RESOURCE MANAGEMENT ACT 1991

DECISION OF COMMISSIONER DARRYL MILLAR APPOINTED BY THE MACKENZIE DISTRICT COUNCIL

HUALE HUANG

APPLICANT:	Huale Huang
APPLICATION REFERENCE:	RM230149
APPLICATION:	Land Use Consent
SITE LOCATION:	3 Andrew Don Drive, Tekapo
LEGAL DESCRIPTION:	Lot 2 DP518782
PROPOSAL:	To establish and operate three buildings comprising one five-bedroom residential unit, one one-bedroom minor residential unit, and one four-bedroom residential unit to be used for visitor accommodation for up to 10 guests.
HEARING DATE:	15th October 2025
DECISION:	Granted
DECISION DATE:	11th February 2026

HEARING APPEARANCES

The Applicant

- Monique Thomas – Counsel
- Huale Huang - Applicant
- Andy Carr - Transport
- Jonathan Clease – Urban Design
- Terri Winder - Planning

The Council

- Kirstyn Royce – Planning
- Julie Shanks – Planning Manager
- Murray Dickson – General Manager Corporate, Commercial and Planning (Reconvened Conditions Hearing)
- Michael Garbett – Counsel (Reconvened Conditions Hearing)

Submitter

- Mark Simpson

DELEGATION

I was appointed by the Mackenzie District Council as Commissioner to hear submissions, evidence and to make a decision on Resource Consent RM240141. This decision records the evidence and statements, my deliberations on the issues and the outcome of my deliberations.

INTRODUCTION

Introduction

1. This is a decision on a resource consent application made to the Mackenzie District Council (the **Council**) by Huale Huang (the **Applicant**) for land use consent. The Applicant proposes to establish and operate three buildings comprising one five-bedroom residential unit, one one-bedroom minor residential unit, and one four-bedroom residential unit to be used for visitor accommodation for up to 10 guests. The site is located at 3 Andrew Don Drive, Tekapo and is legally described as Lot 2 DP518782 (RT 813763).

2. I visited the site and surrounding environs on 14th October 2025.

The Site and Receiving Environment

3. Understanding the nature of the receiving environment is critical to an assessment of effects (s104(1)(a)). The application documentation describes the site and surrounding environments. The nature of the existing

environment is also addressed in the evidence and reports of the various experts who appeared at the hearing. By way of summary:

3.1. The application site (the **Site**) is located at 3 Andrew Don Drive, is a rear section and is some 950m^2 in area.

3.2. The Site sits at a slightly elevated level above Andrew Don Drive.

3.3. Land to the west, south and east of the Site, and the Site itself, is zoned Low Density Residential (**LDR**), and generally contains low density housing with some visitor accommodation.

3.4. A Council walkway adjoins the Site to the north and provides connectivity between Andrew Don Drive and Bill Apes Lane.

3.5. Land further north is zoned Medium Density Residential (**MDR**).

The Proposal

4. The application documentation and related assessments and evidence described the key components of the proposal and operational characteristics. That said minor iterations of the proposal evolved in the period following the lodgement of the application, the hearing and during the hearing adjournment. The key features of the final proposal are:

4.1. A 113m^2 five-bedroom residential unit (block 1) with a maximum of 10 occupants.

4.2. A 54m^2 one-bedroom minor residential unit (block 3) with a maximum of 2 occupants.

4.3. A 94m^2 residential four-bedroom residential visitor accommodation unit (block 2).

4.4. Blocks 1 and 3 will be occupied by permanent residents or local workers in a long-term rental arrangement.

4.5. Block 2 will accommodate up to 10 guests per night, with a single group booking requirement and a limitation on the total number of guest nights per calendar year. At the reconvened hearing[1] Ms Huang confirmed that outside of these times the unit would be used as a holiday home by Ms Huang and family.

4.6. Seven on-site parking spaces, with on-site manoeuvring, and 3 onsite cycle parking spaces.

4.7. Onsite and boundary planting, with a requirement for the landscape design to be certified by the Council.

4.8. One of the permanent residents will act as an on-site resident manager for the visitor accommodation unit.

4.9. A requirement to develop and implement a Visitor Accommodation Management Plan (**VAMP**).

4.10. Limitations on hours when outdoor spaces can be used by Visitor Accommodation guests.

4.11. Limitations on the use of amplified music.

[1] Winder Reply evidence paragraphs 2-4 23 December 2025

4.12. A requirement to maintain, and provide if requested, records of visitor accommodation use.

4.13. Allocation of visitor accommodation parking spaces and formation requirements for the accessway from Andrew Don Drive.

Conditions

5. There have been several iterations of proposed draft conditions since the application was lodged. The Planners met to determine if agreement could be reached on the nature and extent of consent conditions. With the exception of conditions relating to Contributions, agreement was reached.

