

**Before the Hearings Panel
For the Queenstown Lakes Proposed District Plan**

Under The Resource Management Act 1991

In the matter of Proposed District Plan: Stage 2 – Hearing Stream 15 – Visitor
Accommodation

Legal submissions for Airbnb – Visitor Accommodation Provisions

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1 Introduction

- 1.1 Airbnb entered the New Zealand market in 2015 and currently has approximately 37,500 listings across the country. The Airbnb platform enables hosts to list rooms and spaces, homes, holiday homes and boutique hotels for short term rentals.
- 1.2 In 2017, the total economic contribution associated with expenditure of Airbnb guests in New Zealand was approximately \$660 million to the New Zealand economy in value added, supporting 6,006 full-time equivalents.¹ During the same period for the Queenstown economy (which includes the Otago regional as a whole) Airbnb contributed approximately \$89 million in value added, supporting 713 full time equivalents.² Airbnb's contribution to the Queenstown Lakes District economy, and tourism in the District, is significant.
- 1.3 In a nutshell, Airbnb opposes the residential visitor accommodation and homestay ('RVA') provisions because there is **no** compelling evidence that:
- a There are existing adverse amenity, parking, traffic or residential cohesion effects associated with RVAs that need to be addressed;
 - b There is a shortfall of long term housing capacity in the District;
 - c The provisions proposed will be effective in addressing any housing affordability or long term rental availability; and
 - d Holiday homes currently used for RVA will convert to long term rentals rather than remaining empty when not being used by their owners.

2 Evidence to be presented

- 2.1 Two witnesses are presenting evidence for Airbnb:
- a **Mr Thomas**, Head of Public Policy for Australia & New Zealand at Airbnb, will outline how Airbnb's platform operates in the Queenstown Lakes District and the impact of the provisions on residential visitor accommodation; and
 - b **Ms McLeod**, Director and Planner at Ainsley McLeod Consulting, will provide expert planning evidence.

¹ Deloitte, *Economic Effects of Airbnb in Queenstown*, 2018, page 4.

² Ibid.

3 Scope of legal submissions

3.1 These submissions address the following matters:

- a Council's rationale in relation to the RVA provisions;
- b The statutory framework;
- c Existing use rights;
- d The rationale for the different approach and activity status in various zones;
- e Enforcement issues; and
- f The relief sought by Airbnb.

4 Council's rationale in relation to the RVA provisions

4.1 Council's key justifications for the RVA provisions appear to be as follows:

- a The RVA provisions are necessary to give effect to Policy PA1 of the NPS-UDC. Council has, in its opening legal submissions, now acknowledged that these provisions are not strictly necessary to give effect to the NPS-UDC.³ Nonetheless Ms Bowbyes appears to still be arguing that the provisions will assist in implementing the NPS-UDC. Ms McLeod's evidence is that the RVA provisions are not appropriate or necessary to give effect to the NPS-UDC and in fact will have the effect of constraining choices and reducing efficiency in a way that is inconsistent with the NPS-UDC.⁴
- b The RVA provisions are necessary to address amenity, traffic, parking and noise associated with the provision of RVAs in residential areas, as well as the effects on residential cohesion. Ms Bowbyes contends that these effects are different from those generated by residential activities where only the owner occupies the dwelling.
- c There is a housing availability and affordability issue in the District and the RVA provisions are necessary to "satisfy the purpose of the RMA in section 5 by addressing housing affordability and also demand for long term rentals".⁵

³ Opening Legal Submissions for QLDC, paragraph 5.14.

⁴ Section 6 of Ms McLeod's evidence.

⁵ Opening Legal Submissions for QLDC, paragraph 5.16.

- 4.2 Airbnb submits that there is insufficient evidence to reach the conclusion that the RVA provisions are either necessary to address the amenity and traffic effects outlined in paragraph (b) above or will effectively address the housing availability and affordability issues outlined in paragraph (c). Each of these matters is addressed below.

