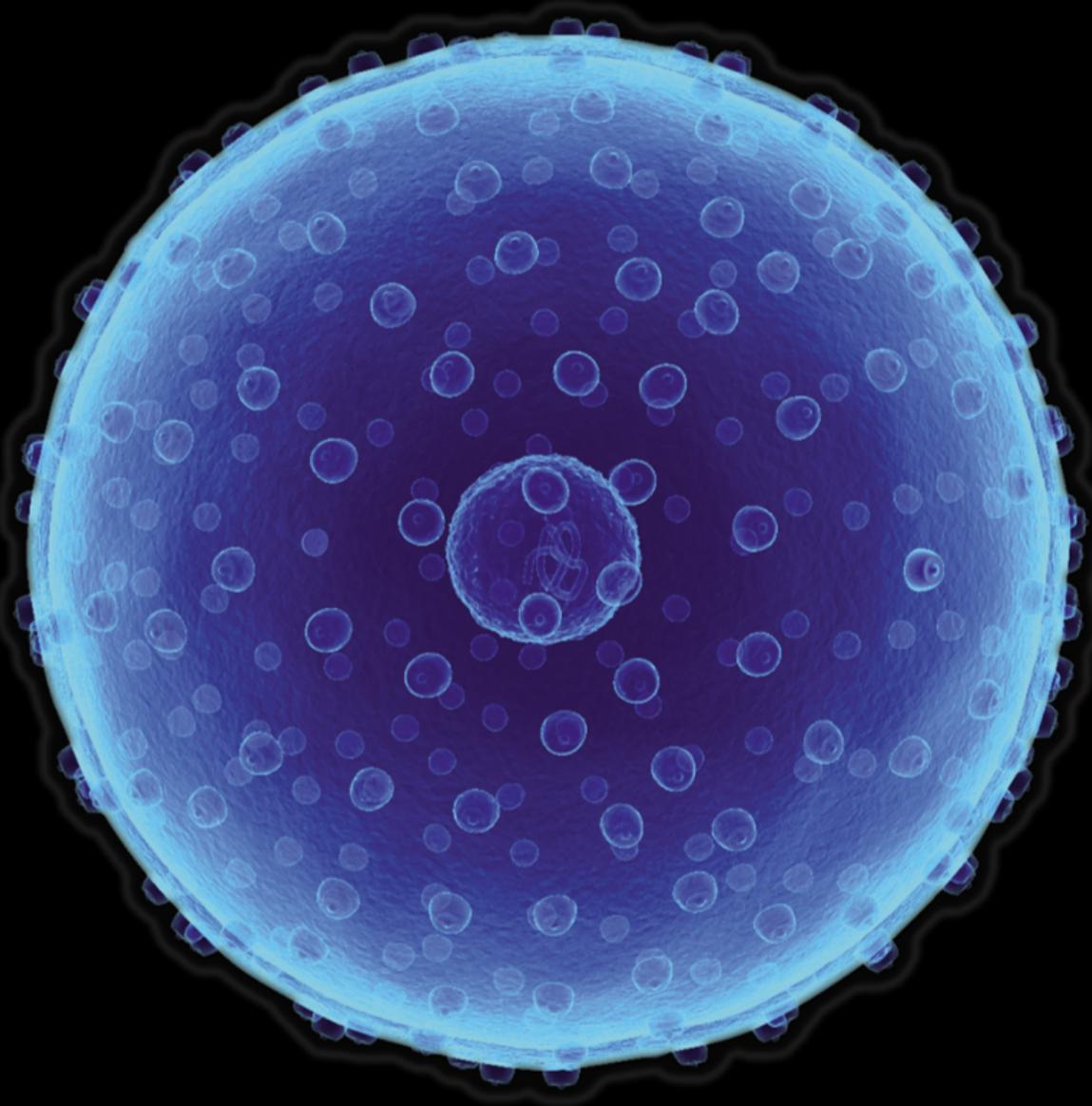


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**Regulatory Impact Statement: Public
Health and Wellbeing (Prescribed
Accommodation) Regulations 2020**

Department of Health and Human Services

September 2020

Deloitte
Access **Economics**

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Glossary

Acronym	Full name
ABS	Australian Bureau of Statistics
BRV	Better Regulation Victoria
DELWP	Department of Environment, Land, Water and Planning
DHHS	Department of Health and Human Services
DJCS	Department of Justice and Community Safety
JLL	Jones Lang LaSalle (real estate company)
LGA	Local Government Area
MAV	Municipal Association of Victoria
MCA	Multi Criteria Analysis
NCC	National Construction Code
NDIS	National Disability Insurance Scheme
NPV	Net present value
PHWA	Public Health and Wellbeing Act 2008
PSP	Now Strategic Policy and Projects Branch, DHHS
RAAV	Registered Accommodation Association of Victoria Ltd
Regulations	Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009
RIS	Regulatory Impact Statement
Rooming House Operators Act	Rooming House Operators Act 2016
RTA	Residential Tenancies Act 1997
SDA	Specialist Disability Accommodation
TRA	Tourism Research Australia
WHO	World Health Organisation

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Executive summary

The Victorian Government has committed to reinstating the sunsetted Public Health and Wellbeing (Prescribed Accommodation) Regulations that protect Victorians from public health risks associated with hygiene and cleanliness in certain types of accommodation.

The standard of prescribed accommodation and facilities affects public health

The Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009 (the Regulations) define the following classes of accommodation to be prescribed accommodation for the purposes of the *Public Health and Wellbeing Act 2008* (PHWA):

- Hotels and motels
- Hostels
- Student dormitories
- Holiday camps
- Rooming houses
- Residential accommodation (certain forms).

The number of persons living in prescribed accommodation has increased significantly over recent years – the number of rooming houses is growing, and before the COVID-19 health emergency, Victoria experienced increased tourism resulting in more visitor stays in hotels and motels, and growth in the number of overseas students which also increased occupancy in student dormitories. The number of Victorians requiring short- and long-term accommodation in rooming houses may increase further as a result of the local economic impacts of the COVID-19 health emergency.

The Regulations respond to acknowledged environmental risks posed to human health in prescribed accommodation settings, and the reduced capacity of individuals in such settings to control factors which might impact their health. It establishes regulatory standards that aim to eliminate health hazards related to space, water, hygiene, pests, and refuse.

The Regulations were due to sunset on December 2019 but were extended for a further 12 months until 14 December 2020.

This Regulatory Impact Assessment (RIS) considers three options for the Regulations

There is broad consensus across stakeholders consulted that the regulation of certain forms of shared accommodation is required and that the Regulations have an important role to play in managing public health risk.

The options considered in this RIS are:

- **Base Case:** the case that would exist in the absence of regulations i.e. if the Regulations were allowed to lapse at the end of 2020. The Base Case would mean that there is no detailed prescription of what accommodation places are subject to the registration provisions of the PHWA, and no hygiene and maintenance standards would be prescribed. It is important to note that the Base Case is a counter-factual scenario used to provide a common point of comparison for all options and is not being contemplated by Government as a viable option.
- **Option 1: Current Regulations:** the current Regulations would be re-made in their current form (see summary of current Regulations in Appendix A.)
- **Option 2: Current Regulations with minor improvements:** the current Regulations would be remade with minor improvements including changes to definitions to align with other regulatory frameworks and technical updates. This will include, for example, amendment of the prescribed accommodation definition of 'rooming house' to pick up the definition in the

Residential Tenancies Act 1997 (RTA) as the lead definition and to provide for consistency with the new Residential Tenancies provisions. This option aims to achieve improved clarity and consistency with other regulatory frameworks. It does not impose material changes in regulatory requirements.

More significant changes to the Regulations are not proposed at this time because a number of cross-portfolio reviews are being undertaken or will be commenced by other Victorian Government departments and agencies, on matters related to prescribed accommodation and the Regulations.

These reviews will not be completed before the release of this RIS. However, DHHS will consider the findings of all reviews in the context of the regulatory objectives of the PHWA and determine whether any changes to the Regulations should be made once reviews have been completed.

A Multi-Criteria Analysis assessed the costs and benefits of the options

The options in this RIS were assessed using Multi-Criteria Analysis (MCA) (see Table i, below) supported by quantitative information where available. This approach provides a structured and transparent way of evaluating the options given the limited quantitative data that is available, particularly in respect to benefits. The MCA provides a structured and transparent approach that can balance the different impacts.

Table i MCA criteria and weightings

Criteria	Description	Weighting
Cost to businesses ¹	Direct regulatory cost to proprietors of prescribed accommodation	40%
Supply of accommodation	Impact on supply of prescribed accommodation	10%
Total costs weighting		50%
Health and wellbeing	The benefits to prescribed accommodation occupants, the community, and healthcare system from reduced exposure to substandard accommodation	50%
Total benefits weighting		50%

Results of the analysis are summarised below for Option 1 and 2 compared to the Base Case (see Table ii). As there is no material difference in costs and benefits between Options 1 and 2, Option 2 has the same scores on costs and benefits as Option 1. The MCA demonstrates Options 1 and 2 are preferred to the Base Case of minimal regulations:

- The estimated total cost to businesses is approximately \$62.4 million (NPV) over 10 years or \$9,926 on average per business over 10 years. It is considered that the Regulations pose a low risk to the supply of prescribed accommodation, as other costs to businesses are a more significant driver of supply decisions.
- It is difficult to assign a score to the health and wellbeing benefits given the lack of data. However, given the high cost to individuals and the community of illness and injury, Options 1 and 2 are important in protecting occupants of prescribed accommodation.
- The costs to businesses and Councils are higher for Options 1 and 2 compared to the Base Case, however evidence suggests that adhering to, and monitoring, the Regulations, in terms of maintenance, cleanliness, maximum occupancy and minimal requirements, reduces costs associated with individual and public health and wellbeing.

¹ It is assumed the costs incurred by Councils in administering the system and monitoring, inspection and enforcement are passed onto businesses via cost recovery fees.

While the total weighted score is only slightly positive for Options 1 and 2 versus the Base Case, some of the costs estimated in this RIS are considered to be at the upper bound of what businesses would be expected to incur.

Table ii MCA results

Criteria	Base case non-weighted score	Option 1 and 2 non-weighted score	Weighting	Base case weighted score	Option 1 and 2 weighted score
Costs to businesses	0	-7	40%	0	-2.8
Supply of accommodation	0	-2	10%	0	-0.2
Health and Safety	0	+7	50%	0	+3.5
Total score				0	+0.5

Option 2 is preferred as it will provide clear and contemporary definitions consistent with other regulatory frameworks

Option 2 is preferred to Option 1 because it implements targeted changes to improve the efficiency of the current Regulations and achieves consistency with other regulatory frameworks that interact with the Regulations.

Option 2 is expected to have the same or similar health benefits as Option 1. It is also expected to lead to a very small decrease in costs compared to the current Regulations; the revision of certain terms in the Regulations may reduce inefficiencies in compliance and Council regulation.

Implementation will not differ greatly from the current application of the Regulations

The proposed remade Regulations continue the substance and form of the current Regulations. For this reason, the costs of implementing the preferred option will not differ substantially from the application of the current Regulations.

DHHS will monitor the operation and effectiveness of the proposed Regulations

DHHS will monitor the operation and effectiveness of the proposed Regulations in two ways:

- Ongoing engagement with Councils, including through ongoing liaison with Councils’ environmental health officers, and industry stakeholders
- Ongoing review of trends in the accommodation market.

This monitoring and broader stakeholder consultation will inform an ongoing assessment of whether the proposed Regulations are meeting the objectives of the PHWA, which are to achieve the highest attainable standard of public health and wellbeing by:

- Protecting public health and preventing disease, illness, injury, disability or premature death;
- Promoting conditions in which persons can be healthy;
- Reducing inequalities in the state of public health and wellbeing.

1 Background

The Public Health and Wellbeing Regulations will sunset in December 2020 and in order for them to be remade (either in their existing or an amended form) a Regulatory Impact Statement (RIS) needs to be prepared. This chapter outlines the purpose of this RIS, the background to the Regulations, and how the key steps in the RIS process will be applied to the review and remaking of the Regulations.

1.1 Introduction

People spend a lot of time in their residence, whether it is their home or temporary accommodation. In high income countries, people spend the majority (70%) of their time in their residence.² A residence provides a sense of belonging, security and privacy. The quality of the structure and facilities either enables or limits the enjoyment of good health and access to opportunities that support health, like education, employment and social connection. For this reason, housing should be structurally sound, provide adequate space, be equipped with clean facilities and protect occupants from pollutants and hazards like mould and pests.³

The Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009 (the Regulations) are aimed at ensuring Victorians are not exposed to public health risks while staying in certain 'prescribed accommodation'.

The Regulations prescribe the following classes of accommodation to be prescribed accommodation for the purposes of the PHWA:

- Hotels and motels
- Hostels
- Student dormitories
- Holiday camps
- Rooming houses
- Residential accommodation (certain forms).

The Regulations are made pursuant to the PHWA and require prescribed accommodation providers to minimise public health risks associated with shared use of facilities, and/or high turnover of occupants by meeting cleanliness, hygiene, maintenance standards, and standards to prevent overcrowding.

Specifically, the Regulations aim to protect the standard of health for users of prescribed accommodation.

Requiring minimum standards, cleanliness and hygiene particularly within shared facilities, and standards that prevent overcrowding, is highly relevant in the context of the coronavirus (COVID-19) outbreak.

² Baker M, Keall M, Au EL, Howden-Chapman P. (2007). Home is where the heart is – most of the time. New Zealand Medical Journal.

³ World Health Organisation. (2018). [WHO Housing and Health Guidelines](https://www.who.int/publications/i/item/who-housing-and-health-guidelines). <https://www.who.int/publications/i/item/who-housing-and-health-guidelines>

The Regulations were previously part of the Public Health and Wellbeing Regulations 2009, and were originally due to sunset in December 2019. They were separated out from the remade Public Health and Wellbeing Regulations 2019, and extended as the stand alone Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009 for a period of 12 months. The extension until 14 December 2020 was to enable completion of a number of cross portfolio reviews that interface with prescribed accommodation and consideration of those reviews in making new regulations. The Regulations include definitions that are relied upon, shared with or relate to other legislative schemes across a number of portfolios.

While the prescribed accommodation provisions of the PHWA and the Regulations address health and wellbeing risks such as the risk of infectious disease transmission associated with the provision of prescribed accommodation, other legal frameworks govern other matters relevant to prescribed accommodation, such as the construction of these premises (building and planning law), and the relationship between accommodation providers and those being accommodated (e.g. the RTA and the Rooming House Operators Act 2016 (Rooming House Operators Act)). The extension for 12 months was intended to allow for the development of 'fit for purpose' definitions across the broader regulatory framework relating to prescribed accommodation, taking into account the recommendations of the various cross portfolio reviews.

The Department of Health and Human Services (DHHS) has engaged Deloitte Access Economics to prepare this RIS in accordance with Better Regulation Victoria's (BRV's) Victorian Guide to Regulation (2016) and the *Subordinate Legislation Act 1994*. This RIS considers the impact of different options for replacing the sunseting Regulations. The rigorous assessment of regulatory proposals within a RIS ensures that regulation best serves the Victorian community. This RIS is subject to independent assessment by BRV and a public consultation process.

1.2 Legislative and regulatory framework in Victoria

1.2.1 Prescribed accommodation regulations

Prescribed accommodation regulations in Victoria date back to the mid to late 1800s when housing regulations were introduced in line with an emerging understanding of how infectious disease is spread and controlled.⁴ The *Common Lodging-House Act (1854)* empowered local authorities to maintain a register of lodging houses accommodating temporary and long term patrons, and prescribe hygiene standards and occupation density limits for these sites.⁵ Further, the proprietor of each lodging house was required to record the names of paying guests and notify the authorities of any disease outbreaks.⁶

Today, the requirements imposed on certain short and long-term stay accommodation providers are outlined in the Regulations. The Regulations support the PHWA, the objective of which is to achieve the highest attainable standard of public health and wellbeing by:

- Protecting public health and preventing disease, illness, injury, disability or premature death
- Promoting conditions in which persons can be healthy
- Reducing inequalities in the state of public health and wellbeing.

In relation to prescribed accommodation, the PHWA:

- **Defines prescribed accommodation** as accommodation prescribed within the following three broad classes:
 - a) Any area of land which a person or persons are frequently, intermittently or seasonally permitted to use for camping on payment of consideration and any facilities provided on the land for the use of that person or those persons.
 - b) Any premises used as a place of abode, whether temporary or permanent, fixed or mobile, where a person or persons can be accommodated on payment of consideration.

⁴ Australian Research Data Commons (2020). *Health, public*. <<https://researchdata.edu.au/health-public/490094>>

⁵ Ibid.

⁶ Ibid.

- c) Any accommodation provided to an employee in accordance with a term of an award governing the employment of the employee, or a term of the employee's contract of service, for use by the employee during that employment or service.
- **Specifies the basic components of the registration system** to be maintained by local municipal councils and requires proprietors to register their site, accordingly. Specifically, the system must note details of the issue, transfer or renewal of registration for prescribed accommodation, as well as the fees payable. In addition, councils must provide details required for the Rooming House Register, as outlined in the RTA.
- **Gives power to local municipal councils** to conditionally approve requests for registration, inspect registered premises, solicit information from the proprietor, and require reasonable improvements to the facilities.⁷

The Regulations specify which premises are and are not required to be comply with prescribed accommodation standards (see Table 1-1, below).

Table 1-1 Prescribed accommodation and exemptions

Prescribed accommodation (regulation 13)	Exemptions to definition of prescribed accommodation (regulations 14 & 15)
a) residential accommodation	a) a house under the exclusive occupation of the occupier
b) hotels and motels	b) a self-contained flat under the exclusive occupation of the occupier consisting of a suite of rooms that:
c) hostels	i. forms a portion or portions of a building; and
d) student dormitories	ii. includes kitchen, bathroom and toilet facilities; and
e) holiday camps	iii. forms a self-contained residence
f) rooming houses	c) temporary crisis accommodation
	d) a health or residential service within the meaning of section 3(1) of the <i>Residential Tenancies Act 1997</i>
	e) a residential care service within the meaning of the Aged Care Act 1997 of the Commonwealth
	f) any retirement village within the meaning of section 3(1) of the <i>Retirement Villages Act 1986</i>
	g) any house, building or structure to which Part 4 of the <i>Residential Tenancies Act 1997</i> applies
	h) any vessel, vehicle, tent or caravan
	i) premises in which, other than the family of the proprietor, not more than 5 persons are accommodated, and which is not a rooming house.

The Regulations also outline how exactly proprietors of prescribed accommodation are to meet the requirements of the PHWA and include the following requirements:

- **Registration:** applications to register prescribed accommodation must show a scaled plan of the premises, outlining the purpose for each room on site (r 16). All new applications, as well as registration renewals and transfers must record the date, name and address of proprietor, address of the accommodation, and any conditions of registration or renewal (r 16).
- **Minimum bedroom size:** bedrooms must have a floor area of at least 7.5m² in size (r 17(2)); the "floor area" includes the area occupied by any cupboard or other built-in furniture, but does not include any bathroom or toilet in, or attached to, the bedroom (r 17(6)(c)).⁸
- **Occupancy limit:** for periods of 31 days or less, a maximum of two person can occupy one bedroom with a floor area of less than 10m². Bedrooms of 10m² or more can accommodate three people, and an additional person for every additional 2m² over and above the 10m². For

⁷ Section 3 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

⁸ A proprietor of a holiday camp may be exempted from the requirement under regulation 17(2) if modification to comply is determined by council to be inappropriate because it would compromise the building's cultural heritage significance and the maximum period people are accommodated is 7 nights (regulation 17A).

periods of more than 31 days, a maximum of one person can occupy a bedroom of less than 12m², and two people can occupy a bedroom of 12m² or more. An additional one person can occupy that bedroom for every 4m² over and above the 12m² (r 17(4)).

- **Maintenance:** proprietors must ensure the accommodation and facilities (bedrooms, toilets, bathrooms, laundries, kitchens, living rooms and common areas) are kept in good working order and a good state of repair. The prescribed accommodation and facilities must be in a clean, sanitary and hygienic condition (r 18).
- **Cleanliness:** proprietors must ensure each bedroom and any attached toilets or bathrooms are cleaned once the bedroom is vacated and before it is accessed by another occupier, and that all bed linen provided with the accommodation is changed with clean linen: (i) at least weekly; and (ii) after accommodation is vacated and before it is reoccupied (r 19).
- **Water supply:** proprietors must provide a continuous and adequate supply of water to all toilet, bathing, kitchen, laundry and drinking water facilities, and hot water to all bathing, kitchen and laundry facilities (r 20).
- **Drinking water:** proprietors must ensure that drinking water supplied to an occupier is fit for human consumption if the drinking water was not supplied to the proprietor by a water supplier (r 21).
- **Sewage and wastewater disposal:** proprietors must ensure all sewage and waste water is discharged (i) to a reticulated sewerage system, or (ii) to a wastewater treatment permitted under the *Environment Protection Act 1970* (r 22).
- **Refuse receptacles and disposal:** proprietors must provide sufficient vermin-proof receptacles for the collection and storage of rubbish and ensure these are cleaned regularly (r 23). Proprietors must also ensure refuse is regularly removed from the accommodation by a refuse collection service (either by the local Council or private contractors) (r 24).
- **Toilet and bathing facilities:** proprietors must provide a minimum of one toilet, one bath/shower and one wash basin for every 10 persons (or less) occupying the accommodation (r 25).
- **Advertising:** any advertisement for the prescribed accommodation must accurately represent the class of accommodation under which the certificate of registration was approved (r 27).

As noted, local Councils monitor and enforce these standards. Councils have the authority to issue infringement notices for certain breaches and bring legal proceedings against proprietors for non-compliance with the requirements relating to prescribed accommodation.

1.2.2 Other regulatory frameworks

In addition to the health and hygiene standards prescribed in the Regulations, several other regulatory frameworks in Victoria are relevant to prescribed accommodation. These include:

Rooming houses

There have been a number of significant reforms in the rooming house sector over a number of years to improve the rights, health and safety, and amenity of occupants of rooming houses, and to clarify the rights and obligations of rooming house operators, and to provide for a clearer regulatory framework in this sector.

The RTA is the main source of consumer protection for Victorians living in rental housing, while also outlining the obligations of landlords and property managers. The RTA defines rights and duties of rooming house owners and residents of rooming houses. It is noted that the Government has undertaken a review of the RTA which aims to ensure that Victoria's rental sector meets the needs of tenants and landlords, now and into the future. The Victorian Parliament passed the *Residential Tenancies Amendment Bill 2018*, which includes more than 130 reforms designed to increase protections for renters, while ensuring those who provide rental housing can still effectively manage their properties. The start date of the *Residential Tenancies Amendment Act 2018* has been delayed due to the COVID-19 health emergency, with the amendments to be introduced by 1 January 2021, rather than the original 1 July 2020 date. Reforms to protect the rights of rooming house occupants included the following:

- To improve rooming house residents' awareness of their rights and responsibilities, the RTA explicitly requires rooming house operators to give a resident a copy of the 'Red Book'. A summary of these rights and responsibilities must also be displayed in each resident's room.

- The use of tenancy agreements for rooms in rooming houses has been replaced with tailored fixed term rooming house agreements.
- An amendment clarifies that where a building owner or lessee is entitled to terminate the lease of a building in which a rooming house is operating, the rooming house resident is entitled to be given a notice period when a building lease terminates, whether or not the building owner or person discontinuing the lease was aware that the rooming house was being operated.
- An owner of a building, or that owner's agent, must notify the relevant local council if they have reason to believe the building is being used as an unregistered rooming house. This reporting obligation was expanded to include where the building owner or their agent ought to know, in all the circumstances, that the building is being used as an unregistered rooming house. This reform aims to prevent owners and agents profiting from leasing a building from turning a blind eye where there is evidence it is being used as an unregistered rooming house.
- To clarify the rights of rooming house operators, rooming house operators are able to charge for separately metered water consumption in the same way that they can already charge for separately metered electricity and gas consumption. Where a room is separately metered for water, this will better reflect the resident's water use than the current practice of including water consumption in rent.

In 2012, the Residential Tenancies (Rooming House Standards) Regulations 2012 introduced rooming house standards to prescribe privacy, safety, security and amenity standards with which a rooming house owner must comply. In addition, a state-wide register of rooming houses was established and a new duty on rooming house operators to comply with minimum standards for rooming houses was introduced under the RTA.

A licensing scheme for rooming house operators operated by the Business Licensing Authority commenced in April 2017 under the Rooming House Operators Act to drive improved professionalism and reduce exploitative practices in rooming houses. It introduced a 'fit and proper purpose' test for rooming house operators in response to the former Victorian Government's Rooming House Standards Taskforce which made recommendations to improve rooming house accommodation and services in Victoria.