6. The Planners could not agree on the nature of the Contributions conditions due to a fundamental disagreement as to the application and interpretation of the relevant rules of the District Plan. I return to this issue later.

Application Processing and Submission

7. The Application was limited notified to four affected parties; being the owners/occupiers of 5 and 7 Andrew Don Drive and 9 and 11 Rodman Lane. One submission was received from Mark and Philippa Simpson.

8. In February 2025 the Application was placed on hold. In July 2025 the application was re-activated, with the Applicant providing additional information and assessments. The extent of this information is summarised in section 1.1 of Ms Royce's s42A report.

The Hearing, Adjournment and Closure

9. The hearing to consider the application commenced on 15th October 2025. The hearing was adjourned on the same day after presentations from the Applicant, Submitter and the Council's Reporting Officer.

10. The purpose of the adjournment was outlined in Minute 2 where I issued the following directions:

10.1. *Counsel for the Applicant will file submissions in Reply no later than **5pm Friday 24th October 2025***

10.2. *This will include an agreed set of draft proposed conditions developed by Ms Winder and Ms Royce. As I understand it, the only outstanding matters to be addressed relate to conditions dealing with Contributions. If agreement cannot be reached, Ms Winder and Ms Royce are to provide a brief statement outlining their respective positions; and*

10.3. *The Council, via Mr Clarke, will provide copies of the above to the submitter no later than **5pm 28th October 2025** – noting that the 27th of October is a public holiday.*

11. In response to Minute 2 I received:

    11.1. The Applicant's Reply which included an agreed set of conditions; albeit conditions 26 and 27 dealing with Contributions remained unresolved.

    11.2. A Statement from Ms Royce outlining the Council's position on the interpretation and application of the District Plan rules and the Development Contributions and Financial Contributions Policy (28th October).

    11.3. Supplementary evidence from Ms Winder and further Legal Submissions in Reply on the same matter (18th November).

12. Given that Ms Royce and Ms Winder could not agree on the wording and application of the Contributions conditions, the hearing was reconvened (on-line) on 19th December 2025. My preferred approach to the reconvened hearing was outlined in Minutes 3 and 4.

13. On the 15th December 2025, ahead of the reconvened hearing, I received additional legal advice on behalf of the Council from Mr Garbett on the interpretation and application of the relevant District Plan Contribution rules.

14. On the morning of the reconvened hearing, I received further legal submissions from Ms Thomas and planning evidence from Ms Winder. Additional planning evidence was provided by Ms Winder on 23 December addressing specific issues raised at the reconvened hearing, together with an updated set of draft conditions – noting that the two Contributions conditions were included as blank placeholders.

15. A final Council response was received on 21st January 2026.

16. The tail end of this hearing process was focused on the Contributions issue. The process followed was unusual, and arguably occupied a disproportionate amount of time, but I was determined to see if a collaborative agreement could be reached between the parties as to the application of the rule. Unfortunately, this was not possible and consequently I address this matter later in the decision.

17. Following receipt and consideration of the above, I closed[2] the hearing on 21st January 2026.

My Approach to this Decision

18. I do not propose to repeat verbatim the content of the reports, evidence, submissions and statements made at the hearing. Given that pre-circulation of the material occurred, and all are a matter of record, my

[2] Minute 5

deliberations and the balance of this decision address the issues on a topic basis.

THE PLANNING FRAMEWORK AND ACTIVITY STATUS

The Mackenzie District Plan – Activity Classification and Consent Triger Points

19. The site is zoned Low Density Residential (**LRZ**) in the Mackenzie District Plan (**MDP**) as amended by Plan Change 21, which became operative in August 2023. The site is also located within the Lake Tekapo Precinct.

20. The MDP provides specific provisions for Residential units (including Minor Residential Units) and Residential Visitor Accommodation within the LRZ. In general terms the provisions are enabling and anticipate the development of such throughout the zone, including combinations of such activities on the same site. Ms Winder and Ms Royce outlined the relevant aspects of the MDP in their reports and evidence and were largely aligned in their assessments. Mr Simpson, however, disagreed as to how the rules were applied to the visitor accommodation component of the proposal. I address this issue below.

21. Residential Units and Minor Residential Units are permitted by rules LRZ-R1 and LRZ-R2 subject to a range of development standards. Residential Visitor Accommodation is also permitted, subject to standards under rule LRZ-R5.

22. The MDP defines "Residential Unit" to mean:

"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."

23. "Minor Residential Unit", "Residential Visitor Accommodation" and "Visitor Accommodation" are defined as follows:

Minor Residential Unit

"means a self-contained residential unit that is ancillary to the principal residential unit, and is held in common ownership with the principal residential unit on the same site."

Residential Visitor Accommodation

"means the use of a residential unit for visitor accommodation including any residential unit used as a holiday home."

