall not be used for ball games between the hours of 10.00 pm and 7.00 pm.
- (6) No drums or drum machines shall be played on site.
- (7) The consent holder is to supply a Fire Report from a suitably qualified consultant demonstrating how the existing building meets or will be modified to meet the fire safety requirements of the Building Act 1991 within one month of the granting of this consent. A building consent is to be applied for and any recommended works to be completed within two months of the granting of this consent.
- (8) A Landscaping Plan addressing enhancement planting adjacent to the southern boundary of the site to the level established in the previous Motel consent for this site shall be supplied to the satisfaction of the Manager: Resource Consents within one month of the grant of this consent and is to be implemented in the next available planting season.

- (9) Pursuant to Section 128 of the Resource Management Act 1991 the Council may, up to two years after the grant of this consent serve notice upon the consent holder of it's intention to review conditions 1,2, 3, 4 should it consider this to be necessary in order to deal with any adverse effects on the environment which may arise from the exercise of this consent. The review shall be undertaken at the expense of the consent holder.

**ADVICE NOTES**

1. The existing pool is currently in breach of the requirements of the Swimming Pool Fencing act of 1987 it must be appropriately fenced and gated to comply with these requirements.
2. The consent holder is to note and comply with the fire safety and disabled persons access requirements outlined in the report compiled by Building Surveyor Terry Brown and included as appendix 6 to this report.

Report prepared by: Bruce Hawkins, Team Leader Resource Consents.