Amenity, traffic, parking and noise effects and effects on residential cohesion

- 4.3 Ms Bowbyes concludes that the potential effects of RVA compared to the use of residential units for ‘residential purposes’ exceed the ‘quantifiable and enforceable metrics for noise and parking’.⁶ If this was the case, then the relief sought by Airbnb would enable these effects to be managed as for any other residential unit. However, there is no expert evidence to support this assertion. The Section 32 Report specifically acknowledges that:⁷

“... [T]here is no clear evidence that [residential] VA is having a direct adverse effects on parking availability, noise, built form or safety that can be distinguished from what would otherwise occur with permanent residential activities in these areas.”

- 4.4 The Section 32 Evaluation concludes that RVA ‘could’ result in additional noise and other nuisance effects and people ‘may’ be less likely to moderate their actions and respect their neighbours if they are visitors rather than permanent residents.⁸ The Section 42A Report acknowledges that:⁹

“Examination of nuisance and character issues has considered previous investigations of residential character of different areas, complaints data and data on enforcement actions. This examination shows the District is growing and changing in ways that some find uncomfortable but this is not the same as evidence of highly problematic adverse effects. Very few complaints about Airbnb are received by the Council and the issue about residential amenity and character is more one of cumulative adverse effects on a combination of the attributes that make up residential character and amenity.”

- 4.5 Ms Bowbyes concludes that in her view unregulated RVA **may** result in adverse effects on social cohesion and residential character.¹⁰ No expert social impact

⁶ QLDC Memorandum of Counsel dated 14 September 2018, paragraph 1.7.

⁷ Paragraph 6.20 of the Section 32 Evaluation.

⁸ Paragraph 6.32 of the Section 32 Evaluation.

⁹ Paragraph 2.6 of the Section 42A Report.

¹⁰ QLDC Memorandum of Counsel dated 14 September 2018, paragraph 1.7.

evidence has been provided by the Council or any submitters to support that view. Ms Bowbyes relies solely on an outdated social impact assessment completed in 2008 as part of the previous plan change. The focus of that work is on certain residential zones only and does not distinguish between visitor accommodation and residential visitor accommodation that may have different social impacts.

- 4.6 Ms Bowbyes also incorrectly assumes that dwellings currently being used for RVA will be used for long term rentals. As noted by Mr Heyes:

*"[t]here is insufficient information to determine exactly how many RVA listed properties have been taken out of the long-term rental stock because the personal circumstances and desires of the owners are unknown."*¹¹

- 4.7 Mr Heyes also acknowledges that "... part of the growth in RVA listings could be owners of holiday homes who, prior to listing their property on RVA platforms, might have left their property empty when they were not using it. Such properties were never part of the long-term rental stock (under their current ownership) and have therefore not constrained the supply of rental properties".¹²
- 4.8 There is no assessment of how many holiday homes will be left empty between periods of use by the owners if those owners are no longer able to carry out RVA. As pointed out by Ms McLeod, the Section 32 Evaluation states that there is anecdotal evidence suggests that residential units consented to be used for 90 days are seldom available for longer term rentals for the remaining 275 days of the year.¹³ It is difficult to see how empty holiday homes would contribute to residential cohesion.

Housing availability and affordability

- 4.9 There is no compelling evidence that the proposed RVA provisions will actually assist Council in achieving the outcomes it seeks in relation to housing affordability and the availability of long term accommodation rentals. In particular, it is noted that the Section 32 Evaluation:
- a Acknowledges that there is insufficient evidence (in the Infometrics Report that Mr Heyes also relies on) that there is a direct causative relationship between the growth in RVAs and the District's high rental and property

¹¹ Paragraph 10.7 of Mr Heyes' evidence.

¹² Paragraph 10.6 of Mr Heyes' evidence.