Visitor Accommodation

"means land and/or buildings used for accommodating visitors, subject to a tariff being paid, and includes any ancillary activities."[3]

24. The proposed five-bedroom residential unit (block 1) and 54m^2 one-bedroom minor residential unit (block 3) clearly fall within the scope of the relevant defined terms above and, as such Ms Winder and Ms Royce have correctly identified the relevant MDP provisions; being LRZ-R1 and R2.

25. It is clear from the structure of the rules and the definitions that in the LRZ Residential Visitor Accommodation (**RVA**), as an activity, can be undertaken in a Residential Unit, subject to standards – the definition of RVA clearly states that it *"means the use of a residential unit"*. Both Ms Winder and Ms Royce agree.

26. Mr Simpson, however, raised two issues with respect to the application of LRZ-R5 to the visitor accommodation aspect of the proposal. First, he questioned whether the occupants of the proposed RVA could be considered as "one household" as this forms a key component of the Residential Unit definition. This matter was addressed by Ms Thomas[4], Ms Winder[5] and Ms Royce[6] and I agree with that assessment. This is particularly so given that the Applicant has proposed draft condition 2 which requires, amongst other things, that:

"The residential visitor accommodation unit must only be rented as single group booking (i.e single room letting of this unit is not authorised under this consent)..."

27. Second – Mr Simpson argued that the proposal was more commercial in nature and thus should not be considered as a RVA. Rather, it should be assessed as a "Commercial Visitor Accommodation" (**CVA**) facility and thus would attract discretionary activity status. CVA is defined in the MDP to mean:

"means land and buildings used for any form of visitor accommodation that is not defined as residential visitor accommodation, including:

a. backpackers;

b. camping grounds;

c. hostels;

d. hotels;

e. motels;

f. motor inns; and

[3] While the MDC includes a second definition of visitor accommodation which limits the duration of stay for any one visitor to no more than 3 months at any one time, this definition only applies to the Financial Contributions Chapter.
[4] Legal Submissions and Reply 24 October 2025 - paragraphs 2 - 16
[5] Evidence 1 October – paragraph 29b and c

[6] S42A Report, Section 3.1.2 page 10

g. tourist lodges."

28. Again, Ms Winder addresses this matter at paragraph 29 of the planning evidence, noting that as the proposal meets the definition of RVA then the CVA definition cannot apply. I agree.

29. Overall, I agree with the findings of Ms Winder and Ms Royce; the proposal before me is for a Residential unit, Minor Residential unit and another Residential unit to be used as an RVA.

30. From a compliance perspective Ms Winder and Ms Royce identified the following trigger points for resource consent:

    30.1. Block 2 will encroach, to a minor extent, into the northern recession plane constructed above the common boundary with the adjoining Council walkway (rule LRZ-S3).

    30.2. The maximum building and impervious surfaces coverage will exceed 50%; being 60.6% (rule LRZ-S5).

    30.3. While RVA activities are permitted in the zone (paragraph 21 above), standard 2 limits the occupancy to a maximum of 6 guests. The Applicant proposes 10 occupants and consequently is a restricted discretionary activity (**RDA**) in accordance with rule LRZ-R5.3.

    30.4. The Lake Tekapo Precinct (Prec1) chapter of the Plan prescribes built form standards. In this case the proposal does not comply with:

        30.4.1. PREC1-S1 – the external cladding comprises a single material (TAUCO weatherboard), as opposed to a minimum of 2 materials as required by the rule.

        30.4.2. PREC1-S2 – the roof form of the minor residential unit does not meet the minimum roof pitch requirement.

31. Non-compliance with the standards identified in paragraphs 30.1-30.4 requires resource consent as a Restricted Discretionary Activity. This was not in contention, other than the matters raised above by Mr Simpson which I have addressed.

32. Ms Winder and Ms Royce concluded that the proposal complied with the relevant Transport standards of the Plan, including on site car parking provision. During the hearing, I asked the experts to confirm if the proposal complied with TRAN-S11 and TRAN-Table 10 which sets formation standards for accessways. In this case Mr Carr[7] has recommended that the first 6m of the accessway be widened to 5m in order to provide for vehicle queuing space. There was consensus between Mr Carr, Ms Royce and Ms Winder that a "technical" non-compliance arises with respect to the

[7] Carr EIC paragraph 20

aforementioned Transport standards. Rule TRAN-S11.2 requires that accessway widths do not exceed the standards listed in TRAN-Table 10. In this case, TRAN-Table 10 sets a minimum carriageway width of 3m. While there is potentially an inherent contradiction in the rule structure, I have resolved to identify this as a non-compliance – noting that it does not alter the overall activity status. That said I am satisfied from the evidence[8] that the queuing space proposal is needed to ensure vehicles can pass in the accessway and thereby avoid the need for a vehicle to wait on the road while another vehicle exits the site. Consequently, I do not propose to discuss this matter further.