In October 2018, the Victoria Planning Provisions included provisions relating to the use and development of land for a rooming house to facilitate the establishment of domestic scale rooming houses.

Essential safety measures for construction of buildings, including rooming houses, are set out in the *Building Regulations 2018*. For a building to be converted into a rooming house, it must meet the requirements of the Building Regulations 2018.

Other Building Regulations

Victoria's building regulations impose basic sanitation standards for most prescribed accommodation buildings through the National Construction Code (NCC). Most of Victoria's prescribed accommodation is classified as Class 3 buildings under the NCC. Class 3 buildings are common places of long term or transient living for a number of unrelated persons. They include rooming houses, hostels, backpacker accommodation, hotels and motels. As Class 3 buildings, the NCC health and amenity requirements state that these buildings must have "A *bath or shower and, a closet pan [toilet] and a washbasin for each 10 residents for who private facilities are not provided.*"⁹

Caravan parks and moveable dwellings

Standards and requirements similar to those set out in the Regulations apply to caravan parks and moveable dwellings under the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020. Caravan parks and movable dwellings are

⁹ Australian Building Codes Board (2016). *National Construction Code: F2.1 Facilities in residential buildings*. <<https://ncc.abcb.gov.au/ncc-online/NCC/2016-A1/NCC-2016-Volume-One/Section-F-Health-And-Amenity/Part-F2-Sanitary-And-Other-Facilities-Dts/F21-Facilities-In-Residential-Buildings?inlineLink=4e0202a0-d936-48c2-a892-6c01cff6895e>>

exempted from prescribed accommodation as either "...houses, buildings or structures to which Part 4 of the Residential Tenancies Act 1997 applies" (r 14(g)) or as caravans, tents or vehicles (r 14(h)).

1.3 Regulatory framework in other jurisdictions

There are a range of similar regulations across Australian states and territories that establish expectations and standards to guide proprietors of shared accommodation facilities. These are outlined in Table 1-2 below.

Table 1-2 State and territory regulations relevant to shared accommodation facilities

Jurisdiction	Legislation or regulation	Purpose
ACT	Residential Tenancies Act 1997	<ul style="list-style-type: none"> Establishes that a residential tenancy agreement is not required for lodgers or boarders if their accommodation is: <ol style="list-style-type: none"> a caravan or mobile home in a mobile home park a hotel or motel used for a club on the campus of an education institution prescribed by regulation <i>N.B: There does not appear to be any contemporary public health or tenancy legislation that refers to prescribed accommodation, boarding houses, rooming houses, caravan parks, or student accommodation in the ACT.</i>
NSW	Boarding Houses Act 2012	<ul style="list-style-type: none"> Establishes requirements for the registration and regulation of boarding houses, including assisted boarding houses Defines Boarding Houses as providing occupants with a principal place of residence and beds for five or more residents Defines Assisted boarding houses as providing accommodation and other services to people with disability who need a high level of care for 2 or more residents Ensures occupants have the right to clean, secure and quiet accommodation in a good state of repair Authorises the NSW Civil and Administrative Tribunal (NCAT) to facilitate disputes between proprietors and occupants. <i>N.B: The Act excludes hotels, motels, caravan parks, tents, student accommodation, and health and residential care facilities.</i>
NT	Residential Tenancies Regulations	<ul style="list-style-type: none"> Applies to boarders and lodgers only if the person boards or lodges from week to week, for more than a week or is one of 3 or more people (compared to 4+ in Victoria) States occupants have the right to clean, secure and quiet accommodation in a good state of repair Facilitates a fair rent for safe and habitable accommodation to tenants.
	Public and Environmental Health Regulations 2018	<ul style="list-style-type: none"> Applies to accommodation that can sleep 7 people or more, excludes 'normal' tenant and caravan site agreements Establishes standards for maintenance, water/ablution facilities, a minimum floor area (unspecified), and changes to basic clean linen Defines commercial visitor accommodation as a regulated activity.
QLD	Residential Tenancies and Rooming Accommodation Act 2008	<ul style="list-style-type: none"> Applies to rooming style accommodation including boarding houses, supported accommodation, off-campus student accommodation, licensed premises and employer-provided accommodation, and rooming houses with shared facilities Prescribes minimum housing standards for rental accommodation to support occupant health and safety.

Jurisdiction	Legislation or regulation	Purpose
	Building Act 1975	<ul style="list-style-type: none"> Applies to affordable accommodation including boarding houses, hostels, guesthouses, B&Bs, farm stays, and hotels that accommodate six or more people.
SA	Residential Tenancies Act 1995	<ul style="list-style-type: none"> Applies to rooms available on a commercial basis for residential occupation Requires proprietors to ensure the premises are in clean and in a reasonable state of repair at the beginning of an occupant's tenancy and ensure the upkeep of facilities <i>N.B: The Act excludes hotels, motels, caravan parks, tents, student accommodation, and health and residential care facilities.</i>
Tas	Residential Tenancies Act 1997	<ul style="list-style-type: none"> Applies to a room which is occupied as the principle place of residence and ancillary shared facilities (bathrooms, toilets, or kitchens) Excludes hotels, motels, health and residential care facilities, student accommodation, or holiday accommodation States that a proprietor must not permit boarding premises to be occupied by more than one tenant unless they are joint tenants under the residential tenancy agreement or one of them is a carer for the other person Requires proprietors to provide private access to a toilet and hand-washing facilities 24 hours a day, and reasonable use of a bathroom or shower at least once a day Authorises the Commissioner to require proprietors to comply with standards outlined in the Act.
WA	Health (Misc Provisions) Act 1911	<ul style="list-style-type: none"> Applies to any building or structure that provides lodging for more than six people Establishes standards for the cleanliness of facilities Requires proprietors to register their premises with local authorities, provide access to clean water, and notify authorities of any deaths on site Provides local government with the authority to renew and update legislation on the health and safety requirements of registered sites (for example, regulations around fire safety, prevention and containment of infectious disease).

1.4 Cross-portfolio reviews being undertaken

The PHWA and the Regulations are part of a broader regulatory framework to protect the community through the regulation of accommodation. This includes the planning regime which aims to secure a safe working, living and recreational environment for all Victorians and visitors, and the residential tenancies regime that regulates the relationship between certain accommodation providers and occupants.

A number of cross-portfolio reviews are currently being undertaken or will be commenced by other Victorian Government departments and agencies, on matters related to prescribed accommodation and the Regulations. These reviews are outlined in Table 1-3 below.

These reviews will not be completed before the release of this RIS. However, DHHS will consider the findings of all reviews in the context of the regulatory objectives of the PHWA and determine whether any changes to the Regulations should be made once reviews have been completed.

Table 1-3 Current cross-portfolio reviews that intersect with the Regulations

Regulation	Scope of review	Intersection of review with Regulations
<p><i>Residential Tenancies Act 1997</i> (RTA) (Department of Justice and Community Safety (DJCS))</p> <p>Timing of findings/ Recommendations: Late 2021</p>	<p>The definition of rooming house for the purposes of the RTA and the <i>Rooming House Operators Act 2016</i> (Rooming House Operators Act), including the impact of any definitional change for the Regulations. The proposed review will consider options for a more modern definition to reflect existing accommodation offerings such as 'new model' rooming houses aimed at skilled workers and international students.</p>	<p>It is proposed to amend the regulations to adopt the definition of 'rooming house' in the RTA by reference. Amendments to the definition arising out of the DJCS review may therefore affect the coverage of the regulations as they apply to rooming houses.</p> <p>Consideration will be given to any 'new models' identified in the review including the interface with existing categories of prescribed accommodation such as 'student dormitory'.</p>
<p>Victoria Planning Provisions (Department of Environment, Land, Water and Planning (DELWP))</p> <p>Timing of findings/ Recommendations: Late 2020</p>	<p>Whether 'rural worker accommodation', should be included as a land use term in the Victoria Planning Provisions, with associated accommodation provisions.</p>	<p>DHHS considers it appropriate to consider the outcomes of the DELWP work pending consideration of further amendments to the PHWA which would be required to implement the recommendations of the 2016 report of the Victorian Government 's Inquiry into the Labour Hire Industry and Insecure Work relating to accommodation provided under labour hire arrangements.</p>
<p>Plan Melbourne 2017-50 - Metropolitan Planning Strategy (Action 31) Victoria Planning Provisions (DELWP)</p> <p>Timing of findings/ Recommendations: Late 2020</p>	<p>Action 31: Develop and implement a streamlined approvals process for specific housing types that address local housing gaps such as student housing.</p> <p>This would likely require consideration of whether 'student accommodation' should be included as a land use term in the Victoria Planning Provisions, with associated provisions.</p>	<p>DELWP's consideration of 'student accommodation' may be relevant to DHHS' consideration of whether 'student dormitories' is a 'fit for purpose' definition under the 'Regulations'.</p>
<p><i>Owners Corporation Amendment (Short-stay Accommodation) Act 2018</i> (DJCS)</p> <p>Timing of findings/ Recommendations: To be undertaken in 2021</p>	<p>The Government has committed to undertake a post implementation review of the Owners Corporation Amendment (Short-stay Accommodation) Act which enables owners corporations to take action against owners and guests of short-stay apartments used for unruly parties.</p> <p>Timing and terms of reference for the post-implementation review are yet to be settled, and will be subject to Ministerial approval.</p> <p>The BRV review of regulatory imbalances in the accommodation sector between traditional and short-stay accommodation will assist informing this.</p>	<p>The terms of reference and any relevant findings of the DJCS review may be relevant for the regulation of prescribed accommodation, including some short-stay accommodation.</p>
<p>Review of any regulatory imbalances in</p>	<p>Imbalances in the accommodation sector, specifically differences in</p>	<p>The observations or key findings of this review may be relevant to the</p>

Regulation	Scope of review	Intersection of review with Regulations
<p>the accommodation sector between traditional and short-stay accommodation. (Better Regulation Victoria (BRV))</p> <p>Timing of findings/ Recommendations: Finalise second half of 2020</p>	<p>standards and regulations for traditional and short stay accommodation.</p>	<p>regulation of prescribed accommodation including some traditional and short-stay accommodation.</p>
<p>Review of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020. (DELWP)</p> <p>Timing of findings/ Recommendations: 2023</p>	<p>The review will help address issues relating to the safety and standard of living for residents and visitors of caravan parks and moveable dwellings, while keeping the regulatory burden on operators to the minimum level necessary to achieve this.</p> <p>Proposed changes that are not authorised by Part 14 of the RTA, or changes to the RTA or any other legislation, are outside the scope of this review.</p>	<p>DHHS considers it is appropriate to consider the recommendations and stakeholder feedback arising from the DELWP review in considering whether definitions of types of prescribed accommodation (e.g. holiday camps) are fit for purpose.</p>

1.5 COVID-19 health emergency

Given the shared nature of many forms of prescribed accommodation, particularly the sharing of facilities such as kitchens, bathrooms and laundries in rooming houses and hostels, and the high occupancy rate of some forms of accommodation such as hotels and motels, there are increased public health risks for occupants. These include the spread of communicable disease, contraction of non-communicable disease such as respiratory illness and other bacterial infections resulting from environments with poor ventilation and excess moisture, and injury from environments not adequately maintained to address the impacts of occupancy turn over and the needs of occupants.

The COVID-19 health emergency presents additional challenges to particular cohorts of people over and above the rest of the community. While everyone in the community may be at risk of contracting COVID-19, certain groups of people are at greater risk of dying or becoming seriously ill including the elderly, those who have pre-existing medical conditions, and those living in higher density accommodation. Given the shared nature of prescribed accommodation, and that more vulnerable groups may occupy that accommodation, including the elderly, and people who may otherwise find themselves homeless, the current health emergency presents opportunities and learnings for altered risk management in shared accommodation sectors to respond to health emergencies.

It is appropriate for DHHS to carefully consider the data and experiences of the current COVID-19 health emergency to identify ways to tailor regulatory approaches to respond to new and evolving health risks such as coronavirus (COVID-19). This includes consulting with relevant sectors, including prescribed accommodation providers and occupants, to obtain their views on how their health needs can be better met in changed and challenging environments such as this. DHHS will consider this data and information and consult with stakeholders with a view to adapting regulatory requirements in the prescribed accommodation sectors as appropriate. This will be an ongoing exercise after the Regulations are remade and information, data and learnings are consolidated.

1.6 RIS process

Deloitte has prepared this RIS in accordance with the *Victorian Guide to Regulation*,¹⁰ which provides a best practice approach to analysing any proposed regulatory intervention. This RIS identifies the impact of the proposed Regulations on Victorian businesses and the community. Key steps in the process are:

- Preparation of the RIS (this document)
- Public comment on the RIS and proposed Regulations
- Addressing public comments
- Finalisation of the Regulations.

These steps are discussed in more detail below.

1.6.1 Preparation of the RIS

The key purpose of this RIS is to assess the impact of different options for replacing the sunseting Regulations. The general approach to the assessment is as follows:

(1) Identification of the problem

This involved consideration of the nature and extent of the problem that the proposed Regulations aim to address, including the need for government intervention, the risks of non-intervention and the objectives of such intervention.

(2) Identification of the options to achieve the objectives of the proposed Regulations

¹⁰ Commissioner for Better Regulation (2016). *Victorian Guide to Regulation: A handbook for policy-makers in Victoria*. <<http://www.betterregulation.vic.gov.au/Guidance-and-Resources>>

Options that could address the defined problems were identified, including both regulatory and non-regulatory options. Options which were deemed less feasible or less relevant were not pursued any further.

(3) Stakeholder consultations

Stakeholder consultation was undertaken to gather relevant information on the impact of the proposed Regulations and possible alternatives for different groups. The consultation process included:

- Consideration of a range of stakeholder input to the department over the last three years, including surveys of environmental health officers at municipal councils, in their administration of the prescribed accommodation scheme, written submissions from stakeholders such as the Registered Accommodation Association of Victoria, departmental meetings with stakeholders, participation in working groups such as a group led by the Commissioner of Residential Tenancies regarding rooming house accommodation, and an intergovernmental working group considering the sunset review of the Regulations, and round table discussions with Victorian Government and local government representatives in the portfolio areas interfacing with prescribed accommodation.
- An invitation in writing from DHHS, seeking input from stakeholders representing views across the broad spectrum of prescribed accommodation, namely industry, peak bodies, occupiers, and relevant statutory entities. This included providers of accommodation in the large and small tourism sectors, providers of rooming houses, providers of student accommodation, students, the Municipal Association of Victoria representing municipal councils which administer the prescribed accommodation scheme under the PHWA, a metropolitan council, and government stakeholders.

Appendix B outlines views received in written correspondence undertaken with stakeholders during this RIS process.

(4) Assessment of the costs and benefits

Assessment of the costs and benefits under all options, relative to a Base Case of no regulations, was undertaken consistent with the requirements of the *Victorian Guide to Regulation*. The analysis reflects data held by DHHS, data gathered through independent research and information provided by stakeholders.

(5) Assessment of the other impacts

We have considered the likely impacts of the preferred option on small businesses and general competition amongst firms.

(6) Implementation, enforcement and evaluation

These sections describe the arrangements for implementation, enforcement and evaluation of the preferred option.

1.6.2 Public comment

The proposed Regulations and this RIS will be released for a minimum of 28 days to provide businesses, members of the public and other interested parties the opportunity to provide feedback on these items.

The process for public commentary is outlined in the Foreword to this report. The proposed Regulations and RIS are available on the DHHS website at www2.health.vic.gov.au/public-health/infectious-diseases/public-health-wellbeing-act-regulations/proposed-public-health-and-wellbeing-prescribed-accommodation-regulations-2020.

1.6.3 Addressing public comment

DHHS will consider all submissions received during the period of public review. DHHS will prepare a formal Response to Public Comment summarising the submissions received and its response. Submissions to the review, and the formal Response to Public Comment document, will also be made available on the DHHS website referred to above.

2 Problem analysis

This chapter outlines the nature and the extent of the problem, which provides the case for the regulation of prescribed accommodation.

2.1 Coverage of the prescribed accommodation sector

The prescribed accommodation sector consists of residential accommodation, hotels and motels, hostels, student dormitories, holiday camps and rooming houses.¹¹ Residential accommodation may include for example, certain bed and breakfasts, guesthouses, lodges, cottages and cabins where they accommodate more than five occupants. Houses, self-contained flats and private holiday homes under the exclusive occupation of the occupier, are not prescribed accommodation. There are however, different views in the sector as to what constitutes 'exclusive occupation'.¹²

Premises that meet the definition of prescribed accommodation but accommodate five occupants or less (other than the proprietor's family) are exempt from the Regulations, apart from rooming houses. Aged care facilities are not prescribed accommodation and are separately regulated in the *Commonwealth Aged Care Act 1997* and other legislation and regulations.

2.1.1 Residential accommodation

The Regulations define residential accommodation as any house, building, or other structure used as a place of abode where a person or persons can live on payment of consideration to the proprietor apart from certain other forms of prescribed accommodation.¹³ The risk profile for the transmission of infectious disease in residential accommodation is considered relatively low. This is because the accommodation has limited shared facilities and ratings and market forces provide a strong incentive to maintain health, hygiene and sanitation standards.

There are exemptions to the Regulations for houses (this would include holiday homes) and self-contained flats under exclusive occupation by the occupier. Premises not under the exclusive occupation of the occupier, may be exempt where the number of persons accommodated (other than the family of the proprietor) is not more than five persons. As noted above, there are differing views in the sector as to what constitutes 'exclusive occupation'. These accommodation types are not considered to raise public health issues, for example as a result of shared facilities or vulnerable cohorts.

The exemptions mean that short stay accommodation provided in houses, apartments, and holiday houses, which is often advertised on online platforms such as Airbnb and Stayz, may not be covered by the Regulations. There has been concern expressed by some stakeholders about the potential regulatory imbalance between these types of accommodation and more traditional forms of shared accommodation (see section 2.1.7).

2.1.2 Hotels and motels

The Regulations define a hotel as a residential hotel and any residential premises in respect of which a general licence or on-premises licence is granted under the *Liquor Control Reform Act*

¹¹ Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

¹² Self-contained commercial residential accommodation for example holiday homes and apartments such as those listed on Airbnb, Stayz or Homeaway may constitute prescribed accommodation where the occupier does not have exclusive occupation and they accommodate more than five occupants (other than the family member of the proprietor).

¹³ Section 3 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

1998.¹⁴ It is generally accepted this definition covers accommodation resorts if a general or on-premises licence has been granted. A 'motel' is not defined in the Regulations.

Hotels and motels include a wide range of accommodation standards ranging from one to five star hotels. Four-and-five-star hotels have a very low risk of health concerns because ratings and market forces provide a strong incentive to maintain health and hygiene standards. Lower standard hotels and motels are more likely to have hygiene, cleanliness and maintenance issues.

Despite competing against each other, hotels and motels are regulated while some commercial residential accommodation properties (such as some of those advertised on online platforms) are not where they are under the exclusive occupation of the occupier.¹⁵ This has led to some claims that these accommodation types are not on a regulatory level playing field.

2.1.3 Hostels

The Regulations define hostels as any house, building or structure, whether temporary or permanent, which is used primarily for the accommodation of travellers.¹⁶ Hostels provide low-cost accommodation to typically young international and domestic travellers. Shared (dorm-style) bedrooms, amenities, a reception and on-site management are common features of hostels.

Because hostels usually involve shared facilities, health and hygiene issues may be more likely to arise.

The delineation between a hostel and a rooming house is sometimes not clear. For example, a property may be considered a hostel during summer when it is used primarily by travellers, and when those accommodated are more transient. In winter however, it may be used by non-travellers for longer stay accommodation, in which case, the business is operating as a rooming house.

2.1.4 Student dormitories

In the Regulations a student dormitory means any dormitory, student hostel, hall of residence or residential college for the accommodation of students, which is controlled by or operated under an arrangement or affiliated with:

- An institution providing educational services for children of compulsory school age within the meaning of s.1.1.3.(1) of the *Education and Training Reform Act 2006*
- Adult, community and further education services
- An autonomous college or adult education institution within the meaning of those definitions in s.1.1.3(1) of the *Education and Training Reform Act 2006*.¹⁷

Student dormitories are concentrated in major Victorian cities. These facilities are considered a medium public health risk given significant shared facilities such as bathrooms, toilets, kitchen and social areas.

In recent times however, student accommodation has transformed significantly. Modern types of student accommodation typically have limited shared facilities and it is reasonable to assume it presents a low public health risk. Modern student accommodation includes:

- Purpose built student accommodation (commercial), designed and utilised for exclusive use by students and operated by commercial student accommodation providers not controlled by or affiliated with an educational institution. The Regulations do not regulate this form of accommodation.
- Managed student housing portfolios (residential student housing portfolios which contain 50 beds or more) operated by student accommodation providers not controlled by or affiliated with an educational institution, specialising in shared rental properties for the exclusive use of students. This type of accommodation is not covered by the Regulations.
- Student hostels (which are often low cost and provide short to mid-term accommodation) operated by student accommodation providers not controlled by or affiliated with an

¹⁴ Section 3 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

¹⁵ There are differing views in the sector as to what may constitute 'exclusive occupation' of the occupier.

¹⁶ Section 3 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

¹⁷ Ibid.

educational institution. These are only covered by the Regulations to the extent they are affiliated with an education provider or university.¹⁸

Similarly, private rentals where students live are not captured by the definition of student dormitories, and homestay arrangements for international secondary or tertiary students are also not covered.

Stakeholder feedback from Councils suggest that some students are accommodated in converted private homes and/or high rise apartments. Considering the number of occupants, leasing arrangements, and the presence of shared facilities, these properties may effectively be operating as illegal rooming houses. This type of accommodation may be an attractive affordable housing option for students, but it could present a risk of overcrowding.

2.1.5 Holiday camps

The Regulations define a holiday camp as any house, building or structure, whether temporary or permanent, which is used for the accommodation of student groups, youth groups or family groups for holiday or recreational purposes.¹⁹ They provide accommodation for school camps, youth groups and family gatherings, but can also be used for other purposes such as spiritual retreats and special interest camps.

Holiday camps typically offer cabin or dorm style accommodation, shared amenities and purpose-built facilities. Because of their shared bedrooms (dorm-style rooms) and shared amenities such as bathrooms and toilets, holiday camps may present a public health risk if not managed appropriately.

Holiday camps often offer similar facilities to caravan parks, however caravan parks are separately regulated. This may cause confusion for proprietors and challenges for Councils when undertaking compliance activities.

2.1.6 Rooming houses

A rooming house is defined in the Regulations as a building in which there is one or more rooms available for occupancy on payment of rent in which the total number of people who may occupy that room or those rooms is not less than four.²⁰ Rooming houses are typically characterised by:

- Individual rent or lease agreements to use a bedroom, which is different to a share house or exclusive occupation
- Shared bathroom, kitchen and laundry amenities
- Locks on bedroom doors
- Inability to choose co-residents
- No formal support services on the premises.

Traditional rooming houses tend to be purpose-built, with many bedrooms, and are most commonly located in metropolitan areas. Rooming houses provide short and long-term tenancies and form an affordable housing options for people, including vulnerable cohorts.

Rooming houses typically provide accommodation for disadvantaged, vulnerable or marginalised members of the community. Traditionally, rooming houses catered for middle-aged single men and this is still largely the case, however over the last 30 years rooming houses have increasingly

¹⁸ These are to be distinguished from hostels for the accommodation of travellers, which are a separate form of prescribed accommodation under the Regulations.

¹⁹ Section 3 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

²⁰ Ibid.

housed a wider range of vulnerable people,²¹ homeless people,²² those in housing crisis, single parent families and international students or non-English speaking migrants.²³

The risk profile for infectious disease transmission in rooming houses is often high given the presence of shared facilities (such as bedrooms, bathrooms, kitchens and laundries) and the vulnerable cohorts residing in rooming houses.

More recently the rooming house market has been modernised and diversified into small new model or mini rooming houses. Existing residential houses may be converted into rooming houses, and sometimes this involves building modifications to create more bedrooms. Each resident has a separate arrangement with the operator. It is reasonable to assume that the health risk in modern purpose built facilities is lower than in the traditional rooming houses.

There is some stakeholder feedback that there is an increase in the number of illegal rooming houses operating out of high-rise apartment buildings.²⁴ This accommodation often targets international students considering their proximity to universities. The issue of students being accommodated in potentially illegal rooming houses was discussed in section 2.1.4.

Some other issues raised by stakeholders relating to rooming houses include:

- It may not be clear whether student accommodation constitutes a rooming house.
- Some operators going to extreme lengths to avoid registration
- There may be difficulty obtaining evidence to establish a rooming house, such as establishing individual rent arrangements among vulnerable people
- There are challenges in investigation and enforcement of unregistered rooming houses
- Overlap of regulatory frameworks.