¹³ Paragraph 7.4(c) of Ms McLeod's evidence.

prices. Nonetheless, the Section 32 Evaluation report writer concludes that it is “reasonable to assume” that RVAs are an “important contributing to factor” to the District’s housing affordability.¹⁴ No attempt is made to quantify that contribution. As Mr Thomas also notes, the AirDNA data relied on in the Infometrics Report is also unreliable.¹⁵

- b Relies on the unreliable AirDNA data to draw conclusions about the rate of growth in RVA across the District.¹⁶ Mr Heyes acknowledges the limitations of the AirDNA data and concedes that he used that data because no other data was available.¹⁷ Mr Heyes also acknowledges that some of the growth in Airbnb listings in the District may simply be the result of Airbnb increasing its market share at the expense of other platforms.¹⁸ Mr Heyes speculates that it is likely that hosts would maintain their existing listings on Bookabach and Holiday Homes and also list on Airbnb because the first two platforms are free.¹⁹ He has no evidence to support this conclusion and has failed to take into account the practical difficulties of managing bookings across multiple platforms. Mr Heyes also assumes that all the Airbnb listings are new to the RVA market.²⁰ He fails to consider what proportion of these listings may have been available for rent for years or decades through other means but are now taking advantage of the online platform.

- 4.10 Ms McLeod also notes that the Housing Development Capacity Report confirms that housing capacity in the District is in fact well in excess of demand.²¹ The Report has included the demand from absentee owners of holiday dwellings and investment properties. Ms McLeod also notes that this excess capacity has been assessed in the absence of the more stringent proposed visitor accommodation provisions.²² Ms Bowbyes has provided a response which states that the authors of the Report have confirmed that the Report does not include an allowance for growth in RVA.²³ No reason is provided as to why no such provision has been made but it is possible that the absence of any reliable data relating to the rate of growth for RVA factored into their decision not to provide for it in their projections.

¹⁴ Paragraphs 6.19 and 6.20 of the Section 32 Evaluation.

¹⁵ Paragraph 6.6 of Mr Thomas’ evidence.

¹⁶ Paragraphs 6.21 – 6.24 of the Section 32 Evaluation.

¹⁷ Paragraph 3.8 of Mr Heyes’ rebuttal evidence.

¹⁸ Paragraph 3.13 of Mr Heyes’ rebuttal evidence.

¹⁹ Paragraphs 3.13 and 3.14 of Mr Heyes’ rebuttal evidence.

²⁰ Paragraph 4.2 of Mr Heyes’ rebuttal evidence.

²¹ Paragraph 6.7 of Ms McLeod’s evidence.

²² Paragraph 6.9 of Ms McLeod’s evidence.

²³ Paragraph 7.2 of Ms Bowbyes’ rebuttal evidence.

5 Statutory framework

5.1 Appendix 1 of the Council's legal submissions sets out the relevant statutory framework for the preparation of district plans. The key matters to be addressed in the context of Airbnb's submission are:

- a Whether the RVA provisions are designed to assist the Council in carrying out its functions so as to achieve the purpose of the RMA;²⁴
- b Whether the provisions are necessary to give effect to the NPS-UDC (this matter is addressed in paragraph 4.1(a) above);²⁵
- c Whether the provisions give effect to the Operative Otago Regional Policy Statement and have had sufficient regard to the proposed Otago Regional Policy Statement;²⁶
- d Whether each proposed objective in the district plan is the most appropriate way to achieve the purpose of the RMA;²⁷ and
- e Whether the policies and provisions give effect to the objectives taking into account:
 - i Other reasonably practicable options for achieving those objectives;
 - ii The efficiency and effectiveness of the provisions in achieving the objectives;
 - iii The benefits and costs of the environmental, economic, social and cultural effects that are anticipated (including opportunities for economic growth and employment that are anticipated to be provided or reduced); and
 - iv The risk of not acting if there is uncertainty or insufficient information about the subject matter of the provisions.²⁸

5.2 Each of these matters is addressed below.

²⁴ Section 74(1) of the RMA.