STATUTORY CONSIDERATIONS

Introduction

33. The proposal is for a restricted discretionary activity (**RDA**). Section 104(1) of the RMA sets out the matters which I must consider when assessing the proposal. It is considered that in this instance, subject to Part 2, regard shall be had to:

- *any actual and potential effects of allowing the activity (section 104(1)(a));*
- *any relevant objectives, policies, rules, or other provisions of a ..... regional policy statement and plan (section 104(1)(b)); and*
- *any other matter the consent authority considers relevant...(section 104(1)(c).*

34. The relevant Plan is the MDP. My findings with respect to this document is outlined later in this decision. The relevant Regional Policy document is the Canterbury Regional Policy Statement (CRPS). I am of the view that the proposal does not give rise to matters of regional significance that require any further assessment, and thus I do not consider the CRPS further.

35. Section 104(1)(c) enables me to consider any other matter relevant and reasonably necessary to determine the application. In my view this could include matters of Plan integrity and precedent. I will return to this. There was also evidence presented on the relevance of the Council's Development Contributions and Financial Contributions Policy to the contributions conditions issue, which remained unresolved at the closure of the hearing. While I discuss this matter later in this decision, I am satisfied that the policy is a matter I can consider under s104(1)(c).

36. As the proposal is for a RDA, s104C limits my consideration to the relevant matters of discretion contained in the MDP. This includes the setting of conditions.

[8] Transport assessment July 2025

37. Section 104(2) states:

When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if ….. the plan permits an activity with that effect.

38. This is commonly referred to as the "permitted baseline" argument. I propose to deal with this first.

The Permitted Baseline

39. Ms Winder and Ms Royce[9] both promoted the application of a permitted baseline to assist with the consideration of effects arising from this proposal. Adopting a permitted baseline as part of the assessment enables the adverse effect of the activity on the environment to be disregarded if the MDP plan permits an activity with those effects.

40. Both planners agreed that:

40.1. a relevant permitted baseline comprised 2 residential units on the site together with a minor residential unit, with one of the residential units being used as RVA accommodating up to 6 guests. In such a scenario it is also necessary to ensure compliance with the relevant zone and precinct standards.

40.2. It is the difference between the permitted baseline and the proposal that provides a contextual effects framework.

41. The application of a permitted baseline is not mandatory. I do not see any reason, however, why a baseline should not be applied.

42. Ms Winder[10] provided a detailed assessment and illustrative plans of a potential permitted baseline scenario noting the ability to undertake the following as <u>permitted</u> activities complying with the relevant standards:

42.1. Two, two storey four-bedroom residential units up to 7.5m in height, with one of the units used as RVA.

42.2. A two-bedroom single level minor residential unit up to 3m in height.

43. Ms Winder noted that one of the residential units and the minor residential unit could accommodate up to 12 workers, assuming two people per bedroom. Ms Winder further opined that the remaining residential unit could be a mix of workers accommodation and visitor accommodation; being four workers in two rooms and 6 guests in the remaining two rooms.

[9] Royce s42A report section 6.3. Winder EIC paragraphs 32 – 43 and plans attached as Appendix 1
[10] Winder EIC paragraphs 32-43

Ms Winder concluded that, overall, this would result in the site accommodating 16 workers and six visitors (22 in total).

44. I have doubts as to the veracity of the mixed worker/visitor accommodation model in one unit and as such it is perhaps fanciful. Within this context a more realistic model would be either (the permitted) 6 guests exclusively within a RVA or 8 workers in the unit. As a result, I find that it would be better expressed (conservatively) as 12 workers and six visitors (18 in total). Alternatively, as noted, if the RVA was not established on site, it is feasible to consider that the remaining residential unit occupied by workers would bring the total site occupancy to 20. Both scenarios can be compared to the Applicant's proposal, which comprises 12 workers and 10 guests in a RVA unit (22 in total). That said, I acknowledge the MDP does not limit the number of bedrooms or occupants in a Residential Unit and, as a consequence, Ms Winder's baseline still has some value.

THE ISSUES AND FINDINGS

Introduction – The Planner's Conclusions

45. Both Ms Winder and Ms Royce recommended that the application be approved, subject to conditions. As noted, there was consensus on the scope and extent of the conditions, with the exception of those addressing Contributions.

Environmental Effects (section 104(1)(a))

Introduction

46. I am satisfied based on the evidence[11] produced on traffic matters that adverse effects arising from the proposal are acceptable, subject to the proposed draft conditions. With the exception of the accessway width noted earlier, the proposal complies with the relevant transport provisions of the MDP. I note for completeness Mr Carr's assessments of car parking demand, on site car parking provision, vehicle movements and on-site vehicle manoeuvring. I note also, and agree, that while the design is such that it can handle car parking demand on site, there will be occasions when on-street car parking may occur. This is, however, an acceptable outcome given the formation and classification of Andrew Don Drive and thus any adverse road safety or operational impacts are acceptable. I acknowledge Mr Simpson's concerns but prefer the expert evidence of Mr Carr, noting that this was the only expert evidence I received. Given this, I do not propose to comment further on Transport matters.