2.1.7 Short stay accommodation

A recent trend in the accommodation sector is the emergence of 'short-stay' accommodation platforms such as Airbnb, Stayz and Booking.com which list houses, apartments, and holiday homes for occupation by the public. Houses and self-contained apartments will generally be exempt where they are under the exclusive occupation of the occupier or where there are not more than five occupants (other than the family of the proprietor) accommodated.²⁵ There are differing views in the sector as to what constitutes 'exclusive occupation', however, and this can lead to inconsistencies in the regulation of like forms of occupation and uncertainty for accommodation providers.²⁶

In 2019, it was estimated that around 4% of Australia's housing stock, or around 33,000 Victorian properties, were listed on Airbnb (see

²¹ Greenhalgh, E., Miller, A., Minnery, J., Gurran, N., Jacobs, K. & Phibbs, P. (2004). *Boarding houses and Government supply side intervention, AHURI Final Report No54.*

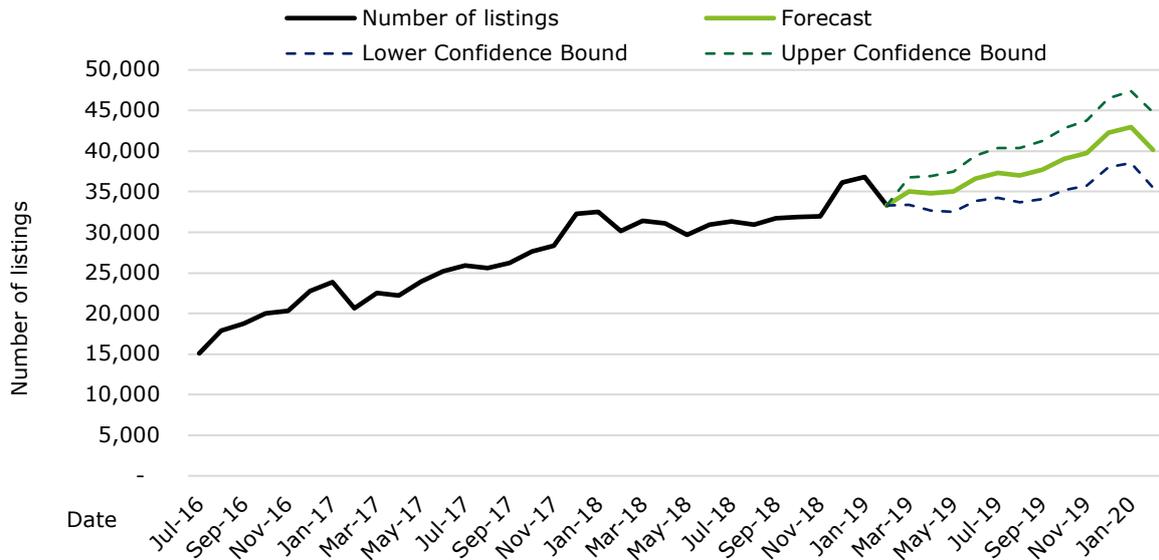
²² Johnson, G. (2007). *Homelessness in Melbourne: Confronting the Challenge.* <https://www.researchgate.net/publication/272789417_Homelessness_in_Melbourne_Confronting_the_Challenge>

²³ Department of Health and Human Services. (2011). *Proposed Residential Tenancies (Rooming House Standards) Regulations Regulatory Impact Statement.* <<https://www.vic.gov.au/sites/default/files/2019-11/Residential-tenancies-Rooming-house-standards-Regulations-2011-RIS.pdf>>

²⁴ Also refer to Everaardt, T. (2020). *Underground rooming houses pose COVID-19 risk, says experts.* <<https://9now.nine.com.au/a-current-affair/coronavirus-overcrowded-student-dorms-exposed-as-potential-covid19-hotspots/f03265e3-d575-4676-8214-3d8deba8110d>>

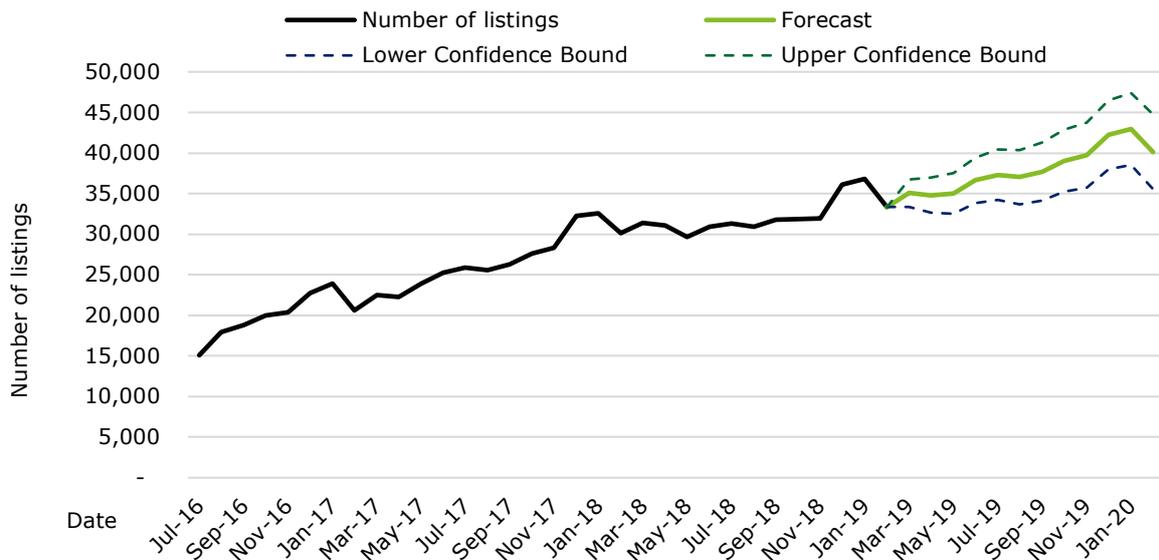
²⁵ Other forms of prescribed accommodation such as 'bed and breakfasts' may be exempt where there are more than five occupants (other than the family of the proprietor).

²⁶ [Small Business Victoria](#) states that 'self contained accommodation' is prescribed accommodation. [Consumer Affairs Victoria](#) does not classify holiday accommodation like bed and breakfasts as rental accommodation, instead they are classified as a service.



, below).²⁷ While the majority (74%) of national listings in February 2019 were for private homes or apartments, there were also listings for private rooms (25%) and shared rooms (1%).²⁸ Data for other short stay accommodation providers is not available.

Figure 2.1 Monthly Airbnb listings in Victoria



Source: Data provided by Airdna retrieved from The Conversation. (2020). *Ever wondered how many Airbnbs Australia has and where they all are? We have the answers.*

There are concerns about the disorderly behaviour of occupants of some forms of 'short stay' accommodation in the share economy, for example where occupants host unruly parties. This

²⁷ Figures calculated by The University of Queensland based on source data provided by Airdna. Retrieved from: Sigler, T., & Panczak, R. (2020). *Ever wondered how many Airbnbs Australia has and where they all are? We have the answers.* <<https://theconversation.com/ever-wondered-how-many-airbnbs-australia-has-and-where-they-all-are-we-have-the-answers-129003>>

²⁸ Ibid.

concern however focuses on the behaviour of short term occupants more in terms of public nuisance rather than public health. The issue was addressed in recent reforms in the *Owners Corporations Amendment (Short-stay Accommodation) Act 2018* which came into effect in February 2019. It amended the Owners Corporation Act 2006 to help prevent short term accommodation apartment buildings being used to host unruly parties. The reforms apply to short-stay accommodation affected by an owners corporation. As discussed in Chapter 1, a post implementation review of the Owners Corporations Amendment (Short-stay Accommodation) Act will be undertaken by DJCS.

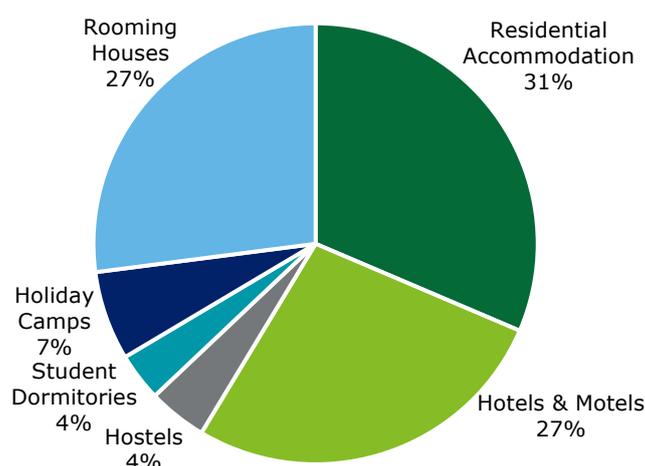
2.2 Size of the prescribed accommodation sector – background to problem analysis

This section outlines the number of prescribed accommodation facilities in Victoria and how many occupants reside in the various types of prescribed accommodation.

2.2.1 Number of prescribed accommodation facilities

In 2018, there were 4,823 prescribed accommodation facilities throughout Victoria.²⁹ Residential accommodation was the largest subsector with 1,517 accommodation facilities registered across the state accounting for 31% of the market (see figure 2.2, below). Rooming houses (1,305) and hotels and motels (1,309) each accounted for around 27% of the sector. Hostels, student dormitories and holiday camps together accounted for around 14% of the market.

Figure 2.2 Composition of the prescribed accommodation sector



Source: Data provided by DHHS for the purposes of the RIS.

A significant proportion (or 42%) of Victoria's registered prescribed accommodation is located within major Victorian cities although a large proportion is also represented in Inner Regional Victoria (30%).³⁰

Rooming houses and student dormitories are generally located within Victoria's major cities reflecting the need for more affordable accommodation. 56% of Victoria's rooming houses are located within the Monash, Greater Dandenong and Greater Geelong Councils.³¹ Similarly, 46% of student dorms are located in Darebin, Melbourne and Monash City Council. Hostels, holiday camps, residential accommodation, hotels and motels predominantly are located within Inner Regional Victoria. This reflects these areas being, in part, popular holiday destinations.

²⁹ Data provided by DHHS for the purposes of the RIS.

³⁰ Inner Regional Victoria is defined as per the [ABS Catalogue 1270.0.55.005 \(ABS, 2016b\)](https://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/1270.0.55.005) (<<https://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/1270.0.55.005Main+Features1July%202016?OpenDocument>>)- Australian Statistical Geography Standard (ASGS): Volume 5 - Remoteness Structure, July 2016.

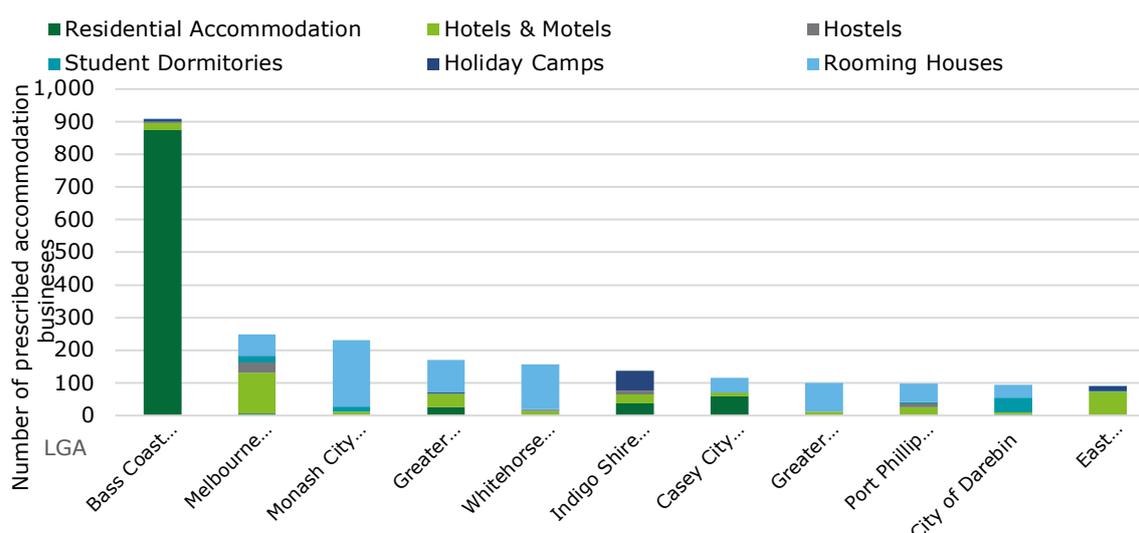
³¹ Data provided by DHHS for the purposes of the RIS

Table 2-1 Geographical location of prescribed accommodation subsectors

Type	Major cities	Inner Regional	Outer Regional	Total
Residential accommodation	174 11.5%	1,255 82.7%	88 5.8%	1,517
Hotels & motels	434 33.1%	658 50.3%	217 16.6%	1,309
Rooming houses	1,207 92.5%	93 7.1%	5 0.4%	1,305
Hostels	77 37.2%	87 42.0%	43 20.8%	207
Student dormitories	118 69.4%	37 21.8%	15 8.8%	170
Holiday camps	32 10.1%	214 68.0%	69 21.9%	315
Total				4,823

Source: Data provided by DHHS for the purposes of the RIS.

Figure 2.3 Top 10 registered prescribed accommodation by LGA



Source: Data provided by DHHS for the purposes of the RIS.

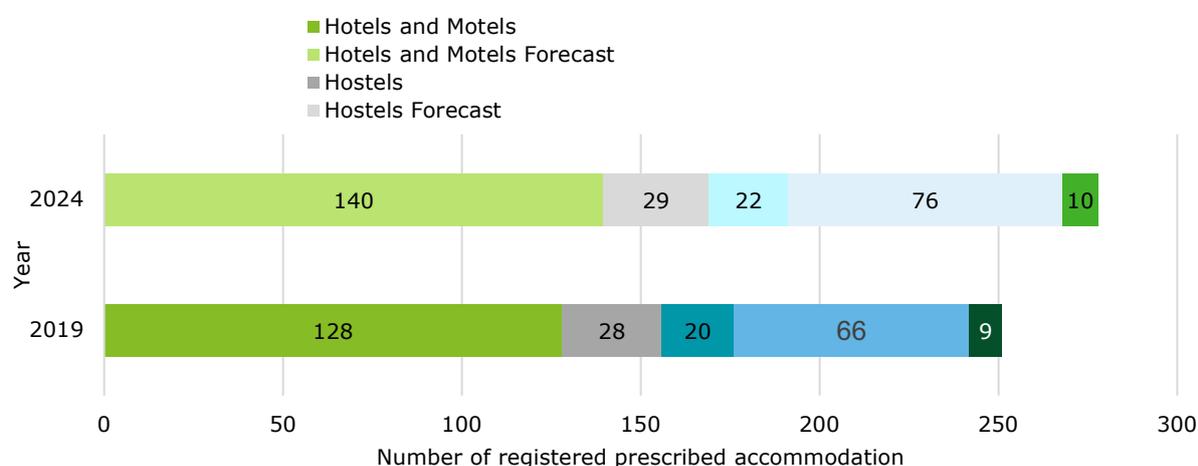
Going forward, there is limited data forecasting the number of prescribed accommodation facilities in Victoria. However while no Victoria-wide forecasts are available, forecasts are available from a large metropolitan Council.

The Council's data suggests that the rooming house subsector is expected to experience the highest percentage growth rate of all prescribed accommodation subsectors.³² Forecasts estimate that there could be 10 additional rooming houses in 2024 relative to 2019, or a 15% increase. Given the current economic outlook in the presence of COVID-19, the demand for affordable accommodation in rooming houses is likely to increase further. In an absolute sense however, hotels and motels are expected to record the highest growth of all subsectors, with 12 additional

³² Data provided by DHHS for the purposes of the RIS.

hotels and motels expected in the council region between 2019 and 2024 (a 9% increase). It is important to note that these forecasts were prepared pre COVID-19. There is significant uncertainty around such forecasts due to the impact of COVID-19 on the tourism and accommodation sectors.

Figure 2.4 Metropolitan Council’s data on prescribed accommodation, by type, forecast



Source: Data provided by DHHS for the purposes of the RIS.

2.2.2 Number of people living in prescribed accommodation

It is likely that the number of persons living in prescribed accommodation has been increasing significantly (pre-COVID-19). The number of rooming houses is growing, increased tourism is resulting in more visitor stays in hotels and motels, and the growth in the number of overseas students is also increasing occupants in rooming houses and other forms of prescribed accommodation. There has also been strong population growth in Victoria in recent years. However data on the number of people living in prescribed accommodation is not comprehensive and different sources have to be used to give an indication of this number.

ABS Census data³³ shows that in 2016 there were 4,406 Victorians residing in rooming houses. Literature published by the Council to Homeless Persons and Chris Chamberlain both argue that these estimates produced by the ABS are flawed because the ABS has in the past misclassified rooming houses as hotels, staff quarters, private dwellings or other types of accommodation.³⁴ Research undertaken by Chris Chamberlain leveraging Council records of rooming house registrations estimates that Melbourne’s rooming house population increased from between 2,946 and 3,739 in 2006, to 12,568 in 2011.³⁵

Comprehensive data on the number of guests in Victoria’s hotels and motels is not available but can be estimated. TRA data suggests that hotels and motels were occupied 73% of the year in 2018-19 and that there were on average 51 rooms per hotels or motel.³⁶ Council registration data

³³ Australian Bureau of Statistics (ABS).(2016a). [ABS2049.0 - Census of Population and Housing: Estimating homelessness, 2016.](https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/2049.02016?OpenDocument)

³⁴ Chamberlain, C. (2012). [Counting Boarding Houses: Reflections on Homeless Research in Australia.](http://www.nwhn.net.au/admin/file/content2/c7/Counting%20Boarding%20Houses%20-%20Chris%20Chamberlain%202012.pdf)

³⁵ Chamberlain, C. (2012). [Counting Boarding Houses: Reflections on Homeless Research in Australia.](http://www.nwhn.net.au/admin/file/content2/c7/Counting%20Boarding%20Houses%20-%20Chris%20Chamberlain%202012.pdf)

³⁶ Tourism Research Australia. (2019). [AUSTRALIAN ACCOMMODATION MONITOR.](https://www.tra.gov.au/Economic-analysis/australian-accommodation-monitor)

indicates that there could be 1,322 hotels and motels registered in 2019.³⁷ Assuming that each guest stays approximately 3 days, and that there are 2 guests per room, there could have been up to 12 million guests in hotels and motels in 2018-19.

There is however no data on the number of occupants in Victorian hostels, student dormitories, residential accommodation or holiday camps. For the purpose of analysis of options in Chapter 4, an estimate of the number of occupants in these types of accommodation has been developed in section 4.2.3.

2.3 The nature of the problem

In some circumstances, accommodation housing groups of people with shared facilities, and/or with high turnover of occupants may pose a risk to the health and wellbeing of its occupants. One medical journal found that "*Housing is an important determinant of health, and substandard housing is a major public health issue*".³⁸ For example, the health of occupants can be compromised if the proprietor of prescribed accommodation fails to undertake critical maintenance. Occupants could be at risk of contracting bacterial, viral and parasitic infections should the proprietor of prescribed accommodation fail to uphold adequate hygiene standards. Occupants could also be at risk of diarrhoeal disease³⁹ or Neglected Tropical Diseases⁴⁰ should the proprietor of prescribed accommodation fail to provide adequate sanitation. These risks are compounded in overcrowded prescribed accommodation facilities as it places greater strain on accommodation facilities and raises the risk of infectious diseases spreading amongst occupants.

Failure to undertake regular maintenance of prescribed accommodation, particularly for shared facilities, can compromise the health and wellbeing of occupants. For example, if taps and plumbing items are not maintained, leaking or faulty plumbing could lead to dampness, which could cause illnesses like nasal congestion, sneezing, coughing or respiratory infections.⁴¹

Inadequate domestic hygiene practices (particularly in shared kitchens, bathrooms and laundries) can give rise to a number of bacterial, viral and parasitic infections.⁴² Inadequate hygiene practices include not cleaning the toilet, not throwing away rubbish and infrequent washing of bedding can lead to a number of health concerns.⁴³ Health concerns that may arise from inadequate domestic

³⁷ Based on estimated growth of hotels and motels in Melbourne (2%p.a.) and applied to the last available year of data in 2018 which indicated that there were 1,309 hotels and motels registered in Victoria.

³⁸ Krieger, J., & Higgins, D.L. (2002). [Housing and Health: Time Again for Public Health Action. Am J Public Health Journal](https://ajph.aphapublications.org/doi/10.2105/AJPH.92.5.758). <<https://ajph.aphapublications.org/doi/10.2105/AJPH.92.5.758>>

³⁹ Diarrhoea, or diarrhoeal disease, is defined as the passing of at least three loose stools per day, and occurs when there is a bacterial, viral or parasitic infection in the intestinal tract ([WHO, 2020](https://www.who.int/westernpacific/health-topics/diarrhoea) (<<https://www.who.int/westernpacific/health-topics/diarrhoea>>)). These infections are typically spread by contaminated water and food or between individuals experiencing poor domestic and/or personal hygiene ([WHO, 2020](https://www.who.int/westernpacific/health-topics/diarrhoea) (<<https://www.who.int/westernpacific/health-topics/diarrhoea>>)).

⁴⁰ The WHO has categorised 20 avoidable communicable and noncommunicable diseases as Neglected Tropical Diseases ([CDC, 2020](https://www.cdc.gov/globalhealth/ntd/diseases/index.html) (<<https://www.cdc.gov/globalhealth/ntd/diseases/index.html>>)). In Australia, these diseases include *buruli ulcer* (ulcerated skin), and soil- and water-transmitted infections (specifically intestinal worms) transmitted through contaminated soil (CDC, 2020). These diseases are debilitating in the way they affect the skin and bones, and gastrointestinal health, respectively. Disadvantaged populations experiencing poor domestic and personal hygiene and limited access to safe housing and drinking water are at increased risk of these diseases.

⁴¹ Better Health Victoria. (2015). [Mould and your health](https://www.betterhealth.vic.gov.au/health/conditionsandtreatments/mould-and-your-health#:~:text=Mould%20associated%20with%20damp%20buildings,allergies) <<https://www.betterhealth.vic.gov.au/health/conditionsandtreatments/mould-and-your-health#:~:text=Mould%20associated%20with%20damp%20buildings,allergies>>

⁴² Australian Government Department of Health. (2010). [Poor hygiene and disease](https://www1.health.gov.au/internet/publications/publishing.nsf/Content/ohp-enhealth-manual-atsi-cnt-l~ohp-enhealth-manual-atsi-cnt-l-ch3~ohp-enhealth-manual-atsi-cnt-l-ch3.2). <<https://www1.health.gov.au/internet/publications/publishing.nsf/Content/ohp-enhealth-manual-atsi-cnt-l~ohp-enhealth-manual-atsi-cnt-l-ch3~ohp-enhealth-manual-atsi-cnt-l-ch3.2>>

⁴³ Australian Government Department of Health. (2010). [Poor hygiene and disease](https://www1.health.gov.au/internet/publications/publishing.nsf/Content/ohp-enhealth-manual-atsi-cnt-l~ohp-enhealth-manual-atsi-cnt-l-ch3~ohp-enhealth-manual-atsi-cnt-l-ch3.2). <<https://www1.health.gov.au/internet/publications/publishing.nsf/Content/ohp-enhealth-manual-atsi-cnt-l~ohp-enhealth-manual-atsi-cnt-l-ch3~ohp-enhealth-manual-atsi-cnt-l-ch3.2>>

hygiene include gastroenteritis, pneumonia, skin infections, hepatitis A, hookworm, threadworm, roundworm and colds and flus.⁴⁴

Sanitation by definition refers to the safe management of human excreta, which can include things like a flushable toilet and the safe removal of human excreta into sewage systems.⁴⁵ The World Health Organisation (WHO) suggests that the "*Lack of toilets and the safe confinement of excreta away from hands, feet, drinking water and eating utensils... lead[s] to the transmission of diarrhoeal disease.*"⁴⁶ Medical journals suggest that "...*Improved sanitation can reduce rates of diarrhoeal diseases by 32%–37%.*"⁴⁷ Medical journals also suggest that Neglected Tropical Diseases with a faeco-oral transmission pathway can be avoided with adequate sanitation: "...*Improved sanitation could contribute significantly to a sustained reduction in the prevalence of many of them.*"⁴⁸

Overcrowding increases these health risks for occupants. This is because all things being equal, the more people live in close proximity to one another, the greater the spread of any infectious disease.⁴⁹ By the same token, the more people share a single facility or resource, the more likely it is that the resource will fail and could create a health risk for occupants. ABS Census data estimates that around 8,930 Victorians lived in 'severely crowded dwellings' in 2016⁵⁰, although data on the extent of overcrowding in prescribed accommodation is not available. Furthermore, a survey undertaken by Salvation Army of rooming houses found that "*For many ... the rooming house was a poor accommodation option that impacted negatively on their safety, physical and mental health, and ability to participate in society.*"⁵¹

To the extent that there are not widespread outbreaks of infectious diseases arising from inadequate standards in prescribed accommodation in Victoria, this could partly reflect the effectiveness of the PHWA and the Regulations.