²⁵ Section 75(3)(ba) of the RMA.

²⁶ Section 75(3)(c) of the RMA.

²⁷ Section 32(1)(a) of the RMA.

²⁸ Sections 32(1) and 32(2) of the RMA.

Whether the RVA provisions are designed to assist the Council in carrying out its functions so as to achieve the purpose of the RMA

5.3 This matter is not addressed in the Section 42A Report, the Section 32 Evaluation or Council's evidence. Ms Bowbyes has now partly addressed the issue in the Council's Memorandum of Counsel dated 14 September 2018. The question posed in that Memorandum is:

Can the suggested effects of RVA on affordability of housing and availability of long term rental accommodation be managed under the RMA in the context of the Council's functions (s31) and Part 2 of the RMA?

5.4 Airbnb does not dispute that, in principle, managing the adverse effects associated with RVA (assuming there are such adverse effects) falls within the Council's functions under section 31. It is also acknowledged that the adverse effects of RVAs on housing affordability and availability of long term rental accommodation (assuming there are such adverse effects) is a matter which could be considered in the context Part 2 of the RMA (particularly under section 5).

5.5 However, Airbnb does not agree with Ms Bowbyes conclusion that the RVA provisions will assist in fulfilling Council's functions under section 31(1)(aa) of the RMA. Section 31(1)(aa) requires councils to ensure there is sufficient development capacity in respect of housing to meet the expected demands of the District.²⁹ It is submitted that the RVA provisions relate to the use of existing housing stock (and the effects of that use) rather than the provision of sufficient 'development capacity' for housing.

5.6 Whilst the types of effects that the RVA provisions target are in principle able to be managed under the RMA, the key questions are:

a What is the nature and scale of the adverse effects that need to be addressed?

b Once the adverse effects have been established, will the effects be effectively managed by the provisions?

5.7 Airbnb's position is that there is insufficient evidence (as outlined in Section 4 of these submissions above) that the RVA provisions:

²⁹ Paragraph 1.8 of the Memorandum of Counsel dated 14 September 2018, response provided by Ms Bowbyes.

- a Are necessary to address the potential amenity and traffic effects of RVAs;
or
 - b Will effectively address housing affordability and rental availability issues.
- 5.8 In addition, there are practical and administrative difficulties associated with the application of the provisions. These issues are discussed further in Section 8 below.

Whether the provisions give effect to the Operative Otago Regional Policy Statement and have had sufficient regard to the proposed Otago Regional Policy Statement

- 5.9 As noted by Ms McLeod,³⁰ the RVA provisions frustrate the extent to which Objective 1.1 of the Proposed Otago Regional Policy Statement is given effect to and are not appropriate or necessary to give effect to Objectives 4.5 and Policies 4.5.1, 5.3.3, 5.3.6 and 1.1.1. Therefore, it is not possible to conclude that sufficient regard has been had to the proposed Otago Regional Policy Statement. Ms Bowbyes does not address these objectives and policies in her rebuttal evidence.

Whether each proposed objective in the district plan is the most appropriate way to achieve the purpose of the RMA

- 5.10 Ms McLeod notes in her evidence that the Section 32 Evaluation has relied on the identification of 'issues' to define how section 5 of the RMA should be articulated and these issues have in turn informed the determination of the most appropriate objectives to give effect to section 5 of the RMA.³¹ Because the issues are framed in a way that only considers the potential adverse effects of RVA, the analysis in Section 8 of the Section 32 Evaluation is narrowly focused on those issues rather than a broader assessment of the most appropriate way to achieve the purpose of the RMA. In addition, the articulation of the issues is founded on a series of flawed assertions as set out in Section 4 of these submissions above.
- 5.11 Similarly, Ms Bowbyes' rebuttal evidence does not contain an analysis of Part 2 or section 5 of the RMA and focuses solely on the social benefits of providing for affordable housing and long term rental accommodation. Providing for housing needs is only one element of social wellbeing and section 5 of the RMA requires a much broader assessment including economic wellbeing (for example the

³⁰ Section 9 of Ms McLeod's evidence.