47. I am equally satisfied that the minor intrusion of the gable end on block 2 through the recession plane constructed above the northern site boundary,

[11] Carr EIC

adjacent to the Council walkway, will result in acceptable adverse effects[12] requiring no further mitigation. Given this I will not comment further on this matter.

48. Within this context, the focus of my remaining considerations relate to the following matters:

48.1. Residential character and amenity, including building design and site layout.

48.2. Cumulative effects.

49. Ms Winder, Ms Royce and Mr Clease correctly outlined the relevant assessment matters of the MDA and, in the case of the relevant design issues, Mr Clease also considered the Tekapo Design Guide. With respect to these, and the relevant matters of non-compliance, I find:

External Cladding and Roof Pitch

49.1. A single cladding material is to be used, as opposed to a minimum of 2 as required by PREC1-S1. Mr Clease[13] was of the view that the different paint colours proposed for the units would be sufficient to differentiate the residential units. In other words, the outcome sought in the rule is achieved in a different way. Further to this, Mr Clease noted the building locations and architectural features would be sufficient to break up the building mass. I note also that the proposal complies with the site coverage requirements.

49.2. Mr Clease concluded[14] that the roof pitch non-compliance for the MRU has a "negligible effect on the character and visual amenity outcomes of the proposal". He notes that the unit is located to the rear of the site and will be screened from the Simpson's property.

49.3. Overall, Mr Clease concludes[15] that the proposal is "aligned" with the outcomes sought in the Design Guide and the "overall effects of the rule breaches from an urban design perspective are considered to be less that minor". Ms Royce and Ms Winder were aligned.

49.4. I accept the conclusions of Mr Clease.

Building and Impervious Surfaces Coverage

49.5. The combination of building and impervious surfaces coverage will be 60.6% of the site; exceeding the permitted MDP standard of 50%. As noted above, the building coverage itself is not exceeded. Mr Clease[16] notes the proposal includes hard and soft landscaping and argues that the non-compliance is largely as a result of the increased size of the proposed car park, which is designed to maximise on site car parking availability at a level greater than is

[12] Clease EIC paragraph 50
[13] Clease EIC paragraphs 46 - 48
[14] Clease EIC paragraph 51
[15] Clease EIC paragraph 65
[16] Clease EIC paragraph 19 and 52

required by the MDP. Mr Clease notes that the car park will not generally be visible from the road but will be seen from the adjoining Council reserve. On balance, Mr Clease concludes the outcome is acceptable. Ms Royce and Ms Winder were aligned. I agree.

Intensity of Activity

49.6. The submitters own a property adjacent to the application site. At the heart of the submitter's concerns were a range of issues fundamentally founded in adverse amenity outcomes. At the core of this was a concern around the scale of the activity and, in particular, the number of residents and guests that may be present on the site and the ability to satisfactorily manage noise and behavioural effects and related amenity and traffic/car parking impacts.

49.7. I have already resolved my position with respect to traffic related issues, the correct application of the RVA rule and building coverage matters earlier in this decision – noting that the latter is largely addressed through a combination of the site coverage compliance and the assessments of Mr Clease. Given this I do not propose to revisit these matters.

49.8. I noted Ms Winder's permitted baseline argument in paragraphs 42-44 above, and the general principle that the MDP does not limit the number of residents or bedrooms in Residential units. Ms Royce[17] agrees and notes in the s42A report that:

"... the District Plan does not seek to limit the size of dwellings or habitable rooms within this zone and, as such, there is no mechanism by which Council could limit the number of residents on the site."

49.9. With this in mind I am satisfied that the issue of the number of occupants in this particular RVA proposal is not in itself the critical issue here. Rather, it is a trigger point for consent and the important matter to consider is whether there are appropriate guardrails (controls or conditions) in place to ensure that adverse effects are appropriately managed. I need to be very clear however, that my comments on this matter occur within the context of the restricted discretionary activity status that applies to this proposal, and given that the MDP specifically provides for such activities as a restricted discretionary activity where occupancy does not exceed 12 guests. Should the proposal had been for more than 12 guests, this would attract an alternate activity status and thus my comments above would not be valid.

49.10. In this case the relevant matters of discretion are specified in rule LRZ-R5.3 and are:

a. The location, design and appearance of buildings on the site.

[17] S42A report page 19

b. The traffic impacts including the provision of adequate onsite parking.

c. Effects on amenity values of adjoining residential sites including noise.

d. The adequacy of any mitigation measures.