2.4 Extent of the problem

2.4.1 Characteristics leading to higher risk

Risks to the health and wellbeing of occupants vary according to the type of prescribed accommodation. There is significant diversity within the prescribed accommodation sector, which ranges from luxury hotels to rooming houses. Some accommodation facilities offer short stay accommodation whilst others cater more for permanent residents. Some prescribed accommodation facilities target the luxury accommodation market whilst others offer more affordable accommodation for people from low socio-economic backgrounds. Some proprietors provide shared facilities such as laundry, bathroom and kitchen in high density accommodation whilst others offer low density accommodation with limited (or no) shared facilities. Some facilities are ageing, while others are modern and purpose built such as some purpose built student accommodation and modern rooming houses where the risks are lower (see section 2.1.4). As such, the risks to the public health and wellbeing of prescribed accommodation occupants is largely dependent on the characteristics of such accommodation.

⁴⁴ Australian Government Department of Health. (2010). *Poor hygiene and disease*. <<https://www1.health.gov.au/internet/publications/publishing.nsf/Content/ohp-enhealth-manual-atsi-cnt-l~ohp-enhealth-manual-atsi-cnt-l-ch3~ohp-enhealth-manual-atsi-cnt-l-ch3.2>>

⁴⁵ United Nations. (2008). *Tackling a global crisis: International Year of Sanitation 2008*. <<http://www.sanitationyear2008.org/>>

⁴⁶ United Nations. (2008). *Tackling a global crisis: International Year of Sanitation 2008*.

⁴⁷ Mara, D., Lane, J., Scott, B., & Trouba, D. (2010). *Sanitation and Health*. <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2981586/>>

⁴⁸ Mara, D., Lane, J., Scott, B., & Trouba, D. (2010). *Sanitation and Health*. <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2981586/>>

⁴⁹ Jaguar Consulting. (2009). Regulatory Impact Statement Public Health and Wellbeing Regulations

⁵⁰ ABS. (2016a). *ABS Catalogue 2049.0 - Census of Population and Housing: Estimating homelessness, 2016*. <<https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/2049.02016?OpenDocument>>

⁵¹ The Salvation Army Adult Services. (2011). *No Room to move? Report of the Outer West Rooming House Project*.

<http://www.nwhn.net.au/admin/file/content101/c6/No%20Room%20to%20move%20Report_1332384268120.pdf>

The presence of shared facilities increases the health risks to occupants of prescribed accommodation. Common shared facilities include kitchens, bathrooms and laundries in permanent prescribed accommodation and front desks, hotel gyms and elevators in short stay accommodation. These are high-contact, high use facilities, which increase the risk of transmission of infectious diseases. The frequent use of shared facilities also induces greater wear and tear on these facilities and raises safety risks should these facilities (or assets within the facilities) fail.

Public health and wellbeing risks are present in both short stay and permanent prescribed accommodation. In short stay accommodation facilities such as hotels and motels, high volumes of people use the accommodation facilities for a short period of time. This increases hygiene risks to occupants if facilities are not kept clean and if single use items including towels and linen are not changed. This risk in relation to high volumes of people is likely lower in permanent accommodation given the length of occupancy and the lower number of people moving through, however occupants of permanent accommodation still interact with high-touch shared facilities. As such, while occupants of short stay accommodation may be exposed to a higher risk, their counterparts in permanent accommodation may be exposed to a lower risk for longer periods.

Health risks may be more prominent in high density prescribed accommodation such as hostels, rooming houses and student dormitories because the greater the density and the amount of shared facilities, the more likely it is that infectious diseases can spread amongst occupants. High density accommodation requires more cleaning and maintenance to keep these facilities hygienic, sanitary and in good working order.

While some risks may be present in luxury accommodation, the risks are likely to be higher in affordable accommodation. Residents of luxury accommodation are likely to have more market power and can have higher expectations and demands on providers in respect to hygiene, safety and sanitation standards. Lower tier hotels and holiday camps are unable to demand the same levels of hygiene, safety and sanitation as observed in luxury accommodation.

Self-regulation and market forces also play an important role in reducing health and safety risks for occupants of certain types of prescribed accommodation. Accreditation agencies such as STAR Ratings Australia and Tourism Board of Victoria are self-regulation tools that ensure acceptable hygiene, sanitation and maintenance standards are achieved. These agencies self-regulate hotels, motels, serviced apartments, hosted accommodation, caravan-holiday parks and self-catering properties. Consumer review websites also incentivise hygiene and maintenance standards across the prescribed accommodation sector. It is noted that in June 2011, the then Victorian Competition & Efficiency Commission (VCEC) published its report *Unlocking Victorian Tourism: An inquiry into Victoria's Tourism Industry*. This report noted the role of star rating and other accreditation schemes administered by recognised ratings and accreditation bodies in managing risk.

Affordable accommodation such as rooming houses and student dormitories are arguably less subject to self-regulation and market forces, which means incentives to maintain health standards are not as strong.

Rooming houses have the highest risk relative to other types of prescribed accommodation. This is because they offer high density accommodation featuring numerous shared facilities (including shared bedrooms) and they provide affordable accommodation for generally disadvantaged, vulnerable or marginalised members of the community with limited alternative accommodation (see section 2.1.6).

2.4.2 Underlying causes of the problem

Proprietors may have financial incentives to minimise expenditure on cleaning and maintenance. Reduced cleaning and maintenance is more likely to occur in affordable prescribed accommodation rather than luxury accommodation, because occupants in affordable accommodation may have less market power. It is also more likely to occur in types of prescribed accommodation which are subject to low levels of self-regulation as occupants have limited opportunities to base their decisions on the experiences of prior occupants. Material reductions in cleaning and maintenance activities by proprietors would likely give rise to hygiene, sanitation and safety risks for occupants. For example, if shared bathrooms and kitchens are not hygienic it could result in bacterial, viral and parasitic infections (see section 2.3).

Proprietors may be incentivised to host as many occupants in their prescribed accommodation facilities as possible. This is because the more occupants there are in a single facility, the more revenue the proprietor can make. Such behaviour is more likely to be observed in affordable accommodation or high density accommodation like rooming houses, student dormitories and hostels, for the reasons identified above. However overcrowding compounds the existing hygiene, sanitation and maintenance risks associated with shared accommodation. It also amplifies the impact of an asset failure as many people are often reliant on the same asset.

With the demand for affordable accommodation (e.g. rooming houses, student dormitories and hostels) exceeding the supply, occupants often have limited alternative accommodation options. Literature suggests that *"The failure of the private rental market to provide accommodation which is affordable for ... people on low incomes is a crucial driver contributing to the growth of sub-standard ... accommodation."*⁵² Similarly, where occupants are not able to access social housing and other types of supported accommodation, they may have limited alternatives making them disproportionately at risk of experiencing substandard accommodation practices. Given these circumstances, occupants may be reluctant to raise issues with the proprietor for fear of being evicted.

Considering the disadvantaged, vulnerable or marginalised members of the community that reside in certain types of prescribed accommodation (particularly in rooming houses), there may be an imbalance of power between proprietors and occupants. Occupants may have limited rights relative to the proprietor and may not be able to leverage collective bargaining power to improve the standards within their accommodation. Some occupants, particularly migrants and international students might not know (or understand) their rights in relation to prescribed accommodation and even where rights are understood it might be difficult to raise issues with the proprietor given language barriers.

2.5 Compliance and enforcement

To assess the extent to which the Regulations are addressing the problem, Council data on industry compliance is examined in this section. A 2018 survey of Victorian Councils asked Councils about the array of enforcement activities undertaken in relation to prescribed accommodation.⁵³ The survey received responses from 37 of 79 Councils and accounted for 1,946 of Victoria's 4,823 registered prescribed accommodation facilities in 2018. Enforcement data collected in the survey is outlined below. It is important to note that while the data is incomplete, it is the best available source of information on compliance with the Regulations.

Table 2-2 Compliance data on prescribed accommodation

Types of enforcement activity	Volume of enforcement activity in 2018	Enforcement activity relative to the number of prescribed accommodation facilities
Complaints	569	Complaints were made for 30% of properties
Informal advice	554	Informal advice was issued for 28% of properties
Prohibition notices	72	Prohibition notices were issued to 3.7% of properties
Prosecutions	3	Prosecutions were pursued for 0.2% of properties

DHHS. (2019). Public Health and Wellbeing Regulations Sunset Review – Survey of Environmental Health Officers.

⁵² Rooming House Standards Taskforce. (2009). *Rooming House Standards Taskforce Chairperson's report*. <<http://chp.org.au/wp-content/uploads/2013/05/Appendix-Taskforce-Report.pdf>>

⁵³ DHHS. (2019). *Public Health and Wellbeing Regulations Sunset Review – Survey of Environmental Health Officers*.

Survey results indicate that most Councils conduct inspections at least annually in line with their assessment of registration or renewal applications. Some Councils noted that additional inspections were undertaken in response to complaints. While the number of complaints was relatively high, Councils noted that not all complaints were indeed related to the prescribed accommodation regulations. Generally speaking, the low number of prohibition notices and prosecutions suggest relatively good compliance with the Regulations. It is difficult to draw a conclusion on this; for example it could suggest that the Regulations are achieving their objective, or it could be that proprietors are meeting the standards regardless of the Regulations, or Councils may be choosing not to initiate formal enforcement actions.

It is worth noting that the survey data is not disaggregated by type of prescribed accommodation hence it is difficult to comment on the performance of different types of accommodation. CAV however have supplied data on the number of complaints it has received in relation to rooming houses and student accommodation. The data estimates that there were a total of 306 complaints in rooming houses and 38 complaints in student accommodation in 2018-19.⁵⁴ This anecdotally suggests that there may be more complaints in rooming houses but there are also more registered rooming houses relative to other forms of student accommodation.

In general, stakeholder feedback and compliance data suggest that the Regulations are achieving their objective.

2.6 Objectives of the Regulations

The Regulations support the objectives of the PHWA, which include achieving the highest attainable standard of public health and wellbeing by:

- Protecting public health and preventing disease, illness, injury, disability or premature death
- Promoting conditions in which persons can be healthy
- Reducing inequalities in the state of public health and wellbeing.⁵⁵

The objective of the Regulations is to contribute to the achievement of the highest attainable standard of public health and wellbeing by prescribing matters to give effect to the PHWA. This includes establishing the registration scheme and a range of requirements intended to prevent overcrowding and ensuring adequate maintenance and hygiene standards in prescribed accommodation premises. The Regulations aim to achieve the objectives in a cost efficient manner.

⁵⁴ Data supplied by CAV in relation to rooming houses and student accommodation

⁵⁵ Section 4(2) Public Health and Wellbeing Act 2008.

3 Options

This chapter outlines the set of options considered for the future Regulations, an explanation of how they were selected, and why other options were considered unfeasible at this time.

3.1 Development of options

As part of the RIS process, it is important to consider different options that could achieve the Victorian Government's objectives. The *Subordinate Legislation Act 1994*, the *Subordinate Legislation Act Guidelines*,⁵⁶ and the *Victorian Guide to Regulation*⁵⁷ recommend that this includes considering a range of approaches, including co-regulation and non-regulatory approaches, and those that reduce the burden imposed on business and/or the community.

As outlined in Chapter 1, several cross-portfolio reviews are currently being undertaken across different Victorian Government departments and agencies that have substantial overlap with key matters addressed in the Regulations. Any findings of these reviews that might require changes to the Regulations will not be delivered within the timeframe for this RIS process and remake of Regulations, but will be considered by DHHS after these cross-portfolio reviews have been completed. In addition, some findings may require a change to the PHWA; this is a legislative change which is a separate and often a more complex process than change to regulations. See Chapter 5 for discussion of timeline and process for assessing the finding of these reviews. Reviews that may have implications for the Regulations include a review of the definition of 'rooming house' to be conducted by DJCS, and a review of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations by DELWP. Further information about the issues being examined in the various reviews is contained in Appendix C.

DHHS considers it is appropriate to consider the recommendations and stakeholder feedback arising from the DELWP review in considering whether definitions of types of prescribed accommodation (e.g. holiday camps) are 'fit for purpose'.

The range of feasible options for addressing the problem has therefore been considered within this broader Victorian Government context.

Where the reviews require change to the Regulations and/or the PHWA in the context of their regulatory objectives, DHHS will consult with any sector of the public on which a significant economic or social burden may be imposed by a proposed change. Where any consultation on change occurs after the remake of the Regulations in December 2020, key stakeholders will likely have greater capacity (in terms of time and priority) to engage than they do at this time given the COVID-19 health emergency and social distancing requirements.

Notwithstanding this constraint, DHHS has, prior to releasing this RIS, undertaken stakeholder consultation with key stakeholders (see Appendix B for an overview of consultation findings). In summary, consultation has not identified any other material and immediate issues with the current Regulations that need to be urgently addressed in this review and are not being addressed in other forums or reviews.

Given the diverse nature of the prescribed accommodation sectors, there are different perspectives among stakeholder groups regarding the Regulations and their operation. However, it still appears

⁵⁶ Department of Premier and Cabinet. (2020). [Subordinate Legislation Act Guidelines](https://www.vic.gov.au/sites/default/files/2020-01/Subordinate-Legislation-Act-1994-Guidelines-2020.pdf). < <https://www.vic.gov.au/sites/default/files/2020-01/Subordinate-Legislation-Act-1994-Guidelines-2020.pdf> >

⁵⁷ Department of Treasury and Finance (2016) Victorian Guide to Regulation.

that unhygienic, unsafe and overcrowded premises are the key drivers of public health issues in shared accommodation.

3.2 Options being considered in this RIS

The options being considered are:

- **Base Case:** the case that would exist in the absence of regulations i.e. if the Regulations were allowed to lapse at the end of 2020. The Base Case would mean that there is no detailed prescription of what accommodation places are subject to the registration provisions of the PHWA, and no hygiene and maintenance standards would be prescribed. It is important to note that the Base Case is a counter-factual scenario used to provide a common point of comparison for all options.
- **Option 1: Current Regulations:** the current Regulations would be re-made in their current form (see summary of current Regulations in Appendix A.) The inclusion of this status quo option provides for an evaluation of the effectiveness of the current regulations, which is important in the context of sunseting regulations.
- **Option 2: Current Regulations with minor improvements:** the current Regulations would be remade with minor improvements including changes to definitions to align with other regulatory frameworks and technical updates. This will include, for example, amendment of the prescribed accommodation definition of 'rooming house' to pick up the definition in the RTA as the lead definition and to provide for consistency with the new RTA provisions. This option aims to achieve improved clarity and consistency with other regulatory frameworks. It does not impose material changes in regulatory requirements.

Key proposed amendments under Option 2 are outlined in full in Appendix D. The two main changes are:

- Definition of 'residential accommodation': It is proposed to amend the definition to include 'any part' of a house, building, or other structure used as a place of abode where a person or persons can live on payment of consideration to the proprietor' in addition to the entire house, building or structure. This is to clarify what is intended to be the position, namely that apartments or flats within existing buildings or parts of buildings can constitute prescribed accommodation.
- Definition of 'rooming house': The definition is proposed to be amended to incorporate by reference, the definition of 'rooming house' in section 3(1) of the RTA. Currently the Regulations may apply to Specialist Disability Accommodation (SDA) enrolled dwellings. However, SDA accommodation is excluded from the RTA definition of rooming house as it is subject to a separate registration, quality and safeguards framework to be enrolled under the Commonwealth National Disability Insurance Scheme (NDIS) legislation. Continuing to regulate this accommodation under the Regulations subjects them to dual regulation. The amendment ensures there is alignment between the RTA and the Regulations. Consistent with this approach, SDA enrolled accommodation will also be excluded from other definitions of prescribed accommodation.

The amendment would also ensure that declared rooming houses (declared by the Minister for Housing under s. 19 of the RTA) are subject to both the Regulations (which address matters of public health, particularly relating to sanitation and overcrowding), and the rooming house minimum standards created under the RTA. Currently, declared rooming houses would already be subject to the requirements of the Regulations where they fall within the current definition in the Regulations and it is considered that this change is unlikely to have a material impact.⁵⁸

⁵⁸ Under the Regulations, a rooming house means a building where there is one or more rooms available for occupancy on payment of rent in which the total number of people who may occupy that room or those rooms is not less than 4. Regulation 3 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009. It would be possible for a premises to be declared a rooming house under the RTA where for example, less than 4 people occupied that room or those rooms.

The amendment will also accommodate a review lead by DJCS into the definition of 'rooming house' and avoid the need for further amendment to the definition in the Regulations to accommodate the outcomes of the DJCS review.

The proposed approach to other issues raised by stakeholders is set out in Appendix B.

3.3 Options considered but not assessed further in this RIS **Significant changes to the coverage of the Regulations**

As discussed above the definition of prescribed accommodation includes many accommodation types. Coverage ranges from accommodation with relatively high public health risks serving vulnerable populations, to luxury accommodation serving wealthy tourists and business travellers.

One option would be to increase the scope of the Regulations to cover additional accommodation and/or reduce the coverage of the Regulations with respect to others. The objectives of doing so would include:

- Ensuring that the Regulations better target areas of higher public health risk and more vulnerable population cohorts
- Achieving a more level regulatory playing field across similar and competing accommodation types
- Reducing regulatory burden on accommodation providers
- Supporting an outcomes and risk based approach to compliance and enforcement actions.

For example, options might include:

- Excluding premium hotel and motel accommodation given that they do not involve shared facilities and industry accreditation and reputational forces mean that public health risks are low. A similar option might involve excluding all hotel or motel accommodation that does not involve shared facilities.
- Subjecting some properties such as houses, holiday homes and apartments, advertised on online advertising platforms such as Airbnb, Stayz or Homeaway to the same level of regulation as hotels and motels. This might involve either excluding hotels and motels from the Regulations, or including properties advertised on online platforms within the Regulations. Some stakeholders have observed that the different regulatory treatment of hotels and commercial properties advertised on online platforms means they are not competing on a level playing field. Public health risk and regulatory burden would also need to be examined.
- Excluding holiday camps from the Regulations and transferring them under the auspices of the caravan park regulatory regime.
- Ensuring that student accommodation (which includes shared facilities) are covered by the Regulations regardless of whether they are affiliated with an education provider or university.

However, this RIS does not examine these options. This is because a number of cross portfolio reviews are already in progress or will shortly commence, and will examine some of these issues. For example, as noted above, BRV is undertaking a review of the imbalances in the accommodation sector, specifically differences in standards and regulations for traditional and short stay accommodation. DJCS will undertake a review of the definition of rooming house.

It is therefore prudent to consider changes to the scope of the Regulations at a later date when the current reviews are completed and a holistic examination of the scope of the Regulations can occur.

Significant changes to the standards that apply to prescribed accommodation

Division 2 and division 3 of the Regulations set out the minimum standards that prescribed accommodation must meet. It would be possible to remake the Regulations with different standards (either higher or lower) or for exemptions from certain standards to apply to certain accommodation types.

For example, a comprehensive review of the standards might identify areas where they need to be increased in order to better protect health and hygiene, or areas where the regulatory burden could be relaxed without compromising outcomes.

There has been stakeholder feedback, including in reviews such as the Small Business Visitor Economy Review, that there is a regulatory burden for small business in the accommodation sector in having to comply with purportedly duplicating standards across different regulatory regimes - for example under the RTA and the planning framework.

It is not proposed to make changes to the standards in the Regulations at this time. It is more appropriate to await the outcome of the cross-portfolio reviews and any potential changes to standards can then be considered alongside changes to the coverage of the Regulations.

4 Options analysis

This chapter compares three key options for the Regulations using a multi-criteria approach.

4.1 Method of assessment

The options in this RIS have been assessed using Multi-Criteria Analysis (MCA) supported by quantitative information where available. This approach provides a structured and transparent way of evaluating the options given the limited quantitative data that is available, particularly in respect to benefits. The MCA provides a structured and transparent approach that can balance the different impacts.

MCA requires judgement of how the proposed options will contribute to a series of criteria that are chosen to reflect the benefits and costs associated with each option. Each criterion is assigned a weight reflecting its importance to the policy decision, and a weighted score is then derived for each option. The option with the highest weighted score is the preferred option. The MCA technique is outlined in Box 4.1.

Box 4.1 Multi Criteria Analysis

MCA involves assessment of policy options against decision criteria. MCA enables options to be compared in a way that utilises quantitative and qualitative evidence fully. The approach enables the inclusion of a wider range of criteria than those used in a typical financial analysis. For example, it may include social and health considerations. In addition, the approach is transparent and explicit about any necessary subjective judgements and assumptions made to determine options and criteria, and to assign scores and weights. The preferences of the decision maker reflected in these judgements and assumptions can be readily changed in a sensitivity analysis or by incorporating alternative indicators of community preference.

4.1.1 Criteria

The options have been assessed based on a framework that considers the criteria in the table below. For the purpose of this assessment, benefits and costs have been weighted equally at 50% each. The benefit criteria of **Health and Wellbeing** is weighted (50%) reflecting the objectives of the PHWA and Regulations, which aim to achieve the highest attainable standard of public health and wellbeing. There are two cost criteria namely **Cost to businesses** and **Supply of accommodation**. Cost to businesses reflect direct regulatory costs incurred by proprietors of prescribed accommodation including that of Council fees (40%). The remaining 10% for **Supply of accommodation** reflects that Regulations may create onerous regulatory burdens potentially reducing the supply of prescribed accommodation for people seeking this accommodation.

Table 4-1 MCA criteria and weightings

Criteria	Description	Weighting
Cost to businesses ⁵⁹	Direct regulatory cost to proprietors of prescribed accommodation	40%
Supply of accommodation	Impact on supply of prescribed accommodation	10%
Total costs weighting		50%
Health and wellbeing	The benefits to prescribed accommodation occupants, the community, and healthcare system from reduced exposure to substandard accommodation	50%
Total benefits weighting		50%

4.1.2 Scale

The criterion rating scale has a range of -10 to +10, where a score of zero represents no change from the Base Case.

Table 4-2 MCA Scale

Score	Description
-10	Much worse than the Base Case
-5	Somewhat worse than the Base Case
0	No change from the Base Case
+5	Somewhat better than the Base Case
+10	Much better than the Base Case

Costs and benefits captured in this chapter include the items that are directly relevant and attributable to the Regulations.

There are some limitations on quantification that can be undertaken for this RIS given data availability. Where possible, costs and benefits have been quantified to inform the MCA. In some circumstances, the analysis has used previous survey data, data from the previous 2009 RIS, stakeholder consultations and relevant literature to inform the analysis.

Given the level of uncertainty around data collected for this RIS, the general approach to estimating the costs and benefits in this RIS is to report conservative estimates. Where a range of plausible values is available, the average value was selected as representative of the sample.

4.1.3 Two-step options assessment process

With the similarities between Option 1 and Option 2, and limited quantification in the analysis, a two-step process has been used to assess regulatory options:

⁵⁹ It is assumed the costs incurred by Councils in administering the system and monitoring, inspection and enforcement are passed onto businesses via cost recovery fees.

Table 4-3 Two-step options analysis process

Step	Options compared	Section
Step 1	Base Case (absence of regulation) compared to Option 1 (current Regulations)	4.3
Step 2	Option 1 (current Regulations) compared to Option 2 (current Regulations with minor improvements)	4.4

4.2 Data and assumptions

4.2.1 COVID-19

The COVID-19 health emergency represents the largest shock to the global economy in many decades.⁶⁰ There is a high level of uncertainty around the rate at which different parts of the economy will recover from this crisis, including such things as demand for various types of accommodation.⁶¹ In the face of such uncertainty, the approach adopted in this RIS is to use data and forecasts that reflect the pre-COVID situation, but note where appropriate any implications of this approach for findings.

4.2.2 Number of prescribed accommodation facilities

The number of prescribed accommodation facilities is a key determinant of the costs of the Regulations.

The number of existing and new facilities for the purpose of estimating renewal and new registrations requires a forecast of growth in the number of facilities across the 10 year life of the Regulations. It is noted that these Regulations are made for 10 years, but will be subject to a review in 5 years (see section 5.1 Implementation), at which point further stakeholder consultation will occur if significant changes are proposed.

In 2018, there were 4,823 registered prescribed accommodation facilities in Victoria.⁶² This is the most recent data available. A separate dataset on prescribed accommodation in metropolitan Melbourne forecasts the growth of each type of accommodation in Melbourne to 2024.⁶³ Given the absence of growth forecasts for prescribed accommodation in Victoria more broadly, these metropolitan Melbourne forecasts have been extrapolated to calculate annual growth rates⁶⁴ for Victoria. Residential accommodation and rooming houses were expected to grow by 3% p.a., student dormitories, hotels and motels by 2% p.a., hostels by 1% p.a. and holiday camps by 0% p.a. Sensitivity analysis on the growth of the number of prescribed accommodation facilities and the occupancy of prescribed accommodation facilities is outlined in Appendix F.