³¹ Paragraph 9.14 of Ms McLeod's evidence and page 47 of the Section 32 Evaluation.

benefits of RVA to tourism, the contribution of tourism the regional economy and the benefits of accommodation choice for visitors).

- 5.12 Therefore, it is not possible to conclude that the objectives are the most appropriate way to achieve the purpose of the RMA.

Whether the policies and provisions are the most effective way of giving effect to the objectives taking into account:

- ***Other reasonably practicable options for achieving those objectives;***
- ***The efficiency and effectiveness of the provisions in achieving the objectives;***
- ***The benefits and costs of the environmental, economic, social and cultural effects that are anticipated (including opportunities for economic growth and employment that are anticipated to be provided or reduced); and***
- ***The risk of not acting***

- 5.13 Whilst noting that the objectives are flawed as outlined above, the Section 32 Evaluation³² and QLDC's Memorandum of Counsel dated 14 September³³ set out numerous options that could be used to address housing affordability and long term rental availability in the District. There is insufficient analysis of whether these options, or a combination of them, would be more effective in addressing the housing affordability and long term rental availability issues. It is not sufficient to simply conclude that the RVA provisions "sit within a broad framework of local and central government policies, regulations and initiatives that are designed to manage and address housing an rental affordability".³⁴

- 5.14 The analysis of the costs and benefits and effectiveness of the proposed RVA provisions set out in the Section 32 Evaluation is based on the same flawed assumptions as set out in Section 4 of these submissions. As noted in the legal submissions for Bookabach and Bachcare, caselaw has established that where the purpose of the RMA and the objectives can be met by a less restrictive

³² Pages 53 to 57 of the Section 32 Report, dated 2 November 2017.

³³ Section 10 – response provided by Mr Heyes.

³⁴ Paragraph 10.10 of QLDC's Memorandum of Counsel dated 14 September 2018.

regime, then that regime should be adopted.³⁵ As noted by the Court in *Hodge v Christchurch City Council*:³⁶

Section 32 is primarily there to ensure that any restrictions on the complete freedom to develop are justified rather than the converse.

5.15 In the absence of any evidence to the contrary, the least restrictive regime should be adopted. There is no justification for managing the amenity effects of RVA in a different way from other residential activities. Similarly, there is insufficient evidence that the RVA provisions will assist in addressing housing affordability or a long term rental shortage in the District.

6 Rationale for the different approach and activity status in various zones

6.1 The Section 42A Report states that a more restrictive regime is required for RVAs in the lower density zones. The rationale for that approach is not clear and seems difficult to justify, particularly given that presumably these lower density zones are likely to have greater capacity to absorb the amenity, traffic and parking effects that Council asserts are generated by RVAs.

6.2 Regardless of the rationale behind this approach, there have been numerous amendments to the provisions through the Council's rebuttal and the Memorandum of Counsel dated 14 September 2018. In the absence of a consolidated marked up version of the provisions, it is very difficult to piece together the amendments that are proposed. However, the scope and nature of the amendments means that it is now very difficult to determine any coherent rationale for the approach in each zone and the differences between those zones. The amendments made include:

- a Change of status of Homestays not complying with the permitted activity standards from non-complying to restricted discretionary.³⁷
- b Change of status for RVAs in the Rural Zone and WBRAZ from discretionary to controlled.³⁸
- c Change of activity status of Homestays in the Rural Zone and WBRAZ (excluding the Lifestyle Precinct) from discretionary to controlled.³⁹

³⁵ Paragraphs 3.5 to 3.7 of Legal Submissions of Counsel for Bookabach and Bachcare dated 14 September 2018.