49.11. Building location, design and appearance (matter a.) issues have been addressed earlier. I note for completeness the Applicant's amendments to remove the recession plane non-compliance at the submitter's boundary. Similarly, traffic impacts (matter b.), including provision of on-site car parking, have been assessed and deemed acceptable. This leaves consideration of amenity effects and the adequacy of mitigation measures

49.12. Several iterations of the draft conditions have been developed, with a final draft version presented by Ms Winder on 23 December 2025. Relevant to this issue, the proposed conditions include:

a. Requirements for a group booking and limits on maximum occupancy.

b. Landscaping establishment, maintenance and certification requirements.

c. Requirements for a Resident Manager and a Visitor Accommodation Management Plan (**VAMP**) including roles and responsibilities, house rules, parking information and provision of guest parking, processes for managing complaints, limitations on the use of outdoor spaces and the use of amplified music and record keeping.

d. A review condition relating specifically to the management of noise, nuisance and parking effects.

49.13. I am satisfied from the evidence of Ms Winder and Ms Royce that the proposed conditions will ensure any adverse amenity effects are acceptable. Moreover, the proposed conditions are robust and enforceable.

49.14. Finally, I note the important point made by Ms Royce in her response at the hearing where it was correctly observed that a permitted visitor accommodation (6 quests) can operate without supervision or requirements to do so. The proposed conditions including a resident supervisor and VAMP requiring certification provide an extra layer of protection for nearby residents.

Cumulative Effects

50. Ms Royce, Ms Winder and Mr Clease[18] considered the scale and extent of potential cumulative effects arising from the proposed RVA that exceeds the permitted 6-person occupancy. All agreed any such effects would be acceptable. This largely due to the approach taken in the MDP to enabling RVA activities as permitted and restricted discretionary activities, and the

[18] Royce – page 20; Winder EIC paragraphs 63-69; Clease EIC paragraphs 56-60

particular nature of this proposal and the effects focus of the relevant volunteered consent conditions. I agree.

Overall Effects Conclusions

51. Overall, from the evidence and statements I have received, and following my conclusions above, I have formed the view that any adverse effects associated with this proposal will be acceptable subject to a range of conditions.

Contributions

Introduction

52. As indicated earlier, there were disparate views regarding the application of the MDP Contributions rules. While the parties agreed on the relevant rules, there was no agreement on application to this proposal. Given that a consensus could not be reached between the Applicant and the Council, I am tasked with making a decision on this issue.

53. The relevant rules of the MDP are:

53.1. For services – rules 8.1.2, 8.1.3 and 8.1.4

53.2. For open space and recreation – rule 9.b(ii)

54. The Council's Development Contributions and Financial Contributions Policy (**Contributions Policy**) sits alongside the MDP rules. This is a policy I can consider under s104(10(c) and is an aide to the application of the MDP rules. This was not in dispute.

Services Contributions

55. Rule 8.1.2 deals with water supply and reads, in part:

"Where a proposed subdivision or multi-unit residential development is located within Fairlie Town, Tākapo / Lake Tekapo Village or Twizel water reticulation network, or in any future Council water reticulation network and a water supply connection is required for the allotment(s) or multi-unit residential development, the Council shall recoup as a financial contribution the fair and reasonable share of the cost of existing water supply services which service land in the subdivision or multi-unit residential development. The maximum financial contribution shall be in accordance with the following formula:"

$$\frac{V - L}{R} = \text{contribution per additional lot/residential unit equivalent}$$

56. The rule provides for a contribution where a "multi-unit residential development" (**MURD**) is proposed. MURD is a defined term in the MDP and

the Contributions Policy and includes the proposal subject to this application.

57. The residential unit equivalent (**RUE**) component is determined by dividing the total number of people that a MURD is "designed to accommodate" by a deemed average occupancy of 2.6 persons.

58. The Sanitary Sewer (rule 8.1.3) and Stormwater (rule 8.1.4) rules are applied in the same manner. My deliberations that follow cover all three services rules.

59. The Council's opinion[19] on this matter was that the subdivision of the lot subject to this application created a "credit" to be applied to the main 5-bedroom residential unit (block 1) and that the MRU is exempt from a contribution courtesy of an exemption specified in the Contributions Policy[20]. Ms Royce summarised this as follows:

"In effect, both the primary unit and the minor unit benefit from the existing credit or the policy and cannot be charged"

60. This is the correct application in my view.

61. As a result, Ms Royce[21] considered that it was only the RVA subject to the services contribution rules and should be based on a designed occupancy of 10 persons[22]. This resulted in a RUE of 3.84[23].

62. Ms Winder[24] argued in Supplementary evidence (18 November 2025) that the RVA should be assessed as a residential unit for the purposes of assessing services contributions. This was because of the definition of visitor accommodation contained in the Contributions Policy which reads:

"the use of land and buildings for short-term, commercial living accommodation where the length of stay for any one visitor is not greater than three months at any one time."