⁶⁰ Reserve Bank of Australia. (2020). [Statement on Monetary Policy: August 2020](https://www.rba.gov.au/publications/smp/2020/aug/). <<https://www.rba.gov.au/publications/smp/2020/aug/>>

⁶¹ IBIS World. (2020). [Hotels and Resorts in Australia H4401](https://www.ibisworld.com/au/industry/hotels-resorts/1811/). <<https://www.ibisworld.com/au/industry/hotels-resorts/1811/>>

⁶² DHHS. (2020). *PSP analysis of all Prescribed Accommodation Data.xls*

⁶³ Ibid.

⁶⁴ Compounded annually.

Table 4-4 Number prescribed accommodation facilities

Type of prescribed accommodation	2018 (a)	2021 (f)	2030 (f)
Total prescribed accommodation facilities	4,823	5,148	6,282
Residential Accommodation	1,517	1,634	2,043
Hotels & Motels	1,309	1,379	1,613
Hostels	207	213	233
Student Dormitories	170	182	221
Holiday Camps	315	315	315
Rooming Houses	1,305	1,425	1,858

4.2.3 Occupancy of prescribed accommodation

The following assumptions underpin estimates on the number of unique guests in each type of prescribed accommodation. Where external data is available this has been used to inform estimates. Where data is not available, assumptions have been made by Deloitte and DHHS.

- Residential accommodation premises are occupied 65% of the year,⁶⁵ occupants stay for an average of 1 week and 6 guests occupy each facility
- Hotels and motels are occupied 73% of the year,⁶⁶ occupants stay for an average of 3 days, there are an average of 51 rooms per facility⁶⁷ and 2 guests occupy each room.
- Hostels are occupied 92% of the year, occupants stay for an average of 1 month and 20 guests occupy each facility
- Student dormitories and rooming houses are occupied all year round and there are 20 students in every dormitory and 8.6 guests⁶⁸ in every rooming house.
- Holiday camps are occupied 23% of the year, occupants stay for an average of 7 days, there are an average of 10 rooms per facility and 6 guests occupy each room.

Table 4-5 Number of unique guests p.a., by type of prescribed accommodation

Type of prescribed accommodation	2021 (f)	2030 (f)
Residential Accommodation	332,565	415,688
Hotels & Motels	12,471,198	14,584,789
Hostels	47,559	51,973
Student Dormitories	3,632	4,429
Holiday Camps	227,423	227,423
Rooming Houses	12,346	16,090

⁶⁵ Tourism Research Australia. (2019). *AUSTRALIAN ACCOMMODATION MONITOR*. <<https://www.tra.gov.au/Economic-analysis/australian-accommodation-monitor>>

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Chamberlain, C. (2012). *Counting Boarding Houses: Reflections on Homeless Research in Australia*. <<http://www.nwhn.net.au/admin/file/content2/c7/Counting%20Boarding%20Houses%20-%20%20Chris%20Chamberlain%202012.pdf>>

4.2.4 Cost of time - Councils

The cost of time is estimated using enterprise bargaining agreements from three of the five Victorian Councils with the highest number of prescribed accommodation facilities.⁶⁹ Average hourly Council wages are \$48.87 and a 75% loading⁷⁰ is used to calculate the total wage rate of \$85.53 per hour.

4.2.5 Cost of time – proprietors

The cost of the proprietor's time is estimated using the average wage of a Victorian which in 2018\$ was \$33.66 per hour.⁷¹ This is inflated to 2020-21 dollars using the Victorian Wage Price Index (\$35.79 per hour)⁷² and a 75% loading is used to determine a total wage of \$62.64. In the absence of information about on-costs for proprietors, it is assumed that these are the same as for Councils, however this is considered likely to be a high estimate.

4.2.6 Enforcement activity

37 Councils responded to a 2018 survey by DHHS; these Councils reported that they had issued a total of 72 prohibition notices in 2018. The Councils also reported that 3 prosecution notices were issued across the 37 Councils in the same year.⁷³ Extrapolating the ratio of prohibition notices per unit of prescribed accommodation for each Council that responded to the survey, across all Councils, it is estimated that 154 prohibition notices were issued in 2018 and 165 are issued in 2021. Similarly, extrapolating the ratio of prosecutions per unit of prescribed accommodation, it is estimated that there were 6.5 prosecutions in 2018, 7 in 2021 and a total of 77 over the life of the Regulations.⁷⁴

Table 4-6 Estimated amount of enforcement activity

Option 1	2018 (e)	2021 (f)	2030 (f)	Total 2021-2030
Complaints	1,346.18	1,437.03	1,753.54	15,901
Informal advice	1,255.75	1,340.50	1,635.74	14,833
Prohibition notice	154.75	165.19	201.58	1,828
Prosecutions notice	6.51	6.95	8.48	77

4.2.7 Discount rates

All costs presented in this analysis have been inflated to 2020-21 values using Victorian DTF Macroeconomic forecasts. Total costs are presented as the sum of costs over the life of the Regulations (i.e. 10 years) and are subject to a 4% discount rate.

⁶⁹ Fair Work Commission. (2019). [BASS COAST SHIRE COUNCIL ENTERPRISE BARGAINING AGREEMENT 2019](https://www.fwc.gov.au/documents/documents/agreements/fwa/ae503309.pdf). <<https://www.fwc.gov.au/documents/documents/agreements/fwa/ae503309.pdf>>

Fair Work Commission. (2019). [WHITEHORSE CITY COUNCIL COLLECTIVE AGREEMENT 2019](https://www.fwc.gov.au/documents/documents/agreements/fwa/ae504856.pdf). <<https://www.fwc.gov.au/documents/documents/agreements/fwa/ae504856.pdf>>
Fair Work Commission. (2019). [MONASH CITY COUNCIL ENTERPRISE AGREEMENT NO. 9, 2019](https://www.fwc.gov.au/documents/documents/agreements/fwa/ae506266.pdf). <<https://www.fwc.gov.au/documents/documents/agreements/fwa/ae506266.pdf>>

⁷⁰ Based on DTF's guide to assessing costs.

⁷¹ Average wage in 2018\$ was \$33.66 per hour (ABS,2018).

⁷² Using the Victorian Wage Price Index (Department of Treasury and Finance Victoria, 2019) <<https://www.dtf.vic.gov.au/state-financial-data-sets/macroeconomic-indicators>>

⁷³ DHHS. (2019). *Public Health and Wellbeing Regulations Sunset Review – Survey of Environmental Health Officers*.

⁷⁴ Noting the extrapolation may not capture differences across Councils and also possible bias in reporting e.g. the Councils that responded to the survey might have a stronger enforcement approach than other Councils and there will also be differences in the characteristics of prescribed accommodation facilities across different Councils.

4.3 Step 1: Base Case versus Option 1

This section compares Option 1 (current Regulations) to the Base Case. Detailed assumptions and costings for this section are outlined in Appendix E.

4.3.1 Criteria 1: Costs to businesses

Costs to businesses are the direct costs incurred by proprietors of prescribed accommodation to comply with Option 1.

4.3.1.1 Cost of registration

Under Option 1, proprietors must supply certain documents to support their application to register, renew or transfer a prescribed accommodation facility.⁷⁵ Registrations are subject to annual renewal. Option 1 imposes an annual administrative cost on proprietors, relative to the Base Case. The 2009 RIS that was prepared for the Regulations used estimates of 3 hours to prepare a registration application and 1 hour to prepare a renewal application.⁷⁶ Registration applications take longer to compile as they require a scaled plan of the premises. Updated data is not available for this cost, and the 2009 RIS estimate appears reasonable. The cost of the proprietor's time is estimated using the average wage rate of a Victorian of \$62.64 per hour (see section 4.2.5). The total cost of registration is estimated at \$3.7 million over 10 years (or \$3.0 million in NPV).

Proprietors also pay fees to Councils to lodge registration and renewal applications but it is assumed that these fees cover the cost of monitoring and enforcement activities undertaken by Councils. These costs are estimated in section 4.3.1.9.⁷⁷

Table 4-7 Cost of registration

Type of premises	No. of new registrations 2021-30	No. of renewals 2021-30	Time required (hours)	Hourly wage	Total cost 2021-30	Total cost 2021-30 NPV
Residential accommodation	448	17,867	Existing – 1 New – 3	\$62.64	\$1,203,424	\$968,296
Hotels & motels	258	14,675	As above	As above	\$967,599	\$780,411
Hostels	22	2,208	As above	As above	\$142,408	\$115,138
Student dormitories	44	1,966	As above	As above	\$131,349	\$105,780
Holiday camps	-	3,150	As above	As above	\$197,305	\$160,032
Rooming houses	473	15,857	As above	As above	\$1,082,191	\$869,446
Total Cost					\$3.7 million	\$3.0 million

Note the sum of new and existing premises in this table is equal to the total number of prescribed accommodation facilities outlined in Table 4.4

4.3.1.2 Attendance by proprietors at Council inspections

The PHWA empowers a Council to inspect any prescribed accommodation premises to investigate, eliminate or reduce a public health risk. Councils may also conduct inspections prior to approving a registration or renewal application. Proprietors (or representatives on behalf of the proprietor) often attend inspections. A 2018 survey of Councils suggests that all Councils conduct at least annual inspections of all prescribed accommodation facilities located within their municipalities,

⁷⁵ Regulation 16 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

⁷⁶ Jaguar Consulting. (2009). *Regulatory Impact Statement Public Health and Wellbeing Regulations*.

⁷⁷ Each Council charges fees for registration and renewal applications. Fees are individually set by each Council. Fees aim to cost recover Council resources consumed to monitor and enforce the Regulations, however since Council resources have been costed in this analysis, Council fees are excluded to avoid double counting. The assumption is that Council fees are equal to Council costs.

and that additional inspections are undertaken if complaints were received.⁷⁸ This survey is the only available source of data on monitoring and enforcement activities undertaken by Councils. It found that on average, officers spent 1.15 hours inspecting a registered accommodation facility and 5.13 hours inspecting a first time registration facility.⁷⁹ Assuming annual inspections are undertaken for registration and renewal applications, and that 5% of existing facilities are subject to additional inspections due to complaints, the cost of proprietors attending inspections is \$4.6 million over 10 years (or \$3.7 million in NPV).

Table 4-8 Proprietor representation at Council inspections

Type of premises	No. of new registrations 2021-30	No. of renewals 2021-30	No. inspections due to complaints 2021-30	Time required (hours)	Hourly wage	Total cost 2021-30	Total cost 2021-30 NPV
Residential accommodation	448	17,867	893	Renewal – 1.15 Registration – 5.13 Complaints – 1.15	\$62.64	\$1,498,309	\$1,205,566
Hotels & motels	258	14,675	734	As above	As above	\$1,195,002	\$963,821
Hostels	22	2,208	110	As above	As above	\$174,369	\$140,979
Student dormitories	44	1,966	98	As above	As above	\$163,048	\$131,309
Holiday camps	-	3,150	158	As above	As above	\$238,734	\$193,635
Rooming houses	473	15,857	793	As above	As above	\$1,353,975	\$1,087,801
Total Cost						\$4.6 million	\$3.7 million

4.3.1.3 Maintaining a register of occupants

The current Regulations require the proprietor to keep a register recording the names and addresses of persons occupying the accommodation, and the dates of their arrival and departure.⁸⁰ It is likely that under the Base Case the vast majority of proprietors will maintain a record of names in the normal course of conducting their business, even in the absence of regulations. It is assumed that 99% of hotels and motels; 95% of residential accommodation, student dormitories and holiday camps; and 50% of hostels and rooming houses would keep a register under the Base Case.

The number of unique guests (see section 4.2.3) is then multiplied by time required to keep the register per occupant and the wage rate to determine the total cost of time required by the proprietor to keep a register under the Regulations. A 2011 Rooming house RIS estimated that (on average) it takes 2 minutes for the proprietor to update the register for each occupant.⁸¹ The estimated total cost is \$4.1 million over 10 years (or \$3.3 million in NPV).

⁷⁸ DHHS. (2019). *Public Health and Wellbeing Regulations Sunset Review – Survey of Environmental Health Officers.*

⁷⁹ Ibid.

⁸⁰ Regulation 26 & Regulation 34 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009

⁸¹ Jaguar Consulting. (2009). *Regulatory Impact Statement Public Health and Wellbeing Regulations.*

Table 4-9 Cost of maintaining a register

Type of premises	Number of guests 2021-30	% of proprietors that keep a register under the Base Case	Time required per occupant (minutes)	Hourly wage	Total cost 2021-30	Total cost 2021-30 NPV
Residential accommodation	3,727,539	95%	2	\$62.64	\$389,134	\$313,104
Hotels & motels	135,034,930	99%	2	Above	\$2,819,374	\$2,273,947
Hostels	497,369	50%	2	Above	\$519,224	\$419,798
Student dormitories	40,189	95%	2	Above	\$4,195	\$3,379
Holiday camps	2,274,231	95%	2	Above	\$237,417	\$192,566
Rooming houses	141,447	50%	2	Above	\$147,663	\$118,634
Total Cost					\$4.1 million	\$3.3 million

4.3.1.4 Adhering to maximum occupation rules

Under Option 1, the proprietor must comply with regulations in relation to the maximum number of persons accommodated in each bedroom.⁸² This may reduce revenue for some proprietors because the number of occupants paying rent is capped. It may also reduce the supply of affordable accommodation⁸³ (discussed further in section 4.3.2).

There is however limited data to quantify the extent of overcrowding that would occur in the absence of regulations. While ABS 2016 census data estimated that 8,930 Victorians resided in severely overcrowded accommodation (of all types),⁸⁴ it is not known how many people would be living in overcrowded conditions in prescribed accommodation in the absence of regulations or how many are living in accommodation that is non-compliant with the Regulations. This cost cannot be quantified and it is also difficult to estimate the size of the cost.

4.3.1.5 Maximum capacity of toilets, baths and basins

The proprietor must provide at least one toilet, one bath or shower and one basin for every 10 people (or part thereof) residing in prescribed accommodation.⁸⁵ To comply with the Regulations proprietors would need to incur the cost of providing additional toilets, baths/showers or basins for every additional lot of 10 people (or part thereof). For an individual proprietor this cost could be significant, for example, the construction of an additional small bathroom (6.48m²) with basic finishes and fittings was estimated to cost approximately \$8,850⁸⁶ in 2017 or \$9,342 in 2021 dollars. While there is no recent data on the degree of compliance with this Regulation, a 2011 Rooming house RIS found that 30% of rooming houses did not meet this requirement. Compliance for other types of prescribed accommodation is not available and estimates have been used, including an estimate of 100% compliance in hotels and motels. Assuming 1 additional bathroom is required for each non-compliant new or existing facility, the total cost is estimated at \$8.0 million over 10 years (or \$7.5 million in NPV). Since the Public Health and Wellbeing Regulations 2009, (which have been remade as the Regulations) came into effect in January 2010, compliance with

⁸² Regulation 17 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

⁸⁴ ABS. (2016a). *ABS catalogue 2049.0 Census of Population and Housing: Estimating homelessness, 2016*. <<https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/2049.02016?OpenDocument>>

⁸⁵ Regulation 25 of the Regulations.

⁸⁶ Home design directory. (2017). *Bathroom cost calculator*. <<https://www.homedesigndirectory.com.au/calculators/bathroom-cost-estimates.php>>

this requirement is likely to have increased so this is an upper bound cost estimate (i.e. very likely to be higher than actual costs).

Table 4-10 Cost of additional bathrooms

Type of premises	No. of new & existing facilities 2021	No. of new facilities 2022-30	Estimated % that would not meet this requirement under the Base Case	No. of bathrooms required for each facility to become compliant	Cost per bathroom	Total cost 2021-30	Total cost 2021-30 NPV
Residential accommodation	1,634	367	7.5%	1	\$9,342	\$1,431,089	\$1,326,743
Hotels and motels	1,379	210	0%	n/a	As above	\$0	\$0
Hostels	213	18	30%	1	As above	\$653,005	\$618,505
Student dormitories	182	36	15%	1	As above	\$310,299	\$288,781
Holiday camps	315	0	15%	1	As above	\$441,401	\$424,424
Rooming houses	1,425	390	30%	1	As above	\$5,205,947	\$4,795,894
Total cost						\$8.0 million	\$7.5 million

Note it is assumed that additional costs are incurred by some proprietors in FY21 upon the introduction of the Regulations, but thereafter only some new businesses incur this cost. The proportion of businesses that would not meet this requirement under the Base Case is assumed to be constant over time.

4.3.1.6 Maintenance and cleanliness

The proprietor must maintain the prescribed accommodation and ensure the property is in good working order, in a clean, sanitary and hygienic condition and in a good state of repair.⁸⁷ Some types of prescribed accommodation are more likely to reduce maintenance costs under the Base Case compared to others. For example, due to lower margins and weaker self-regulation incentives and market forces, rooming houses are more likely to reduce maintenance compared to luxury hotels.

In 2011, it was estimated that a representative rooming house should spend approximately \$3,000 p.a. on maintenance,⁸⁸ or approximately \$3,570 p.a. following inflation.⁸⁹ It also estimates that the cost of maintenance for a large rooming house is \$7,500 p.a. (or \$8,924 in 2021 dollars). In the absence of more data, it is assumed for the purpose of estimating costs in the RIS that this maintenance cost for large rooming houses is applicable to hostels and student dormitories. However, it is noted that this is considered a high estimate of costs (i.e. upper bound estimate) because it is likely to include maintenance costs not related to public health. Residential accommodation is expected to have the same maintenance costs as rooming houses. The maintenance cost for hotels, motels and holiday camps is estimated using a 2007 survey on hotels maintenance which found that 3-star hotels on average spend \$1,164 on maintenance per room

⁸⁷ Regulation 18 and 19 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

⁸⁸ Department of Health and Human Services. (2011). *Proposed Residential Tenancies (Rooming House Standards) Regulations Regulatory Impact Statement*. <<https://www.vic.gov.au/sites/default/files/2019-11/Residential-tenancies-Rooming-house-standards-Regulations-2011-RIS.pdf>>

⁸⁹ Department of Treasury and Finance Victoria. (2019). *Macroeconomic data 2019-20 Budget Update*. <<https://www.dtf.vic.gov.au/state-financial-data-sets/macroeconomic-indicators>>

(i.e. \$1,536 in 2021 dollars).⁹⁰ The average Victorian hotel has 51 rooms while the average Victorian holiday camp has 37 rooms (see section 4.2.3) resulting in maintenance costs of \$78,323 and \$56,669 per facility p.a. respectfully.

It is assumed that all types of prescribed accommodation require extra maintenance in Option 1 relative to the Base Case. Maintenance costs are estimated at \$40.6 million over 10 years (or \$32.8 million in NPV). This is likely to be an overestimate because the Regulations are only concerned with maintenance specifically related to public health and wellbeing, while maintenance cost estimates are likely to include the cost of all maintenance. Maintenance costs are subject to sensitivity analysis in Appendix F.

Table 4-11 Cost of additional maintenance

Type of premises	No. of new & existing facilities 2021	No. of new facilities 2022-30	Estimated % facilities that would not meet this requirement under the Base Case	Estimated % of Option 1 maintenance spend under the Base Case	Annual maintenance expenditure per facility (p.a.) under Option 1	Total cost 2021-30	Total cost 2021-30 NPV
Residential accommodation	1,634	367	7.5%	50%	\$3,570	\$2,451,826	\$1,972,782
Hotels and motels	1,379	210	2%	50%	\$78,323	\$11,695,881	\$9,433,235
Hostels	213	18	30%	50%	\$9,125	\$2,984,877	\$2,413,303
Student dormitories	182	36	15%	50%	\$9,125	\$1,344,945	\$1,083,132
Holiday camps	315	0	15%	50%	\$56,669	\$13,387,956	\$10,858,832
Rooming houses	1,425	390	30%	50%	\$3,570	\$8,744,130	\$7,025,148
Total cost						\$40.6 million	\$32.8 million

Column 3 represents the proportion of total facilities that do not take adequate maintenance under the Base Case and require additional maintenance under Option 1. Column 4 represents the proportion of Option 1's annual maintenance costs which are assumed to be already incurred by non-compliant facilities under the Base Case i.e. reflecting that non-compliance does not mean \$0 maintenance is undertaken.

4.3.1.7 Water supply and waste water disposal

The proprietor must:

- Provide a continuous and adequate supply of water to all toilet, bathing, kitchen, laundry and drinking water facilities. This includes hot water to all bathing, laundry and kitchen facilities.⁹¹

⁹⁰ Chan, K. (2007). [An empirical study of maintenance costs for hotels in Hong Kong.](https://link.springer.com/content/pdf/10.1057/palgrave.rlp.5100081.pdf)

⁹¹ Regulation 20(1) and 20(2) of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

- Ensure that all sewage and waste water is discharged to a reticulated sewerage system or to an appropriate wastewater treatment system.⁹²

It is assumed that the cost of these requirements will be negligible as these facilities will be provided in the Base Case as part of the normal course of business by all proprietors. Council planning requirements and the common provision of reticulated water and sewerage services will generally ensure this is the case, although there might be small exceptions such as holiday camps.

4.3.1.8 Garbage disposal

The proprietor must provide sufficient vermin-proof bins for the collection and storage of all rubbish, ensure the receptacles are regularly cleaned⁹³ and ensure that all refuse is regularly removed by a refuse collection service⁹⁴. It is assumed that the vast majority of businesses will provide bins in the absence of these regulations.

4.3.1.9 Council fees

Proprietors also pay fees to Councils to lodge registration and renewal applications. These fees recover all (or some of) the costs incurred by Councils to ensure compliance with the Regulations. Each Council has its own fee structure and bespoke set of fees, and the extent to which these fees recover the costs of monitoring and enforcement activities is unknown.

This analysis assumes that Council fees fully cost recover all monitoring and enforcement activities incurred by Councils. For simplicity, monitoring and enforcement activities are costed using time rather than unique fee structures, but fees should equal the cost of monitoring and enforcement activities given the 100% cost recovery assumption. Since fees are paid by proprietors, the cost of monitoring and enforcement activities undertaken by Councils are in-turn incurred by businesses through the fees they pay, so in our analysis this is included as a business cost. It is estimated that businesses incur \$15 million in fees over 10 years (or \$12.1 million in NPV) as outlined below.

Assessing registration and renewal applications

The PHWA requires Councils to assess registration and renewal applications for prescribed accommodation facilities located within their municipal district. In Option 1, Councils incur additional resourcing costs to review and approve these applications (this does not include follow up and inspection time). It is estimated that on average it takes 30 minutes to review a renewal application and 1 hour for a registration application. Registration applications take longer to review because additional once-off content is included within the application. A wage rate for councils of \$85.53 per hour is used (see section 4.2.4). With 1,245 registration applications and 55,723 renewal applications, the cost under Option 1 is \$2.5 million over the life of the Regulations (or \$2.0 million in NPV).⁹⁵

Table 4-12 Cost to assess applications

Type of application	Number of applications 2021-2030	Hours to assess application	Cost of time (incl. loading)	Total cost 2021-2030	Total cost NPV
Renewal application	55,723	0.5 hour	\$85.53	\$2,383,001	\$1,919,096

⁹² Regulation 22 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

⁹³ Regulation 23 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

⁹⁴ Regulation 24 of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009.

⁹⁵ It is acknowledged that each Council charges fees for registration and renewal applications. Fees are individually set by each Council. Fees aim to cost recover Council resources consumed to monitor and enforce the Regulations, however since Council resources have been costed in this analysis, Council fees were excluded to avoid double counting.

Registration application	1,245	1 hour	\$85.53	\$106,494	\$85,691
Total cost				\$2.5 million	\$2.0 million

Council inspections

The PHWA empowers a Council to inspect any prescribed accommodation premises to investigate, eliminate or reduce a public health risk. Councils may conduct inspections prior to approving a registration or renewal application, or in response to complaints received. As per section 4.3.1.2, a 2018 survey of Councils found that on average, officers spent 1.15 hours inspecting a registered accommodation facility, 5.13 hours inspecting a first time registration facility and around 0.64 hours traveling to each inspection.⁹⁶ Assuming annual inspections are undertaken for registration and renewal applications, and that 5% of existing facilities are subject to additional inspections due to complaints, the cost of attending inspections is \$9.6 million over 10 years (or \$7.7 million in NPV).