³⁶ [1996] NZRMA 127 at 139.

³⁷ Paragraph 5.3 of QLDC's Memorandum of Counsel dated 14 September 2018.

³⁸ Paragraph 6.6(b) of QLDC's Memorandum of Counsel dated 14 September 2018.

³⁹ Paragraph 6.6(b) of QLDC's Memorandum of Counsel dated 14 September 2018.

- d Potential changes to the RVA provisions for the Millbrook and Waterfall Park Zone, although these changes will not be confirmed until Ms Bowbyes' reply evidence.⁴⁰
 - e Change in the activity status for RVA within the Visitor Accommodation Sub-Zone and/or the Arrowtown Town Centre Transition Overlay of the Arrowtown RHMZ from non-complying to restricted discretionary.⁴¹
 - f Change in the activity status for RVA within the Visitor Accommodation Sub-Zone of the Low Density Suburban Residential, Medium Density Residential, Arrowtown Residential Historic Management and Large Lot Residential zones from non-complying to restricted discretionary.⁴²
 - g A new permitted activity has been introduced for RVA and Homestays in the Jack's Point Village Activity area , Homestead Bay Village Area and the Lodge Activity Area.⁴³
 - h Rules 41.5.2.6 and 41.5.2.7 are now proposed to be controlled activities (were previously restricted discretionary).⁴⁴
- 6.3 The changes made by Ms Bowbyes stop short of recommending that RVA that does not comply with the permitted activity standards should default to discretionary or restricted discretionary in all zones. Ms Bowbyes considers that non-complying activity status is necessary to limit the proliferation of RVA activities and the resulting cumulative effects on residential cohesion and amenity.⁴⁵ No evidence is provided to support this position.
- 6.4 In *Royal Forest & Bird Protection Society of New Zealand Inc v Whakatane District Council*⁴⁶ the Environment Court noted that the complexity of plan making means that the classification of activities is likely to require specific analysis of the effects of that activity against the particular objectives and policies which relate to the activity being assessed.⁴⁷ The Court also emphasised that:⁴⁸

"It is important to note that the statutory framework for the classification of activities contains no provisions which address the application of these

⁴⁰ Paragraph 7.4 of QLDC's Memorandum of Counsel dated 14 September 2018. Note the activity status was changed from non-complying to discretionary during the rebuttal process.

⁴¹ Paragraph 3.8 of Ms Bowbye's rebuttal evidence.

⁴² Paragraph 3.5 of Ms Bowbye's rebuttal evidence.

⁴³ Paragraphs 10.4 – 10.7 of Ms Bowbye's rebuttal evidence.

⁴⁴ Appendix A of Ms Bowbye's rebuttal evidence.

⁴⁵ Paragraph 5.2 of QLDC's Memorandum of Counsel dated 14 September 2018.

⁴⁶ [2017] NZEnvC 51.

⁴⁷ *Royal Forest & Bird Protection Society of New Zealand Inc v Whakatane District Council* [2017] NZEnvC 51 at [62].

⁴⁸ *Ibid* at [63].

categories or classes to any particular activities or in terms of the nature of the effects of any activity. Instead, the scheme of the Act is that the categorization or classification of an activity is to be done by rules under s 77A. Such rules, like all others in a district plan, must be examined and assessed in accordance with the requirements of s 32 of the Act and consistent with the requirement under s 76(3) of the Act to have regard to the actual or potential effect on the environment of the activity under consideration including, in particular, any adverse effect.”

- 6.5 For the reasons set out above, there is no reasonable basis to conclude that RVA generates adverse effects which require a specific management regime that is different to residential activities. For the same reasons, it is impossible to conclude that the potential adverse effects of RVAs that do not comply with the permitted activity standards are of a sufficient scale to warrant the imposition of a default non-complying activity status.