63. Ms Winder[25] and Ms Thomas[26] argued that the definition implied a commercial visitor accommodation development such as motels, as opposed to the use of a residential unit for visitor accommodation. The significance of Ms Winder's argument is that a residential unit attracts a

[19] Royce Supplementary Evidence (28 October 2025) paragraphs 4 - 8
[20] Contributions Policy section 2.2
[21] Royce Supplementary Evidence (28 October 2025) paragraphs 4 - 8
[22] The occupancy sought by the Applicant in the RC application
[23] Ms Royce initially rounded the RUE to 4. Subsequent legal advice from Mr Garbett confirmed this was not appropriate (Anderson Lloyd advice 15 December 2025)
[24] Winder paragraph 24
[25] Ibid, and Winder Reply evidence 19 December paragraphs 10 - 23
[26] Thomas Further Legal Submissions 19 December 2025 paragraphs 7 – 9, 13 - 28

lower contribution rate under the Contributions Policy (one contribution for each reticulated service per additional residential unit[27]) compared to the RUE assessment for visitor accommodation. This matter was discussed at the reconvened hearing on the 19th December. Overall, I disagree with Ms Winder's assessment. It is clear from the definition that the reference to "commercial living accommodation" is a reference to the transaction, not the form of the development. To this extent I agree with the conclusions formed in paragraph 15 of Mr Galbett's advice of 15 December 2025. Related to this I do, however, note the Further Legal Submissions of Ms Thomas[28] where in referencing the more extensive MDP definition of visitor accommodation which includes the phrase "may include some centralised services or facilities" it is noted that:

"While the examples within the definition of what 'visitor accommodation' may include is not exhaustive, the reference within the definition to centralised services and facilities is instructive. The language used indicates that the definition contemplates a particular type of facility – one used exclusively for visitors, or the scale of which is not commensurate with the use of a dwelling, is purpose built, and designed and operated as a commercial visitor accommodation business with associated facilities and services (for example, backpackers, camping grounds, hostels, hotels, motels, motor inns and tourist lodges."

64. Mr Garbett did not agree with this assessment, noting at the reconvened hearing that the definition did not require such additional facilities or services, the definition simply incorporates such should they be required for a particular facility or level of service. In short, it is possible for visitor accommodation to fit within the meaning of the definition without such facilities being provided. Given this, the application of the RUE calculation remains the appropriate metric for the RVA proposed as part of this application.

65. The definition of RUE includes a requirement to consider the number of people a unit is "designed to accommodate". Ms Winder[29] notes that:

65.1. As the RVA has 4 bedrooms it is designed to accommodate 8 people.

65.2. While consent is sought for 10 people, that is not relevant to the way the rule should be interpreted and applied. The consent seeks ten in order to enable families with very young children to be accommodated.

66. I disagree with Ms Winder's proposition. Determining the design occupancy of the RVA must be linked to the manner in which the unit can be used. In this case that includes a link to this consent application and the proposal before me. The fact remains that the Contributions issue is an RMA matter

[27] Contributions Policy section 2.2
[28] Thomas Further Legal Submissions 19 December 2025 paragraph 26
[29] Winder Reply Evidence 19 December 2025 paragraphs 28 - 34

that I must consider under the rules of the MDP and the application I am charged with deciding on. I cannot uncouple an aspect of the proposal that is clearly described in the application documentation and in evidence.

67. I received evidence on the issue of whether the Contributions as assessed by the District Council were "fair and reasonable". Related to this, the rules also describe the Contributions formula as a "maximum".

68. In particular, and as noted in paragraph 55 above each of the services contributions rules notes that the:

68.1. Contribution shall be a "fair and reasonable" share of the cost of the services provided.

68.2. Contribution determined from the formula in the rule shall be a "maximum".

69. On the issue of fair and reasonable, I note the position of Ms Winder and Ms Thomas; being that as an RVA, block 2 would not generate any greater demand on services from that which would occur with an ordinary residential unit. I found the Closing Submissions of Mr Garbett[30] to be very helpful on this matter. Specifically, Mr Garbett correctly notes:

69.1. The RVA is capable of being let most of the year for up to 10 guests.

69.2. Infrastructure is designed and funded to cope with peak loads.

69.3. The average occupancy of a dwelling is 2.6 occupants as stated in the MDP.

69.4. Having 10 guests in an RVA is more aligned with a peak demand than the average household demand.

70. On this basis I agree with the Council's position that setting a contribution for the RVA based on 3.8 RUE is fair and reasonable for each of the relevant services. It follows also that as a maximum, that rate is also appropriate.

<u>Open Space and Recreation</u>

71. Rule 9.b(ii) of the MDP reads:

"Cash contributions towards the provision and maintenance of land and/or facilities for open space and recreation shall be made for new or additional residential units or visitor accommodation or any combination of the two, at the following rates:

...

ii. Cash equivalent of the value of 2m^2 of land for each additional 100m^2 of new, net visitor accommodation building floor area created, at the time of building consent, less any contribution made at the time of previous subdivision."