Table 4-13 Cost of Council inspections

Type of inspection	Number of applications 2021-2030	Hours to inspect application	Travel time	Cost of time (incl. loading)	Total cost 2021-2030 undiscounted	Total cost 2021-2030 NPV
First time inspection for registration application	1,245	5.13 hours	0.64 hours	\$85.53	\$614,310	\$494,306
Routine annual inspection for renewal application	55,723	1.15 hours	0.64 hours	\$85.53	\$8,525,137	\$6,865,526
Inspections in response to complaints	2,786	1.15 hours	0.64 hours	\$85.53	\$426,257	\$343,276
Total cost					\$9.6 million	\$7.7 million

Prohibition notices

The PHWA provides that Councils may issue improvement notices or prohibition notices should Councils find that proprietors have contravened a provision within the PHWA or the Regulations. Based on a 2018 survey, Deloitte estimates that 165 prohibition notices will be issued in 2021, or 1,828 over 10 years. Assuming it takes 15 hours (i.e. 2 working days) for Councils to investigate and issue these notices, at a wage rate of \$85.53 per hour, the cost of issuing prohibition notices is estimated at about \$2.3 million over 10 years (or \$1.9 million in NPV).⁹⁷ However this estimate is quite uncertain given the uncertainty around the number of notices across all Councils and the time involved in investigating and issuing prohibition notices.

⁹⁶ Department of Health and Human Services. (2019). *Public Health and Wellbeing Regulations Sunset Review – Survey of Environmental Health Officers*.

⁹⁷ Assuming that enforcement activity grew at the same rate as the number of prescribed accommodation facilities across Victoria, it is estimated that 165 prohibition notices could be issued in 2021, or 1,823 over the life of the Regulations.

Table 4-14 Cost of prohibition notices

Number of prohibition notices 2021-2030	Hours to prepare	Cost of time (incl. loading)	Total cost 2021-30	Total cost 2021-2030 NPV
1,828	15 hours	\$85.53	\$2.3 million	\$1.9 million

Prosecutions

In the event that a prescribed accommodation facility fails to comply with a prohibition notice issued by a Council, the PHWA gives the Council the power to pursue a prosecution against the proprietor of the accommodation. Prosecutions under Option 1 consume additional Council resources relative to the Base Case. Based on a 2018 survey of Environmental Health Officers, Deloitte estimates that there will be 7 prosecutions in 2021 and a total of 77 over the life of the Regulations. Assuming that 10 days of Council resources are consumed to pursue a prosecution (i.e. 75 working hours), using Band 8 Council workers (\$103.75 per hour), it is estimated that prosecutions costs Councils around \$0.6 million over the life of the Regulations (or \$0.5 million in NPV).

Table 4-15 Cost of prosecutions

Number of prosecutions 2021-2030	Hours to prepare	Cost of time (incl. loading)	Total cost 2021-30	Total cost 2021-30 NPV
77	75 hours	\$103.75	\$0.6 million	\$0.5 million

4.3.1.10 Summary of costs to businesses

Overall, major compliance costs for businesses are the cost of registration (\$3.0 million), proprietor's attendance at inspections (\$3.7 million), the cost of maintaining an occupant register (\$3.3 million), the cost of meeting occupancy requirements (\$7.5 million), the cost of maintenance (\$32.8 million) and the cost of Council fees (\$12.1 million) in NPV terms. The estimated total cost to businesses is \$62.4 million in NPV or \$9,926 per business in NPV (average cost across businesses). This is considered a significant cost and is therefore given a score of -7.

Overall, maintenance costs are the largest cost incurred by businesses accounting for 53% of total costs followed by Council fees (19%). Sensitivity analysis has been undertaken for maintenance costs, reflecting the level of uncertainty about these costs and the size of the costs. Findings are shown in Appendix F. A break-down of all costs, except Council fees, by type of prescribed accommodation is presented Appendix E.

Table 4-16 MCA Criteria: Cost to businesses

MCA Criteria	Base case	Option 1
Cost to businesses	0	-7

4.3.2 Criteria 2: Supply of accommodation

The Regulations require that any proprietor of a prescribed accommodation facility must comply with maintenance, hygiene and occupancy standards. It is possible that the cost of regulations could reduce supply in the prescribed accommodation market by deterring entrants or causing

existing proprietors to exit the market. This argument is particularly relevant to rooming houses because of their historically low profitability.⁹⁸

Literature suggests that the introduction of standards in rooming houses may result in proprietors of rooming houses passing on the cost of the Regulations to occupants in the form of higher rents.⁹⁹ Another concern is that some proprietors of rooming houses may seek to leave the market rather than incur the cost to adhere to more stringent standards.¹⁰⁰ It is however noted that Greenhalgh et al. notes that a reduction in supply due to regulatory standards is somewhat contentious.¹⁰¹

Any reduction in the supply of rooming houses is a concern for those people seeking affordable accommodation. For a number of years the rooming house sector has declined, not just in Victoria but across Australia¹⁰² which is in part because of low profitability.¹⁰³ While supply has contracted, the demand for affordable accommodation like rooming houses has increased over time. As such, the introduction of stringent regulation could exacerbate existing problems within Victoria's rooming house sector.

If proprietors of rooming houses increased rents to recover compliance costs associated with Regulations, it could result in more Victorians sleeping rough. This is because for some Victorians, residing in a rooming house is their last resort before becoming homeless.¹⁰⁴ The ABS in fact classifies people residing in rooming houses as homeless.¹⁰⁵

Literature suggests that should the number of rooming houses decline, more Victorians are likely to become homeless, increasing the cost of healthcare because healthcare costs are higher for homeless people than for non-homeless people. MacKenzie (2016) compared the health care utilisation (and associated costs) between unemployed (or supported) youth and homeless youth.¹⁰⁶ MacKenzie argued that homeless youth consumed significantly more health care services relative to unemployed youth.

Box 4.2. Comparing the cost of health care for unemployed people against that for homeless people

The average cost per person per year of health care in the community was \$2,271 per person...[while] the health cost of the homeless group is \$8,505 per person per annum, or three times higher than the average for the general population. The average incidence per person for

⁹⁸ Greenhalgh, E., Miller, A., Minnery, J., Gurrán, N., Jacobs, K. & Phibbs, P. (2004). [Boarding houses and Government supply side intervention](https://www.ahuri.edu.au/__data/assets/pdf_file/0016/2239/AHURI_Final_Report_No54_Boarding_houses_and_government_supply_side_intervention.pdf). <https://www.ahuri.edu.au/__data/assets/pdf_file/0016/2239/AHURI_Final_Report_No54_Boarding_houses_and_government_supply_side_intervention.pdf>

⁹⁹ Department of Health and Human Services. (2011). [Proposed Residential Tenancies \(Rooming House Standards\) Regulations Regulatory Impact Statement](https://www.vic.gov.au/sites/default/files/2019-11/Residential-tenancies-Rooming-house-standards-Regulations-2011-RIS.pdf). <https://www.vic.gov.au/sites/default/files/2019-11/Residential-tenancies-Rooming-house-standards-Regulations-2011-RIS.pdf>

¹⁰⁰ Ibid.

¹⁰¹ Greenhalgh et al. (2004). [Boarding houses and Government supply side intervention](https://www.ahuri.edu.au/__data/assets/pdf_file/0016/2239/AHURI_Final_Report_No54_Boarding_houses_and_government_supply_side_intervention.pdf). <https://www.ahuri.edu.au/__data/assets/pdf_file/0016/2239/AHURI_Final_Report_No54_Boarding_houses_and_government_supply_side_intervention.pdf>

¹⁰² Dalton, T., Pawson, H. & Hulse, K. (2015). [Rooming house futures: governing for growth, fairness and transparency](https://www.ahuri.edu.au/research/final-reports/245). <https://www.ahuri.edu.au/research/final-reports/245>

¹⁰³ Greenhalgh, E., Miller, A., Minnery, J., Gurrán, N., Jacobs, K. & Phibbs, P. (2004). [Boarding houses and Government supply side intervention](https://www.ahuri.edu.au/__data/assets/pdf_file/0016/2239/AHURI_Final_Report_No54_Boarding_houses_and_government_supply_side_intervention.pdf). <https://www.ahuri.edu.au/__data/assets/pdf_file/0016/2239/AHURI_Final_Report_No54_Boarding_houses_and_government_supply_side_intervention.pdf>

¹⁰⁴ The Salvation Army Adult Services. (2011). [No Room to move? Report of the Outer West Rooming House Project](http://www.nwhn.net.au/admin/file/content101/c6/No%20Room%20to%20move%20Report_1332384268120.pdf). <http://www.nwhn.net.au/admin/file/content101/c6/No%20Room%20to%20move%20Report_1332384268120.pdf>

¹⁰⁵ ABS. (2016a). [ABS2049.0 - Census of Population and Housing: Estimating homelessness, 2016](https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/2049.02016?OpenDocument). <https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/2049.02016?OpenDocument>

¹⁰⁶ MacKenzie, D., Flatau, P., Steen, A., Thielking, M. (2016). [The cost of youth homelessness in Australia](https://researchbank.swinburne.edu.au/file/30e52c92-64a1-477c-993a-0e547c6c7371/1/PDF%20%28Published%20version%29.pdf). <https://researchbank.swinburne.edu.au/file/30e52c92-64a1-477c-993a-0e547c6c7371/1/PDF%20%28Published%20version%29.pdf>

every item comprising health services is higher for the homeless group than ... the general population except for dental services.

The costs of health and medical services usage by the homeless group is five times that of the comparison unemployed group (\$8505 compared to \$1761).

MacKenzie, D., Flatau, P., Steen, A., Thielking, M. (2016). The cost of youth homelessness in Australia

This suggests that the cost of healthcare for homeless youth is around \$6,744 per person p.a. more than for unemployed youth.¹⁰⁷ Witte (2017) argues that this premium understates the difference in health care costs because this study concerned youth, and generally speaking young people have lower health costs relative to other adult Australians.¹⁰⁸ As such, Witte argues the difference in health care costs should be inflated by 25% to \$8,430 per person p.a. (or \$8,898 p.a. in FY21) to apply to all homeless people.

The Mackenzie and Witte evidence suggests that a reduction in the number of rooming houses could result in significant annual costs.

It is important to note that Regulation is one of many factors influencing the supply of rooming houses. Other costs such as rising land costs are likely to be a more significant driver of a reduced supply of rooming houses.

It is uncertain how the COVID-19 health emergency may impact this criteria, however it is possible that the economic downturn brought about from the virus could increase the demand for affordable housing, further exacerbating the impact of any proprietors that may choose to exit the market.

Considering these factors, this criteria is scored -2 reflecting that there is a low risk that rooming houses could close down in response to higher compliance costs under the Regulations compared to Base Case. This score is the same as that assigned in the 2011 Rooming house RIS.¹⁰⁹

Table 4-17 MCA Criteria: Supply of accommodation

MCA Criteria	Base case	Option 1
Supply of accommodation	0	-2

4.3.3 Criteria 3: Health and Wellbeing

Summary of benefits analysis

The following benefits as a result of the Regulations are analysed:

- **Increased public health and wellbeing** – reduced transmission of infectious disease, reduced risk of noncommunicable diseases, reduced injury as a result of inadequate maintenance of accommodation facility.
- **Healthcare costs** – avoided healthcare costs.

While there is limited data measuring whether the current Regulations have positively affected health and wellbeing or reduced healthcare costs, there is substantial evidence on the negative implications of substandard accommodation conditions. This evidence suggests Regulations around maintenance, cleanliness, maximum occupancy and minimal requirements are expected to reduce public health and wellbeing risks for occupants of prescribed accommodation relative to the Base

¹⁰⁷ MacKenzie et al. (2016). [The cost of youth homelessness in Australia](https://researchbank.swinburne.edu.au/file/30e52c92-64a1-477c-993a-0e547c6c7371/1/PDF%20%28Published%20version%29.pdf). <https://researchbank.swinburne.edu.au/file/30e52c92-64a1-477c-993a-0e547c6c7371/1/PDF%20%28Published%20version%29.pdf>

¹⁰⁸ Witte, E. (2017). [The case for investing in last resort housing, MSSJ Issues Paper No. 10](https://www.sgsep.com.au/assets/main/SGS-Economics-and-Planning-Last-Resort-Housing.pdf). <https://www.sgsep.com.au/assets/main/SGS-Economics-and-Planning-Last-Resort-Housing.pdf>

¹⁰⁹ Department of Health and Human Services. (2011). [Proposed Residential Tenancies \(Rooming House Standards\) Regulations Regulatory Impact Statement](https://www.vic.gov.au/sites/default/files/2019-11/Residential-tenancies-Rooming-house-standards-Regulations-2011-RIS.pdf). <https://www.vic.gov.au/sites/default/files/2019-11/Residential-tenancies-Rooming-house-standards-Regulations-2011-RIS.pdf>

Case. This is particularly the case for vulnerable persons, who will benefit most from the Regulations.

As discussed in Chapter 2, the primary focus of the Regulations is to reduce the risk to public health and wellbeing posed by substandard accommodation conditions. This section provides analysis of the public health and wellbeing benefits associated with property maintenance, adequate sanitation and domestic hygiene practices, and access to clean water.

It is noted that there are limitations in regard to the data available on these benefits, not only in Victoria but in other jurisdictions. This may indicate gaps in data collection, but it may also indicate that the current regulatory regime goes a long way to preventing health risks to occupants. However, this relationship is difficult to prove or quantify, particularly since the regulatory framework has been in place for many years, which means it is not possible to compare current outcomes to the case where there are no regulations (the Base Case).

It is noted that the Building Research Establishment in the UK has developed a considered approach to measuring the costs of substandard housing on the health of occupants and quantifying health system benefits associated with avoided health risks. However, notable gaps in data availability on the prevalence and effects of housing conditions in Australia¹¹⁰ mean this methodology could not be effectively applied to the Victorian context. Similar research does not exist for Victoria or Australia.

This section therefore provides a qualitative analysis of the benefits. Findings relate to observations both in the Australian and comparable contexts. The COVID-19 health emergency also illustrates the potential risks to public health and wellbeing of poor standards in prescribed accommodation premises.

What is public health and wellbeing?

The PHWA states that public health and wellbeing includes the absence of disease, illness, injury, disability or premature death and the collective state of public wellbeing.¹¹¹ The standards in the Regulations are designed to promote and protect public health and wellbeing in prescribed accommodation. Generally, public health and wellbeing risk is different from a safety hazard that might lead to immediate injury such as through inadequate construction of a building that does not meet building standards under the *Building Act 1993*, although some safety risk may be managed through the obligation in the Regulations to keep prescribed accommodation in good working order and in a good state of repair. Generally, public health and wellbeing relates to health and wellbeing and the prevention of disease at the community level.

Increased public health and wellbeing benefits: reduced illness and injury

The expected benefits of Option 1 flow to residents in prescribed accommodation and the community more generally. Residents will benefit in terms of reductions in disease and avoided injury, while reduction in infectious disease will also lead to benefits for the broader community. There will also be avoided healthcare costs for residents and the broader community.

As noted in Chapter 2, the more people living in close proximity to one another, the greater the spread of any infectious disease. The risk of disease spread further increases where there is a high turnover of large volumes of people sharing facilities for a short period of time, such as in short-stay accommodation facilities such as hostels, hotels and motels.

Transient populations, especially those experiencing financial instability, experience a higher rate of infectious disease compared to the general population.¹¹² The reason for this is three-fold;

¹¹⁰ Baker et al. (2016). [Poor housing quality: Prevalence and health effects](https://www.tandfonline.com/doi/full/10.1080/10852352.2016.1197714). <<https://www.tandfonline.com/doi/full/10.1080/10852352.2016.1197714>>

¹¹¹ Section 4(1)(b) Public Health and Wellbeing Act 2008.

¹¹² Mwambi et al. (2007). Chapter 13: Mapping and Modelling Disease Risk Among Mobile Populations. *Population Mobility and Infectious Disease*. Springer Science + Business Media: Boston. Pg. 244-266.

unpredictable access to clean facilities and water, increased exposure to the general population, and, in some cases, increased personal risk of chronic disease associated with low socioeconomic status.¹¹³

This evidence highlights how physical conditions of the accommodation purchased by these populations can directly impact their health and lead to poor public health outcomes. The Regulations are designed to prevent unnecessary exposure to, and transmission of, infectious disease:

- **Regulation 17** establishes minimum requirements for the space and type of facilities (bedroom and bathroom facilities) that should be made available to an occupant, and the maximum occupancy per meter squared based on the length of their stay. This helps to avoid overcrowding of facilities, which has been associated with the transmission of infectious disease both in the Victorian and comparable contexts.¹¹⁴
- **Regulation 19** requires proprietors to change the linen in bedrooms at least once a week and clean bedrooms after an occupant has vacated and before its reuse by another occupant. Regular cleaning and replacing linen help to stem the continuation and spread of infectious diseases.
- **Regulation 20 & 21** states that occupants must have continuous and adequate access to water for personal hygiene and hydration. These measures support occupants to maintain a good state of personal hygiene and health, both of which fight the risk of spreading or catching an infectious disease.¹¹⁵
- **Regulation 16** provides a framework through which Councils can monitor and enforce compliance with the standards.

Non-communicable disease is also addressed by Option 1. Excess moisture and poor ventilation can create an environment within which mould, dust mites and pests can grow and reproduce.^{116,117} Exposure to these biological agents is associated with respiratory disease, inflammation of the airways (causing asthma), and bacterial infections.¹¹⁸ Further, occupants (children and adults) of premises in this condition report the state of their physical environment negatively affects their mental health.^{119,120}

The following Regulations, among others, assist in managing the risk of noncommunicable diseases:

¹¹³ Baker et al. (2012). [Increasing incidence of serious infectious diseases and inequalities in New Zealand: a national epidemiological study.](https://d1wqtxts1xzle7.cloudfront.net/39652920/Increasing_Incidence_of_Serious_Infectio20151103-22313-1add3pq.pdf?1446593837=&response-content-disposition=inline%3B+filename%3DIncreasing_incidence_of_serious_infectio.pdf&Expires=1598324221&Signature=FSsvC4w0vjChfKAXzh-eJAXt~g3AeAV3N5OAFruLm7WK143H--onNHgrVTsN9r8Nsg2t-3UA0RSnEbd4uRQWAJNM69Rk-6S5k-U6kGJ2Z-TJfIWIiR6xmIHwLZ2cokboER0fdOI2Sv8FMJPFaaxT0XBWvwpISVKku5JbeVWtbdivjbmtfQ4bIUJkEa9d~zG3040d7nZd92dyZPbrzc565PniFgv9Zfz8eKYGzY5M8Ko7X5h1BAA310xqLrHUBZCkP6IXS1~Rmxec2hKq5EnMJiVQcIAXHSn6IjpBzEppq7NyzWd91p8ui5BoidfPcw4Bg9SikzLKGyxi4q~C3k1Dw__&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA) <https://d1wqtxts1xzle7.cloudfront.net/39652920/Increasing_Incidence_of_Serious_Infectio20151103-22313-1add3pq.pdf?1446593837=&response-content-disposition=inline%3B+filename%3DIncreasing_incidence_of_serious_infectio.pdf&Expires=1598324221&Signature=FSsvC4w0vjChfKAXzh-eJAXt~g3AeAV3N5OAFruLm7WK143H--onNHgrVTsN9r8Nsg2t-3UA0RSnEbd4uRQWAJNM69Rk-6S5k-U6kGJ2Z-TJfIWIiR6xmIHwLZ2cokboER0fdOI2Sv8FMJPFaaxT0XBWvwpISVKku5JbeVWtbdivjbmtfQ4bIUJkEa9d~zG3040d7nZd92dyZPbrzc565PniFgv9Zfz8eKYGzY5M8Ko7X5h1BAA310xqLrHUBZCkP6IXS1~Rmxec2hKq5EnMJiVQcIAXHSn6IjpBzEppq7NyzWd91p8ui5BoidfPcw4Bg9SikzLKGyxi4q~C3k1Dw__&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA>

¹¹⁴ World Health Organisation. (2018). [WHO Housing and Health Guidelines.](https://www.who.int/publications/i/item/who-housing-and-health-guidelines) <<https://www.who.int/publications/i/item/who-housing-and-health-guidelines>>

¹¹⁵ NSW Department of Health (2010). [Closing the gap: 10 Years of Housing for Health in NSW – An evaluation of a health housing intervention.](https://www.health.nsw.gov.au/environment/aboriginal/Publications/housing-health.pdf) <<https://www.health.nsw.gov.au/environment/aboriginal/Publications/housing-health.pdf>>

¹¹⁶ Better Health (2020). [Mould and your health.](https://www.betterhealth.vic.gov.au/health/conditionsandtreatments/mould-and-your-health#:~:text=Mould%20associated%20with%20damp%20buildings,allergies) <<https://www.betterhealth.vic.gov.au/health/conditionsandtreatments/mould-and-your-health#:~:text=Mould%20associated%20with%20damp%20buildings,allergies>>

¹¹⁷ National Centre for Housing Health. (2009). [Housing interventions and health.](https://nchh.org/resource-library/Housing%20Interventions%20and%20Health.pdf) <<https://nchh.org/resource-library/Housing%20Interventions%20and%20Health.pdf>>

¹¹⁸ Fisk et al. (2007). [Meta-analyses of the association of respiratory health effects with dampness and mould in homes.](https://onlinelibrary.wiley.com/doi/full/10.1111/j.1600-0668.2007.00475.x) <<https://onlinelibrary.wiley.com/doi/full/10.1111/j.1600-0668.2007.00475.x>>

¹¹⁹ Walters, A.M (2001). [Do housing conditions impact on health inequalities between Australia's rich and poor?](https://www.ahuri.edu.au/research/final-reports/4) *AHURI Final Report No. 4.* <<https://www.ahuri.edu.au/research/final-reports/4>>

¹²⁰ Harker, L (2006). [Chance of a Lifetime: The impact of bad housing on children's lives.](https://england.shelter.org.uk/_data/assets/pdf_file/0016/39202/Chance_of_a_Lifetime.pdf) <https://england.shelter.org.uk/_data/assets/pdf_file/0016/39202/Chance_of_a_Lifetime.pdf>

- **Regulation 18** requires proprietors to keep prescribed accommodation in a good state of repair and ensure that facilities are clean and hygienic.
- **Regulation 22** requires proprietors to ensure all sewage and wastewater is discharged appropriately.
- **Regulation 16** provides a framework through which Councils can monitor and enforce compliance with the standards.

This means that proprietors must monitor and remove water-affected building materials (walls, carpets, furniture and bedding), correct water damage when it occurs, fix leaks in a timely manner, ensure that each room has the appropriate number of properly functioning ventilation points, and that adequate piping allows all water (exterior and waste) to be removed efficiently from the building.¹²¹ Without the Regulations, this maintenance may not be required and as a result occupants would be at greater risk of disease.

The Regulations also reduce injury as a result of inadequate maintenance of accommodation facilities. Historically, almost a quarter (24%) of hospital admissions, over a third (34.1%) of Emergency Department presentations, and over a third of injury deaths in Victoria have occurred within the place of residence.^{122,123,124} Two of the three main causes of injury, falls¹²⁵ and burns¹²⁶, can be prevented via:

- Safe design, construction and installation of exterior and interior furnishings (for example, stairs and carpet)
- Accessibility and safety fittings (for example, handrails and smoke alarms)
- Frequent monitoring of gas and electrical appliances and supply routes.

It is important to note that only some of these causes are relevant to the standards that are mandated under Option 1 (current Regulations), however it gives an indication of the types of accidents and injuries that can occur in houses. Regulations protect occupants from avoidable injuries arising from substandard or poorly maintained housing:

The Regulations, including the following, protect occupants from avoidable injuries arising from poorly maintained premises:

- **Regulation 18** requires proprietors to maintain their premises in a liveable condition; particularly, all bedrooms, facilities and living areas must be in working order.
- **Regulation 16** which sets out the requirements for registration of prescribed accommodation provides a framework through which Councils can monitor and enforce compliance with the standards.

Overall, the size of the public health and wellbeing benefit of reduced illness and injury for Option 1 versus the Base Case depends on how many proprietors would meet the standards even if there were no regulations in place. Market forces, self-regulation tools (e.g. customer review websites), and adherence to good commercial practice may encourage proprietors to maintain adequate standards, voluntarily. On the other hand, in the absence of the Regulation, some proprietors

¹²¹ National Centre for Housing Health. (2009). *Housing interventions and health*. <<https://nchh.org/resource-library/Housing%20Interventions%20and%20Health.pdf>>

¹²² Victorian Injury Surveillance Unit (2013). *A settings-based analysis of injury data in Victoria*. Hazard, (76). <https://www.monash.edu/_data/assets/pdf_file/0008/218492/haz76.pdf>

¹²³ Australian Bureau of Statistics (2006). Death Unit Record File 2004-2006.

¹²⁴ It is important to note that the location of the injury incident was not specified in one fifth (20%) of injury death cases (ABS, 2006).