7 Existing use rights

- 7.1 Ms McLeod’s evidence highlights the practical difficulties that existing hosts will encounter when attempting to establish existing use rights.⁴⁹ This issue has not been addressed in Ms Bowbyes’ rebuttal evidence and remains a key concern for Airbnb. It is not clear how hosts will be expected to establish that their activity remains the same or similar in character, scale or intensity under section 10 of the RMA. Similarly, there is uncertainty about how an existing rental use may be considered to have been discontinued where the property has been subject to repairs for a long period, is left unoccupied due to lack of demand or is vacant for a period for another reason.

8 Enforcement issues

- 8.1 Ms McLeod outlines her concerns about enforcement of the provisions in her evidence.⁵⁰ The Council’s legal submissions acknowledge that the RVA provisions may pose a challenge for Council.⁵¹ Ms Bowbyes acknowledges these concerns but has deferred recommending either approach until her right of reply at the end of the hearing.
- 8.2 Ms Bowbyes suggests the following two options:⁵²

⁴⁹ Paragraph 8.4 of Ms McLeod’s evidence.

⁵⁰ Paragraph 8.2 of Ms McLeod’s evidence.

⁵¹ Paragraph 5.10 of QLDC’s legal submissions.

⁵² Paragraph 7.13 of Ms Bowbyes’ rebuttal evidence.

- a Amending the proposed provisions so that there is a resource consent trigger for **all** RVA and Homestay activities that provides the opportunity for monitoring through resource consent and monitoring processes; and
 - b Including a permitted activity standard that would require registration with the Council, along with a standard requiring the recording of dates / duration by the RVA or Homestay operators.
- 8.3 Both these options are cumbersome in terms of the practical administration implications. It remains unclear from the Council's legal submissions which approach will be adopted and no proposed wording has been provided.⁵³ Airbnb submits that deferring these provisions to the right of reply stage is inappropriate, as it removes the ability for submitters to respond beyond setting out the general concerns outlined in Ms McLeod's evidence.

9 Relief sought by Airbnb

- 9.1 Airbnb submits that the plan provisions should be amended so that the definition of 'residential activity' includes RVA, holiday homes and homestays. As a result, any adverse amenity effects will be managed in accordance with the zone rules applying to other residential activities. This approach will ensure the maintenance of a consistent level of residential amenity throughout the zones and provide a greater opportunity for the establishment of 'residential coherence' when compared to the potential for a large number of empty houses.
- 9.2 Bookabach and Bachcare have requested an alternative solution that is more closely aligned to the operative provisions. Luxury Rental Homes has also suggested amendments to the provisions. Although their proposed provisions are less restrictive than the Council's proposed provisions, Airbnb submits that there is no evidence to justify the imposition of the restrictions they propose.

10 Conclusion

- 10.1 The requirement to obtain resource consents where RVAs cannot comply with the relevant permitted activity standards will impose a significant burden on hosts in the Queenstown Lakes District. Existing hosts will have difficulties proving that they have existing use rights and the Council is likely to face significant challenges in enforcing and monitoring the RVA provisions. In addition, the impact of the RVA provisions on the availability of tourist accommodation and the impacts on tourism within the District has not been adequately assessed.

⁵³ Paragraphs 5.10 to 5.12 of QLDC's opening submissions.

10.2 Putting aside the potentially significant costs of the RVA provisions to the Queenstown Lakes District community, the Council has also failed to provide any compelling evidence that the RVA provisions are necessary to address amenity, traffic, parking and residential cohesion effects. Similarly, there is insufficient evidence that the RVA provisions will be effective in addressing housing availability and affordability issues in the District. The RVA provisions are a blunt tool that will not assist the Council in addressing what is a highly complex economic issue. Further work is required to determine the most effective method for addressing this issue.

10.3 For these reasons it is submitted that the Hearing Panel should reject the proposed RVA provisions and should implement the relief sought by Airbnb.

Dated 21 September 2018

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