[30] Garbett Closing Submissions paragraphs 11-14

72. Two issues arise from this. First, does the provision apply given that the proposed RVA is less than 100m^2 and, second, has there been a previous contribution payment made for visitor accommodation at the time of subdivision.

73. On the first issue, Ms Winder argued that as the proposed RVA was less than 100m^2 (being 94m^2), the contributions rule was not triggered and thus no payment was required. Ms Winder has effectively treated the 100m^2 as a threshold. Mr Garbett[31], on the other hand, submitted this interpretation was incorrect stating that the rule applied to the first 100m^2 "or part thereof". To support the argument Mr Garbett referenced clause ii of the rule noting that the first 100m^2 or part thereof triggers a contribution and a 2nd 100m^2 would tigger a second contribution.

74. The issue that I have with Mr Garbett's argument is that the rule does not include the phrase "or part thereof" and is not written in such a way that implies a ratio can be applied. Given this, I agree with Ms Winder that the rule does not apply as the 100m^2 threshold has not been reached.

75. On the second issue, while there is no compelling evidence that confirms whether this has occurred or not, the issue is redundant given my findings above.

District Plan Objectives and Policies (section 104(1)(b))

76. Ms Royce[32] provided a detailed assessment of the relevant MDP objectives and policies for the LRZ, Precinct 1 and Transport Chapters. Ms Royce concluded that the proposal was consistent with the outcomes sought in the policy framework. Ms Winder[33] agreed.

77. In each case the objectives and policies largely seek acceptable effects outcomes. Given the assessments of the Planner's, Mr Clease and Mr Carr, my findings above, and the generally permissive approach of the MDP (both in terms of residential density and permitted RVA's) I agree with the conclusions of Ms Royce and Ms Winder. In particular the scale and built form of the proposal, and the activities proposed, are not out of character with what is anticipated in the zone. My findings are, of course, also influenced by the draft conditions developed by Ms Winder and Ms Royce.

[31] Garbett Closing Submissions 21 January 2026 paragraphs 22 - 23
[32] S42A report – Section 7
[33] Winder EIC paragraphs 88 and 89

Other Matters (Section 104(1)(c))

78. I am mindful that if this consent is granted, arguments of equivalent treatment may be raised by other applicants. The issue of precedent and consistent Plan administration is a matter that I must consider.

79. If precedent arguments were to be successful, then it raises questions of Plan integrity. Clearly it is not possible to quantify the likelihood of such occurrences and to do so would be pure speculation. That aside, any such application would need to be considered on its individual merits and on a case-by-case basis.

80. I accept that no two applications are ever likely to be exactly the same, but there may of course be similarities. Should that situation arise, there is the prospect that the manner in which one application has been processed may well influence the processing of another and ultimately the outcome itself.

81. Overall, I do not consider that this proposal gives rise to Plan integrity or precedent issues. I say this because of:

    81.1. The overall activity status and permissive nature of the MDP provisions.

    81.2. The overall effects and policy conclusions, which are application and site specific and not automatically transferable to other locations or proposals.

    81.3. The particular nature of this proposal and the conditions that have been offered.

PART 2 OF THE RMA AND DETERMINATIONS

82. The purpose of the RMA is to promote sustainable management of natural and physical resources. Section 5 of the RMA imposes a duty on consent authorities to promote sustainable management while endeavouring to avoid, remedy or mitigate adverse effects of activities on the environment. The term *sustainable management* is defined in section 5(2). In simple terms, the definition places emphasis on enabling people and communities to undertake activities, while ensuring that the 'bottom line' standards specified in subsections (a) – (c) are met.

83. Sections 6-8 of the RMA provide guidance on how the purpose of the RMA should be achieved. There are no matters in sections 6 and 8 that I consider relevant to this application.

84. Section 7 prescribes "other matters" to which I am directed to have particular regard. These matters include:

    (b) The efficient use and development of natural and physical resources;

(c) The maintenance and enhancement of amenity values; and

(f) Maintenance and enhancement of the quality of the environment.

85. I am satisfied, based on my earlier conclusions, that the proposal is aligned with sections 7(b), (c) and (f). I note the earlier effects-based conclusions, including the mitigation measures offered in the volunteered conditions.

86. Given all the above I consider that the proposal will achieve the purpose and principles of the RMA and that the consent can be granted, subject to conditions, as detailed in **Attachment A**.

DECISION

Pursuant to sections 104, 104C and 108 of the Resource Management Act land use consent RM240141 is granted for the restricted discretionary activity application of Huale Huang to establish and operate a five-bedroom residential unit, one one-bedroom minor residential unit and one four bedroom residential visitor accommodation unit for up to 10 guests on a site located at 3 Andrew Don Drive, subject to the conditions included in Attachment A.

Dated at Christchurch this 11th day of February 2026

Darryl Millar
Commissioner