¹²⁵ For the period 2009/10-2011/12, of home-based injuries, falls represented 60% of hospital admissions (n=17,303, 85% of hospital bed days (n=237,195), 74% of direct hospital costs (\$168.5m), and 65% of years lived with disability (n=1730) (VISU, 2013). The most common falls leading to hospital admissions in adults aged 25-44 years included slips, trips and stumbles (26%), other same level falls (18%), falls involving stairs or steps (13%), falls on or through buildings or structures (9.5%) (VISU, 2013).

¹²⁶ For the period 2009/10-2011/12, of home-based injuries, injuries resulting from fires, urns and scalds accounted for 7% of years lived with disability (VISU, 2013). The most common causes of severe burns were exposure to ignition of highly flammable materials (for example, gasoline, kerosene and petrol) (VISU, 2013).

might undertake significantly less maintenance. These are more likely to be proprietors of cheaper facilities such as rooming houses, hostels and student dormitories who are under cost pressures to provide budget accommodation for occupants, including vulnerable occupants.

It is difficult to determine the size of this benefit given the limited data available. However, the evidence relating health risks to accommodation standards, and stakeholder consensus that the current Regulations play an important role in minimising public health risks, suggests this benefit is realised to a much greater extent under Option 1 than under the Base Case (noting vulnerable persons will benefit most from the Regulations).

Avoided healthcare costs

Evidence suggests that identifying risks to human health and fostering a culture whereby these risks are addressed in a timely manner can avoid direct healthcare costs to individuals and the healthcare system:^{127,128}

- The *Healthy Housing* initiative in NSW observed that improving domestic hygiene - ensuring bathroom facilities were in a good state of repair, removing waste safely, and enhancing cleaning and laundry practices - in substandard housing resulted in a 38% decrease in the number of hospital separations¹²⁹ for infectious disease (acute respiratory tract infections, skin infections, and gastrointestinal infections) in occupants.¹³⁰
- Studies in the UK have estimated that the cost of housing disrepair¹³¹ to the National Health Service in initial treatment costs is approximately £760m per year (across 5,718,325 incidences).¹³² This includes injury and illness from falls, dampness, domestic hygiene, water supply, overcrowding and electrical and structural problems.¹³³

The Regulations establish standards around maintenance, hygiene, and space and occupancy of facilities. These measures mean that prescribed accommodation can function to support healthy living, which in turn reduces the cost of healthcare incurred by the individual and the healthcare system. Councils have the authority to monitor and enforce compliance with the Regulations and this promotes adherence to high health standards by proprietors.

Ultimately, it is difficult to assign a score to the health and wellbeing benefits given the lack of firm data on the extent to which proprietors would not meet acceptable standards in the absence of the Regulations, and the subsequent cost to the community. However, given the high cost to individuals and the community of illness and injury, and comparing these avoided costs to the cost of the Regulations articulated in the previous section, Option 1 is scored +7. The Regulations are expected to have substantial health and wellbeing benefits.

Table 4-18 MCA Criteria: Health and Safety

MCA Criteria	Base case	Option 1
Health and safety	0	+7

¹²⁷ Building Research Establishment (2015). *Briefing Paper: the cost of poor housing to the NHS*. <<https://www.bre.co.uk/filelibrary/pdf/87741-Cost-of-Poor-Housing-Briefing-Paper-v3.pdf>>

¹²⁸ NSW Department of Health (2010). *Closing the gap: 10 Years of Housing for Health in NSW – An evaluation of a health housing intervention*. <<https://www.health.nsw.gov.au/environment/aboriginal/Publications/housing-health.pdf>>

¹²⁹ A hospital separation is when a patient leaves a hospital or health facility after having been admitted for treatment.

¹³⁰ NSW Department of Health (2010). *Closing the gap: 10 Years of Housing for Health in NSW – An evaluation of a health housing intervention*. <<https://www.health.nsw.gov.au/environment/aboriginal/Publications/housing-health.pdf>>

¹³¹ Identified by the incidence of Category 1 hazards according to the Housing Health and Safety Rating System (Building Research Establishment, 2015).

¹³² Ibid.

¹³³ Ibid.

4.3.4 Summary of results

Scores for each criteria are summarised in the table below. Option 1 is preferred to the Base Case of no regulations. This reflects that:

- The costs to businesses are higher in Option 1 relative to the Base Case as proprietors incur costs relating to registration, maintaining a register of occupants and undertaking additional maintenance. Proprietors also pay registration fees to cover the costs of administration, inspection and enforcement activities incurred by Councils. Relative to the Base Case, these activities are estimated to cost proprietors \$62.4 million in NPV over the life of the Regulations. A score of -7 is assigned to this criterion.
- Evidence suggests Regulations on maintenance, cleanliness, maximum occupancy and minimal requirements reduce costs associated with personal and public health and wellbeing. These benefits particularly apply to vulnerable populations who are predisposed to poor social determinants of health. A score of +7 is assigned to this criterion.
- The costs of supplying accommodation that aligns with the Regulations may reduce supply; the costs to proprietors, especially those providing budget accommodation, may drive some proprietors out of the market. The recovery costs (built into the price of accommodation) borne by occupants may be a significant deterrent. A score of -2 is assigned to this criterion.

While the total weighted score is only slightly positive for Options 1 and 2 versus the Base Case, some of the costs estimated in this RIS are considered to be at the upper bound of what would businesses would be expected to incur, for example maintenance costs is considered an upper bound estimate of costs as discussed in section 4.3.1. Results of sensitivity analysis are provided in Appendix F.

Table 4-19 MCA results

Criteria	Base case non-weighted score	Option 1 non-weighted score	Weighting	Base case weighted score	Option 1 weighted score
Costs to businesses	0	-7	40%	0	-2.8
Supply of accommodation	0	-2	10%	0	-0.2
Health and Safety	0	+7	50%	0	+3.5
Total score				0	+0.5

4.4 Step 2: Option 1 versus Option 2

Option 2 is preferred to Option 1 because it implements targeted changes to improve the efficiency of the current Regulations and achieves consistency with other regulatory frameworks that interact with the Regulations. As explained in Chapter 3, the following two changes are proposed under Option 2 (there are also some minor drafting changes and technical changes to ensure consistency with the RTA - see Appendix D):

- **Definition of 'residential accommodation':** It is proposed to amend the definition to include 'any part' of a house, building, or other structure used as a place of abode where a person or persons can live on payment of consideration to the proprietor in addition to the entire house, building or other structure.
- **Definition of 'rooming house':** The definition is proposed to be amended to incorporate by reference, the definition of 'rooming house' in section 3(1) of the RTA.
- **Excluding SDA enrolled accommodation from 'prescribed accommodation':** The provision prescribing prescribed accommodation will provide that specialist disability accommodation enrolled under the Commonwealth's NDIS is not prescribed accommodation.

Making these changes ensures consistency between definitions and approaches in the RTA and the Regulations. SDA enrolled accommodation will be excluded from the definition of 'prescribed

accommodation', and that accommodation will continue to comply with the quality and safety requirements under the Commonwealth's NDIS. Further, in adopting the RTA definition of 'rooming house', rooming houses declared by the Minister for Housing under the RTA to be rooming houses will be required to comply with the standards under the Regulations where they were not already captured. While data on these rooming houses is not available, it is likely that this will have a minimal impact. It is expected that most declared rooming houses would already meet the standards of the Regulations whether or not they are covered by the current definition in the Regulations. To the extent they do not meet the standards, they will incur costs if they need to improve hygiene or maintenance standards for the benefit of residents.

Option 2 is expected to have the same or similar health benefits as the current Regulations (Option 1). There could be an increase in benefits if more proprietors comply with the Regulations due to increased clarity, however this is likely to be minor. Option 2 is expected to lead to a very small decrease in costs compared to the current Regulations due to revision of certain terms in the Regulations which may reduce the costs of compliance and Council regulation, for example administration and enforcement is more efficient due to less 'grey' areas. There may also be a minimal reduced cost for SDA enrolled accommodation by reducing regulatory burden in having to comply with the prescribed accommodation standards when complying with the quality and safety framework under the NDIS.

4.5 Preferred option

Preferred option

Scores for each criteria are summarised in Table 4-19. Option 1 (current Regulations) and Option 2 (current Regulations with minor improvements). These options are both preferred to the Base Case of no regulations. This is because they are both expected to reduce health and wellbeing risks for occupants of prescribed accommodation relative to the Base Case as proprietors enhance sanitation, hygiene and maintenance standards to comply with the Regulations. This in turn reduces the broader public health risk of conditions hazardous to public health, including the spread of infectious disease, and associated costs to the public health system in addressing public health issues for the benefit of the community. This includes vulnerable persons, who will benefit most from the Regulations. Raising the standards however imposes additional costs to proprietors, relative to the Base Case. These costs include registration, more maintenance, reduced maximum occupant capacity and compliance with basic hygiene and sanitation standards. Proprietors also incur Council fees which recover the costs to administer and enforce the Regulations.

The benefits under Options 1 and 2 are however likely to outweigh the increase in costs. While the benefits are difficult to precisely quantify, there is strong evidence indicating poor housing conditions are a driver of public health risks. There appears to be general consensus that the Regulations have an important role to play in managing or reducing public health risk that can arise in shared accommodation occupied by larger numbers of people, or in facilities with high turnover, and that the Regulations do contribute to that risk management. Notwithstanding this, issues have been raised by stakeholders about some elements of coverage of the Regulations and standards within the Regulations. These are outlined in a summary of stakeholder consultation in Appendix B. As discussed in Chapter 3, these issues will be addressed as part of considering the outcomes of a range of cross portfolio reviews considering matters related to prescribed accommodation and the Regulations.

Noting that the benefits of Options 1 and 2 are likely highest in certain types of prescribed accommodation like rooming houses and hostels, the nature of the Regulations is such that regulatory effort can be focused on areas of higher risk. Thus, both the costs and benefits are expected to be lower in lower risk parts of the sector.

Option 2 is preferred to Option 1 because it implements targeted changes to improve the efficiency of the current Regulations and achieves consistency with other regulatory frameworks that interact with the prescribed accommodation regulations, by:

- Clarifying the current application of certain terms, such as clarifying that 'residential accommodation' includes part of a building, modernising the term 'flat' to refer to 'apartment'

- Reducing regulatory burden such as adopting the definition of 'rooming house' in the RTA and thereby making it clear that SDA enrolled accommodation subject to standards under the Commonwealth's NDIS does not constitute prescribed accommodation,
- Making minor or technical drafting updates to reflect updated references or to more accurately reflect current operational practices, such as referring to the updated *Heritage Act 2017* and clarifying the content on application forms to register, renew or transfer prescribed accommodation.

Therefore Option 2 is expected to have the same or similar health benefits as the current Regulations (Option 1). There could be an increase in benefits if more accommodation owners comply with the Regulations, due to increased clarity of coverage of the Regulations over particular types of accommodation, however this is not expected to have a material impact. In addition, Option 2 is expected to lead to a very small decrease in costs compared to the current Regulations due to revision of certain terms in the Regulations, which may reduce the costs of compliance and Council regulation, for example administration and enforcement is more efficient due to less 'grey' areas.

4.5.1 Competition and small business impacts

This section assesses the small business and competition impacts of the preferred option.

Small businesses may experience disproportionate effects from regulation for a range of reasons. This may include that the requirement applies mostly to small businesses, or because small businesses have limited resources to interpret compliance requirements or meet substantive compliance requirements compared to larger businesses. Small businesses may also lack the economies of scale that allow fixed regulatory costs to be spread across a large customer base.

The Victorian Guide to Regulation also requires a RIS to assess the impact of regulations on competition. Regulations can affect competition by preventing or limiting the ability of businesses and individuals to enter and compete within particular markets. In undertaking this assessment we have considered these questions:

- Is the proposed measure likely to affect the market structure of the affected sector(s) – i.e. will it reduce the number of participants in the market, or increase the size of incumbent firms?
- Will it be more difficult for new firms or individuals to enter the industry after the imposition of the proposed measure?
- Will the costs/benefits associated with the proposed measure affect some firms or individuals substantially more than others (e.g. small firms, part-time participants in occupations etc.)?
- Will the proposed measure restrict the ability of businesses to choose the price, quality, range or location of their products?
- Will the proposed measure lead to higher ongoing costs for new entrants that existing firms do not have to meet?
- Is the ability or incentive to innovate or develop new products or services likely to be affected by the proposed measure?

It is estimated that the preferred option will impose an estimated quantifiable cost of \$9,926 on businesses over the 10 year life of the Regulations (average cost across businesses), relative to the Base Case (as estimated in section 4.3.1.10). This is a material impact and will be relatively more significant for small businesses. For example, the cost of becoming registered is unlikely to vary significantly across different sized businesses so it represents a disproportionately higher amount of turnover (or costs) for smaller businesses. The sector is made up a range of businesses from small to large; from a single rooming house through to larger operators of hotels/motels and large student dormitory accommodation or proprietors operating multiple rooming houses. It is known that many proprietors that provide prescribed accommodation are small businesses, however specific data on the number of small businesses operating in the sector is not available.

It is possible that the Regulations may deter entry or lead to the exit from the market, and it might slightly reduce the number of businesses in the sector. As discussed in section 4.3.2 this impact is not likely to be significant. However if the Regulations result in non-compliant businesses not entering or exiting the market, this restriction on competition is necessary to reduce the risk of

illness and death, and the public health benefits of the restriction are likely to outweigh the costs. By imposing standards the Regulations also restrict quality by imposing a minimum quality, although this is clearly consistent with the objectives of the Regulations.

4.5.2 Human rights impact of proposed Regulations

The proposed Regulations do not limit any human right set out in the *Charter of Human Rights and Responsibilities Act 2006*. The proposed Regulations do engage the right to privacy, the right to freedom of expression and the right to property.

Proposed Regulations 8, 9 and 10 require the provision of personal information to a Council for the purposes of registration of prescribed accommodation. The information is directly related to the registration process and the provision is not unlawful or arbitrary and engages but does not limit the right to privacy. These regulations also engage the right to freedom of expression as a proprietor is required to provide personal information to a municipal council to be registered. These Regulations do not limit the right to freedom of expression.

Proposed Regulations 21 and 23 of the proposed Regulations require the proprietor of prescribed accommodation to keep a register containing details relevant to the occupant's occupation of the premises, such as their name and address. The purpose of this requirement is to ensure the relevant council and Secretary of DHHS has the information required to manage public health risks in relation to the premises. These provisions are not unlawful or arbitrary and engage but do not limit the right to privacy.

Proposed Regulation 22 restricts the proprietor from stating in an advertisement, notice or sign that the premises are registered when they are not registered, to limit the health risks from the use of unauthorised prescribed accommodation. The regulation engages but does not limit the right to freedom of expression.

Proposed Regulations 11,13,14,15,16,17,18,19 and 20 impose obligations on proprietors of prescribed accommodation, e.g. to maintain the property, that impact on their ability to enjoy uninterrupted use of their property. These obligations are intended to manage public health risks and engage but do not limit the right to property.

The social burden imposed on sectors of the public in the proposed Regulations, including the proprietors and occupants of prescribed accommodation, are considered to be reasonable and proportionate in the context of regulation of environments which pose a risk to public health unless managed appropriately. The social burden is assessed not to outweigh the cost of significant health risk posed by prescribed accommodation, including through the potential spread of infectious and non-infectious disease, and injury, including negative impacts on mental health and social amenity arising from unhygienic, unsafe and overcrowded premises. Additionally, the requirements of the proposed Regulations provide health system benefits for the community by assisting to avoid health issues and associated costs to the public health system. The social costs are also regarded as being consistent with public expectations.

5 Implementation, enforcement and evaluation

This chapter discusses key issues to be considered in the implementation of the Regulations

5.1 Implementation

5.1.1 Finalise the remade Regulations

The release of the proposed remade Regulations and this RIS for a minimum 28 day public comment period will provide key stakeholders and members of the public the opportunity to consider the proposed changes to the Regulations and provide feedback. At the conclusion of the public comment period the Victorian Government will review and consider each submission, and take account of the feedback on both the proposed Regulations and the RIS in finalising the Regulations.

On behalf of the Victorian Government, DHHS will prepare a formal Response to Public Comment document which will detail the comments provided in the Public Comment submissions and a response to those comments.

The Office of Chief Parliamentary Council (OCPC) will review and settle the Regulations which will then be submitted to the Minister for Health for approval.

5.1.2 Changes to Regulations

Preferred option

The proposed remade Regulations largely continue the substance and form of the current Regulations with efficiency and effectiveness improvements rather than wholesale changes.

The main area of change arising in the preferred option is to amend the definition of rooming houses to align with the definition of rooming house that is contained in the RTA.

Implementation activities are therefore expected to be minimal. DJCS will consult with and provide updated guidance to industry and Councils regarding any change to the definition of 'rooming house' arising out of its review. DHHS will issue guidance material on other changes to the Regulations to promote compliance.

5.1.3 Cross-sector reviews

As discussed in Chapter 1 (Background) and Chapter 3 (Options), a number of cross-portfolio reviews are currently being undertaken by various Victorian Government departments and agencies. The findings of these reviews could require DHHS to consider changes to the Regulations after they have been remade, ranging from minor drafting to potentially substantive changes.

On completion of the reviews, DHHS will consider whether the recommendations and findings require changes to the Regulations and/or the PHWA. DHHS will also assess whether it is appropriate to progressively address the recommendations, or to bundle multiple changes together.

If any material changes to the Regulations or the PHWA are required, DHHS will consult with any sector of the public on which a significant economic or social burden may be imposed by a proposed change.

Cross-portfolio reviews are expected to be progressively completed over the next 3 years. The Department will review the outcomes of the cross-portfolio reviews being undertaken across

Government and their impact (if any) on the Regulations within 5 years of remaking the Regulations.

5.1.4 Enforcement strategy

The Act requires that prescribed accommodation business be registered with Council. Councils undertake inspection of all registered prescribed accommodation premises in their area.

A number of offences and penalties relating to prescribed accommodation are prescribed in Schedule 8 of the Regulations. Councils currently have various powers of enforcement under the PHWA.

The existing enforcement strategy will continue to be applied to the new Regulations. The Department will work with councils to improve consistency of interpretation, intent and enforcement (e.g. through information and advice to Councils and their environmental health officers, outcomes and risk-based approaches, reporting and monitoring), and to establish clarity about respective roles and responsibilities.

In recognition of the ongoing impact of the current COVID-19 public health emergency, DHHS will continue to monitor and implement strategies to limit transmission in these settings.

5.2 Evaluation

The proposed Regulations will sunset in 2030. This will be the next time the Regulations are due for a full formal evaluation, undertaken via preparation of a future RIS.

However, as discussed above some elements may be reviewed if necessary, within five years, as a consequence of:

- The outcomes of cross-portfolio reviews currently being undertaken in other parts of the Victorian Government; or
- Regulatory changes required to deliver government initiatives; or
- Stakeholder feedback, where appropriate, provided as part of this RIS process but unable to be incorporated in the remaking of the Regulations in 2020; or
- The need to implement further measures to minimise the transmission of coronavirus (COVID-19).

DHHS will also specifically monitor the operation and effectiveness of the proposed Regulations, and in particular the proposed changes to the Regulations, via:

- Ongoing engagement with Councils, including through ongoing liaison with Councils' environmental health officers, and industry stakeholders
- Ongoing review of trends in the accommodation market and other relevant data.

This review and stakeholder consultation will inform an ongoing assessment of whether the proposed Regulations are meeting the objectives of the PHWA, which are to achieve the highest attainable standard of public health and wellbeing by:

- Protecting public health and preventing disease, illness, injury, disability or premature death;
- Promoting conditions in which persons can be healthy;
- Reducing inequalities in the state of public health and wellbeing.

5.2.1 COVID-19

It is appropriate for DHHS to carefully consider the data and experiences of the current COVID-19 health emergency to identify ways to tailor regulatory approaches to respond to new and evolving health risks such as coronavirus (COVID-19). This includes consulting with relevant sectors, including prescribed accommodation providers and occupants, to obtain their views on how their health needs can be better met in changed and challenging environments such as this. DHHS will consider this data and information and consult with stakeholders with a view to adapting regulatory requirements in the prescribed accommodation sectors as appropriate. This will be an ongoing exercise after the Regulations are remade and information, data and learnings are consolidated.

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Appendix A: 2009 Regulations Summary

Table A-1 Summary of the Regulations

Clause no	Relates to	Key details
Part 5 regulation 13	Scope: prescribed accommodation	The following classes of accommodation are prescribed to be prescribed accommodation for the purposes of section 3 of the Act— (a) residential accommodation; (b) hotels and motels; (c) hostels; (d) student dormitories; (e) holiday camps; (f) rooming houses.
Part 5 regulation 14 & 15	Exemptions to scope of prescribed accommodation	The following are prescribed not to be prescribed accommodation for the purposes of these regulations— (a) a house under the exclusive occupation of the occupier; or (b) a self-contained flat under the exclusive occupation of the occupier consisting of a suite of rooms that— (i) forms a portion or portions of a building; and (ii) includes kitchen, bathroom and toilet facilities; and (iii) forms a self-contained residence; or (c) temporary crisis accommodation; or (d) a health or residential service within the meaning of section 3(1) of the <i>Residential Tenancies Act 1997</i> ; or (e) a residential care service within the meaning of the <i>Aged Care Act 1997</i> of the Commonwealth; or (f) any retirement village within the meaning of section 3(1) of the <i>Retirement Villages Act 1986</i> ; or (g) any house, building or structure to which <i>Part 4 of the Residential Tenancies Act 1997</i> applies; or (h) any vessel, vehicle, tent or caravan; or (i) premises in which, other than the family of the proprietor, not more than 5 persons are accommodated, and which is not a rooming house
Part 5 regulation 16	Applications including applications to register, renew or transfer prescribed accommodation and applications concerning registered premises	Note section 71C of the PHWA relates to application of registration <u>Regulations state:</u> For the purpose of section 71(c) of the Act, the prescribed particulars are— (a) for an application to register prescribed accommodation: (i) a plan of the premises drawn to a scale of not less than 1:100 and showing the proposed use of each room; (ii) the date of the application for registration; (iii) the name and address of the proprietor; (iv) the address of the premises; (v) the date of the registration; (b) for an application to renew a registration of prescribed accommodation: (i) the date of renewal; (ii) any conditions on the grant of registration or renewal; (c) for an application to transfer the registration of prescribed accommodation: (i) the date of transfer of registration; (ii) the name and address of the person to whom the registration is transferred; (iii) the address of the premises to which the registration is transferred;
Part 5 Division 2	Overcrowding in prescribed	A proprietor of prescribed accommodation:

Clause no	Relates to	Key details
regulation 17	accommodation: Rules for proprietor of prescribed accommodation	<p>(1) must comply with this regulation in relation to the maximum number of persons permitted to be accommodated in each bedroom in the prescribed accommodation (20 PU)</p> <p>(2) must not permit a room in the prescribed accommodation to be used as a bedroom if it has a floor area of less than 7.5 square metres (20 PU)</p> <p>(3) If persons are accommodated in prescribed accommodation for a period of more than 31 days, the maximum number of persons permitted to occupy a bedroom after 30 days is:</p> <ul style="list-style-type: none"> (a) one person if bedroom with a floor area less than 12m² (b) 2 people for a bedroom with a floor area of 12m² or more, and an additional person for every 4m² that exceeds the floor area of 12m² <p>(4) If persons are accommodated in prescribed accommodation, other than a holiday camp, for a period of 31 days or less, the maximum number of persons permitted to occupy a bedroom is—</p> <ul style="list-style-type: none"> (a) 2 people for a bedroom with a floor area of less than 10m² (b) 3 people for a bedroom with a floor area of 10m² or more, and an additional person for every 2m² that exceeds 10m² of floor area <p>(5) Subject to sub-regulation (2) a proprietor of a holiday camp must provide at least 2 square metres of floor area in a bedroom for each person who is accommodated for a period of 31 days or less.</p> <p>(6) For the purposes of this regulation: (a) one child under the age of 3 years is not counted as a person; but (b) two children under the age of 3 years are counted as one person;</p> <p>(c) floor area includes the area occupied by any cupboard or other built-in furniture, fixture or fitting but does not include any area occupied by any bathroom or toilet in, or attached to, the bedroom.</p>
Part 5 Division 2 regulation 17A	Overcrowding in prescribed accommodation: Cultural heritage exemptions	<p>(1) A proprietor of prescribed accommodation that is a holiday camp is exempted from compliance with regulation 17(2) in relation to a building situated on the premises of the holiday camp if (a) council determines that modification of the building to comply with the minimum bedroom size in regulation 17(2) is inappropriate because it would comprise the building's cultural heritage significance and (b) the maximum period for which persons are accommodated in the building is 7 nights.</p> <p>(2) A Council may determine a building to be of cultural heritage significance if the building:</p> <ul style="list-style-type: none"> • Is subject to a heritage overlay in the planning scheme • Is included on the Heritage Register • Is included on the Commonwealth Heritage List or the National Heritage List OR • the Council has had regard to a heritage study that considers the building
Part 5 Division 2 regulation 18 & 19	Maintenance and cleanliness of prescribed accommodation:	<p>A proprietor of prescribed accommodation must -</p> <p>Reg18: maintain the prescribed accommodation and all bedrooms, toilets, bathrooms, laundries, kitchens, living rooms and any common areas provided with the accommodation - (a) in good working order, (b) in a</p>

Clause no	Relates to	Key details
	Proprietor responsibilities	<p>clean, sanitary and hygienic condition and (c) in a good state of repair. PU=20</p> <p>Regulation 19(1) ... ensure that each bedroom and any toilet or bathroom attached to the bedroom is cleaned after the bedroom is vacated and before its re-use by another occupier and</p> <p>Regulation 19(2) ... ensure that all bed linen provided with the accommodation is changed with clean linen (a) at least weekly; and (b) after the accommodation is vacated and before its re-use by another occupier. PU=20</p>
Part 5 Division 2 regulation 20 &21	Water and drinking water supplied to prescribed accommodation	<p>A proprietor of prescribed accommodation must -</p> <p>Regulation 20: provide (1) a continuous and adequate supply of water to all toilet, bathing, kitchen, laundry and drinking water facilities and (2) an adequate supply of hot water to all bathing, laundry and kitchen facilities. PU=20</p> <p>Reg 21: ensure that drinking water supplied by the proprietor to another person is fit for human consumption if the drinking water was not supplied to the proprietor by a water supplier. PU=20</p>
Part 5 Division 2 regulation 22	Discharge of sewage and waste water in prescribed accommodation	<p>A proprietor of prescribed accommodation must ensure that all sewage and waste water is discharged— (a) to a reticulated sewerage system; or (b) to a wastewater treatment system permitted under the Environment Protection Act 1970. PU=20</p>
Part 5 Division 2 regulation 23 &24	Refuse receptacles and refuse disposal at prescribed accommodation	<p>A proprietor of prescribed accommodation must—</p> <p>Regulation 23: (a) provide sufficient vermin-proof receptacles at the prescribed accommodation for the collection and storage of all rubbish; and (b) ensure that the receptacles are regularly cleaned. PU=20</p> <p>Regulation 24: ensure that all refuse at the accommodation is regularly removed by means of a refuse collection service provided by the local Council or a private contractor engaged by the proprietor. PU=20</p>
Part 5 Division 2 regulation 25	Toilet and bathing facilities in prescribed accommodation	<p>A proprietor of prescribed accommodation must provide at least one toilet, one bath or shower and one wash basin for every 10 persons or fraction of that number of persons occupying the accommodation. PU=20</p>
Part 5 Division 2 regulation 26	Register of occupants of prescribed accommodation	<p>A proprietor of prescribed accommodation must keep a register recording (1)(a) the names and addresses of persons occupying the accommodation; and (b) the dates of their arrival and departure. Penalty: 20 penalty units.</p> <p>(2) A proprietor is <u>exempted</u> from compliance with sub-regulation (1), if the proprietor is required under any other Act or regulation to keep a similar register.</p> <p>(3) The proprietor must retain the register referred to in sub-regulation (1) or (2) for at least 12 months after the date of the last entry in the register. PU=20</p>
Part 5 Division 2 regulation 27	Advertising prescribed accommodation	<p>A proprietor of prescribed accommodation must not state, or cause to be stated, in any advertisement, notice or sign issued or put up in relation to the accommodation, that the premises were registered or approved for any class of accommodation other than that set out on the certificate of registration. PU=20</p>
Part 5 Division 4	Prescribed conditions	<p>For the purposes of section 75(1)(c) of the Act, the following are conditions which apply to a class of registration—</p>

Clause	Relates to	Key details
no		
regulation 34		(a) it is a condition on the registration of all prescribed accommodation that proprietors required to keep a register under regulation 26(1) must take all reasonable steps to protect the information in the register.

Appendix B: Stakeholder consultation

Who was consulted and how?

Stakeholder consultation was undertaken to gather relevant information on the impact of the proposed Regulations and possible alternatives for different groups. The consultation process included:

- Consideration of a range of stakeholder input to the department over the last three years, including surveys of environmental health officers at municipal councils, in their administration of the prescribed accommodation scheme, written submissions from stakeholders, departmental meetings with stakeholders such as the Student Accommodation Association, participation in working groups such as a group led by the Commissioner of Residential Tenancies regarding rooming house accommodation, and an intergovernmental working group considering the sunset review of the Regulations, and round table discussions with Victorian Government and local government representatives in the portfolios interfacing with prescribed accommodation.
- An invitation in writing from DHHS, seeking input from stakeholders representing views across the broad spectrum of prescribed accommodation, namely industry, peak bodies, occupiers, and relevant statutory entities. This included providers of accommodation in the large and small tourism sectors, providers of rooming houses, providers of student accommodation, students, the Municipal Association of Victoria representing municipal councils which administer the prescribed accommodation scheme under the PHWA, a metropolitan council, and government stakeholders.

Key themes by topic

The following is a summary of key themes from the written stakeholder consultation.

Table B-1 RIS consultation themes

Theme	Summary of discussion points in consultation	Response
Supporting hygiene, sanitation and safety	<ul style="list-style-type: none"> • The Regulations are a critical tool to ensure health and safety in housing of multiple occupancy (Government stakeholder). • When observed, the Regulations protect hygiene, sanitation and (public health) safety (local council; stakeholder in the rooming house sector (RAAV)). • It is considered that enforcement of the existing regulations in the unregistered illegal rooming house market would have greater effect than adding more regulation (RAAV). • The requirement for one toilet, shower and washbasin per 10 occupants is insufficient; the Department should consider reviewing the ratio to one facility per eight (8) occupants (Government stakeholder). • The Regulations do not currently consider the health risk of fire, which is considered a great risk in shared accommodation. The Department should consider how the Regulations might complement or align with how building standards protect against fire risk (local council). • Section 18 of the Regulations should clearly call out requirements of proprietors in terms of maintaining cleanliness and hygiene. For example: a). maintaining all areas in good working order and in a good state of repair, and; b). maintaining common areas and facilities in a clean, sanitary and hygienic condition (RAAV). This distinction would ensure proprietors are not liable for the hygiene and cleanliness of occupant belongings (RAAV). • The Department should consider how the Regulations can ensure proprietors have a plan of action to prevent or respond to infectious disease outbreak (Government stakeholder). The plan should have some prescribed elements, for example, a schedule of additional cleaning required, instructions for the safe use of common areas and facilities, and the 	<p>DHHS considers it appropriate to consider whether the standards in the Regulations are 'fit for purpose' in the context of considering the outcomes of various cross portfolio reviews across government that interface with prescribed accommodation. Of particular relevance is the DJCS review of the definition of 'rooming houses' and BRV's review of the imbalances in the accommodation sector, specifically differences in standards and regulations for traditional and short stay accommodation.</p> <p>In relation to plans of action for infectious disease outbreak, DHHS will consider further in the context of available data from the COVID-19 health emergency.</p> <p>DHHS commits to work with councils to improve consistency of interpretation, intent and enforcement (e.g. through information and advice to Councils, outcomes and risk-based approaches, reporting and monitoring), and to establish clarity about respective roles and responsibilities. This would need to be done within limits of existing DHHS powers and resources.</p>

	<p>treatment of any infected residents (Government stakeholder).</p>	
<p>Implementation</p>	<ul style="list-style-type: none"> The Department should consider how the Regulations might ensure consistency and timeliness in the way Local Government fulfils their responsibilities under the Regulations (RAAV). The Department should consider including the following under Section 16: "an application for registration, renewal or transfer takes effect after 30 days unless council notifies otherwise. If the application is refused the council must provide written reasons under the PHWA" (RAAV). This can reduce unnecessary delays in the registration process (RAAV). The Regulations and the PHWA should provide Power of Entry and Investigation to Local Governments. Local Governments are responsible for monitoring and enforcing adherence to the Regulations and PHWA and require this Power to enter premises to be able to effectively perform that function (local council). Reforms to the Principal Act to enhance the powers of entry for authorised officers to premises suspected of providing prescribed accommodation. That reform is essential for the effective operation of the Regulations but we understand that it is not within the scope of the remake of the Regulations. (Government stakeholder) 	<p>DHHS commits to work with councils to improve consistency of interpretation, intent and enforcement (e.g. through information and advice to Councils, outcomes and risk-based approaches, reporting and monitoring), and to establish clarity about respective roles and responsibilities. This would need to be done within limits of existing DHHS powers and resources.</p> <p>The requirements for councils to consider applications to register prescribed accommodation, and to renew and transfer registrations are set out in the PHWA and are not part of the review of the Regulations. Further, any change to the framework under the PHWA would require a legislative amendment, rather than a change to the Regulations. DHHS commits to work with councils to improve consistency of interpretation, intent and enforcement (e.g. through information and advice to Councils, outcomes and risk-based approaches, reporting and monitoring), and to establish clarity about respective roles and responsibilities. This would need to be done within limits of existing DHHS powers and resources.</p> <p>Powers of entry: The powers that authorised officers already hold to enter premises without a warrant are substantial. As a range of frameworks regulate rooming houses and other forms of prescribed accommodation, it is appropriate to continue to work with regulators, local councils and government departments administering relevant regulation to fully understand compliance and enforcement issues with a view to identifying a whole of system approach.</p>
<p>Definitions and exemptions, coverage</p>	<ul style="list-style-type: none"> Consideration should be given to a simpler definition of 'rooming house' in the Regulations and to import other related parts of the definition into the Regulations (Government stakeholder) and clarifying the definition of rooming house with councils (RAAV). Consideration should also be given to aligning the entity that is the rooming house operator under the RTA with the proprietor of prescribed 	<ul style="list-style-type: none"> Rooming house: It is proposed to amend the Regulations to make the definition of 'rooming house' in the RTA the source definition in the Regulations. This will make the regulatory definition of 'rooming house' consistent for operators and occupants. Once the DJCS proposed review of the definition of 'rooming house' has concluded, and if any necessary change is made to the definition in the RTA,

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- accommodation under the Regulations. (Government stakeholder)
- The definition of Prescribed Accommodation needs to be reviewed, with concerns raised about ambiguity around which types of accommodation (for example, share houses, short term accommodation, holiday accommodation, serviced apartments, student accommodation, worker accommodation, and high-rise residential accommodation¹³⁴) should be registered under the PHWA. Concerns were also expressed that the definitions were out of date and did not reflect the contemporary accommodation market (local council; RAAV; Government stakeholder).
 - Clarification of inclusion or exclusion of share houses is needed (local councils).
 - Clarification regarding the exemption afforded at r 14(a) of the Regulations relating to premises 'under the exclusive occupation of the occupier' is needed (local councils).
 - Exemptions to the Regulations should be clarified with specific examples of which circumstances are exempt from the Regulations (local councils). This will support Local Government in enforcing the Regulations consistently and appropriately (local councils).
 - Inclusion or clarification about the application of the Regulations to dormitory housing provided to workers (temporary or permanent) is needed (Government stakeholder)
 - The reason for the exemption for any "any house, building or structure to which Part 4 of the Residential Tenancies Act 1997 applies is unclear and needs review. It is also not clear why this exemption applies to Part 4 but not to Part 4A of the Residential Tenancies Act (primarily relating to caravan parks (Government stakeholder)
 - Application of the Regulations to SDA dwellings needs review. (Government stakeholder)
- this will flow through to the definition in the Regulations without further need to amend that definition in the Regulations. Findings of the review are expected to be available late 2021. Consultation on the definition of 'rooming house' will be undertaken with stakeholders as part of that review.
- Operators and proprietors of rooming houses: Considering the terminology applying to rooming house operators and proprietors would involve consideration of multiple schemes applying to rooming houses. DHHS considers that it is appropriate to await the outcome of the DJCS review of the definition of rooming houses as that may have implications for the broader application of rooming house regulatory provisions.
 - Exclusive occupation: Whether accommodation is under the exclusive occupation of the occupier may depend on the particular circumstances of the case (e.g. whether there is a residential tenancies agreement in place). DHHS commits to work with councils to improve consistency of interpretation, intent and enforcement (e.g. through information and advice to Councils, outcomes and risk-based approaches, reporting and monitoring), and to establish clarity about respective roles and responsibilities. This would need to be done within limits of existing DHHS powers and resources.
 - Dormitory housing for workers: DHHS considers it appropriate to consider the outcomes of the DELWP work in considering whether 'rural worker accommodation' should be included as a land use term in the Victoria Planning Provisions, prior to consideration of further
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¹³⁴ It is the view of the local council stakeholder consulted that short-term, holiday and high-rise residential accommodation should be required to be registered as Prescribed Accommodation under the PHWA (data provided to Deloitte for the purposes of the RIS).

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- The Regulations are a critical tool to ensure health and safety in housing of multiple occupancy. In general terms, the Regulations should apply to any form of housing for multiple unrelated occupants with shared facilities used for bathing, laundering, cooking or personal hygiene or other purposes which may have public health risks (Government stakeholder)
 - amendments to the PHWA which would be required to implement the 'Labour Hire Inquiry' recommendations. DELWP's consideration of the need for certain planning controls such as those relating to the design of buildings, waste-water, and number of workers accommodated, may intersect with the standards under the Regulations.
 - Caravan parks: DHHS considers it is appropriate to consider the recommendations and stakeholder feedback arising from the DELWP review of the Residential Tenancies (Caravan Parks and Moveable Dwellings Registration and Standards) Regulations 2020 in considering whether definitions of types of prescribed accommodation (e.g. holiday camps) and coverage of the regulations over different types of holiday accommodation are fit for purpose.
 - SDA: Currently the Regulations apply to SDA enrolled dwellings (i.e. accommodation registered under the Commonwealth's NDIS legislation. The definition of 'rooming house' is proposed to be amended to incorporate by reference, the definition of 'rooming house' in section 3(1) of the RTA. This will exclude SDA enrolled dwellings as they are currently excluded as a rooming house under the RTA. It is also proposed to exclude them from other definitions of prescribed accommodation under the Regulations. SDA enrolled dwellings are subject to a separate registration, quality and safeguards framework to be enrolled under the Commonwealth NDIS legislation. Where a disability service is not an SDA enrolled dwelling under the NDIS, that accommodation referred to as a residential service or a group home for the purpose of the Disability Act 2006 is required to comply with accommodation standards under the Disability Act.
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- Safety: It is important to distinguish between the objective of the PHWA to promote and protect public health and wellbeing, and other regulatory frameworks regulating other aspects of accommodation, such as safety. DHHS considers it is appropriate to consider whether the definitions of types of prescribed accommodation in addition to 'rooming houses', and coverage of the Regulations over different types of accommodation are fit for purpose following completion of relevant cross portfolio reviews across government.

Student accommodation

- The market for student accommodation has changed. A recent survey in the rooming house sector established that 50% of rooming house occupants were students, 30% were workers, and 20% were reliant on benefits (RAAV). Since this survey, increases in the rate of purpose-built rooming houses for workers and students indicate there is an increase in demand among these populations. accurate definition of student accommodation is required (RAAV).
- Concerns have been raised about students, including international students being housed in potentially overcrowded apartment buildings. The stakeholders have questioned whether this accommodation may operate as an illegal rooming house or should be regulated under one of a number of existing or new regulations to manage the overcrowding risk and other vulnerabilities faced by these students (local council, Government stakeholder)

DHHS considers that it is appropriate to consider whether definitions in the Regulations, including 'student dormitory', are 'fit for purpose' within the framework of the PHWA, in considering the outcomes of various cross portfolio reviews across government that interface with prescribed accommodation. Given that a number of regulatory regimes interface with prescribed accommodation, and accommodation more generally, DHHS considers that it is important to facilitate a multi departmental or whole of government approach to relevant issues. For example, DJCS' proposed review of the definition of 'rooming house' under the RTA and Rooming House Operators Act will consider options for a more modern definition of 'rooming house' to better reflect existing accommodation offerings such as 'new model' rooming houses aimed at international workers and skilled workers. Further, it will be relevant to consider the work of DELWP in implementing action 31 under the Plan Melbourne 2017-50 - Metropolitan Planning Strategy. That action is to develop and implement a streamlined approvals process for specific housing types that address local housing gaps such as student housing.

Given the potential complexity of this issue and cross portfolio interfaces, DHHS will continue to consult relevant stakeholders to assist facilitating an

		appropriate multi agency or whole of government response.
Costs to proprietors	<ul style="list-style-type: none"> • The costs to providers in complying with the Regulations are commensurate with the need to ensure a safe and healthy living environment for our residents (RAAV). • Misinterpretations of the Regulations by Local Government have led to avoidable costs being incurred by proprietors (RAAV). • Some Local Governments have revised their registration costing structure (from a per premise to a per room basis). These costs are disproportionate to the cost of administering the Regulations, and disincentivise rooming houses in the Local Government Area (RAAV). 	<p>DHHS considers that local councils are best placed to consider how they will most effectively apply their resources in undertaking their role in enforcing the Regulations and relevant provisions of the PHWA.</p> <p>However, DHHS commits to work with councils to improve consistency of interpretation, intent and enforcement (e.g. through information and advice to Councils, outcomes and risk-based approaches, reporting and monitoring), and to establish clarity about respective roles and responsibilities. This would need to be done within limits of existing DHHS powers and resources. The PHWA provides that the fees payable in respect of the issue, transfer or renewal of a registration are, in the usual case, the fees determined by a resolution of the municipal council). The fees determined by a council may vary among other things, according to the size or nature of the prescribed accommodation council or when the application is received. The PHWA is not subject to review as part of the sunset review of the Regulations. Any change to the power of councils to levy fees would require an amendment to the PHWA.</p>
Risk	<ul style="list-style-type: none"> • The Regulations provide valuable guidance to proprietors and administrators; without these, accountability and consumer confidence would decrease (RAAV). • If the Regulations lapsed and were not replaced, Local Government would lose visibility of accommodation standards (local council). • The inability to monitor and enforce adherence to standards poses a significant risk to the health of occupants, particularly more vulnerable populations seeking budget accommodation (local council). 	

Appendix C: Cross-portfolio reviews

- **DJCS review of the definition of 'rooming house' under the RTA and Rooming House Operators Act**

It is proposed to amend the Regulations to make the definition of 'rooming house' in the RTA the source definition in the Regulations (see Option 2 in section 3.2). This will make the regulatory definitions consistent for operators and occupants. Once the DJCS proposed review of the definition has concluded, and if any necessary change is made to the definition in the RTA, there will be no further need to amend the definition in the Regulations. Some stakeholders have reported that some accommodation housing students may operate as illegal rooming houses or that it may not be clear whether student accommodation constitutes a rooming house. Given this, DHHS anticipates that the DJCS review may receive some stakeholder input regarding student accommodation that maybe relevant to a consideration of whether the term 'student dormitory' is 'fit for purpose'.

- **DELWP consideration of Plan Melbourne 2017-50 - Metropolitan Planning Strategy (Action 31): Victoria Planning Provisions**

In considering whether the term 'student dormitory' is 'fit for purpose', it will be relevant to consider the work of DELWP in implementing action 31 under the Plan Melbourne 2017-50 - Metropolitan Planning Strategy. That action is to develop and implement a streamlined approvals process for specific housing types that address local housing gaps such as student housing. This would likely require consideration of whether 'student accommodation' should be included as a land use term in the Victoria Planning Provisions, with associated provisions. DELWP's consideration of the need for certain planning controls with respect to student housing may intersect with the standards under the Regulations applying to 'student dormitories' and assist addressing any stakeholder concerns about an absence of adequate regulation in this market.

- **DELWP consideration of potential inclusion of 'rural worker accommodation' as a land use term in the Victoria Planning Provisions with associated accommodation provisions**

DELWP is considering whether 'rural worker accommodation' should be included as a land use term in the Victoria Planning Provisions, with associated accommodation provisions. The 2016 report of the Victorian Government's Inquiry into the Labour Hire Industry and Insecure Work recommended that prescribed accommodation be extended to cover accommodation provided to workers under labour hire arrangements. DHHS considers it appropriate to consider the outcomes of the DELWP work prior to consideration of further amendments to the PHWA which would be required to implement the 'Labour Hire Inquiry' recommendations. DELWP's consideration of the need for certain planning controls such as those relating to the design of buildings, waste-water, and number of workers accommodated, may intersect with the standards under the Regulations.

- **DJCS post implementation review of the Owners Corporation Amendment (Short-stay Accommodation) Act 2018**

DJCS will undertake a post implementation review of the *Owners Corporation Amendment (Short-stay Accommodation) Act 2018* which regulates the provision of short-stay accommodation affected by an owners corporation. In considering whether the definitions of various types of prescribed accommodation are 'fit for purpose', DHHS considers it appropriate to consider the terms of reference of this review, and potentially any observations or broader stakeholder feedback about the regulation and standards applying to 'short-stay accommodation', some of which is regulated as prescribed accommodation

(e.g. 'bed and breakfasts' accommodating more than 5 people) and some of which may not be (e.g. self-contained home sharing).

Given the interface of the reviews of DJCS and BRV (see below) with the small visitor economy, DHHS considers it appropriate to consider the outcomes and observations of that work prior to further implementation work on the Small Business Visitor Economy Review recommendations 5.1 and 5.2. Those recommendations relate to the simplification of the registration requirements of small visitor accommodation (e.g. hosted 'bed and breakfast') providers as prescribed accommodation.¹³⁵

- **BRV review of any regulatory imbalances in the accommodation sector between traditional and short-stay accommodation.**

BRV is undertaking a review of the imbalances in the accommodation sector, specifically differences in standards and regulations for traditional and short stay accommodation. In considering whether the definitions of various types of prescribed accommodation are 'fit for purpose', DHHS considers it appropriate to consider the outcomes of this review. Any observations or key findings regarding forms of short-stay accommodation not currently regulated as prescribed accommodation and any observations regarding regulatory burden in the shared accommodation sector, may be relevant.

Given the interface between the traditional and short-stay accommodation sector and the small business visitor economy, DHHS considers it appropriate to consider the outcomes and observations of the BRV work prior to further consideration of implementation of the Small Business Visitor Economy Review recommendations relating to the regulation and registration of small visitor accommodation providers as prescribed accommodation.

- **DELWP review of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020.**

DELWP is undertaking a review of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020. The review will help address issues relating to the safety and standard of living for residents and visitors of caravan parks and moveable dwellings, while keeping the regulatory burden on operators to the minimum level necessary to achieve this. The Prescribed Accommodation Regulations regulate holiday camps, including camping grounds and caravan parks, used to accommodate student groups, youth groups or family groups for holiday or recreational purposes. The Residential Tenancies regime applies to tents, caravans and moveable dwellings. Some operators may be required to comply with both regimes.

¹³⁵ Small Business Economy Review (Visitor Economy) (2018), <https://engage.vic.gov.au/smallbizreview>.

Appendix D: Option 2 changes to regulations

Table C-1 Proposed Changes to the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009

Summary of Proposed Change	Regulation	Regulatory Impact of Proposed Change	Description of Proposed Change	Questions for Stakeholders
Authorising provision	2	No material impact	The proposed change updates the authorising provisions in the <i>Public Health and Wellbeing Act 2008</i>	
New commencement date	3	No material impact.	The proposed change updates the date of commencement of the new regulations to 13 December 2020	
Revocation of existing regulations	4 (new)	No material impact.	The proposed change revokes the existing regulations which sunset on 14 December 2020 (along with previous amending regulations)	
Definition of 'residential accommodation' reg. 4)	5 (previously reg. 4)	No material impact. This is clarifying what is intended to be the position, namely that apartments or flats within existing buildings or parts of buildings can constitute prescribed accommodation.	It is proposed to amend the definition to include 'part' of a house, building, or other structure used as a place of abode where people can live on payment of consideration.	
Definition of 'rooming house' reg. 4)	5 (previously reg. 4)	No material impact. Currently the Regulations apply to Specialist Disability Accommodation (SDA) enrolled dwellings while the rooming house minimum standards under the RTA do not apply as that	The definition is proposed to be amended to incorporate by reference, the definition of 'rooming house' in section 3(1) of the <i>Residential Tenancies Act 1997</i> . The definition of 'rooming house' in the Regulations is: 'rooming house means a building in which there is one or more rooms available for occupancy on	

accommodation is excluded and is subject to a separate registration, quality and safeguards framework to be enrolled under the Commonwealth National Disability Insurance Scheme (NDIS) legislation. Continuing to regulate this accommodation under the Regulations subjects them to dual regulation.

The amendment would also ensure that declared rooming houses (declared by the Minister for Housing under s. 19 of the RTA) are subject to both the Regulations (which address matters of public health, particularly relating to sanitation and overcrowding), and the rooming house minimum standards created under the RTA. Currently, declared rooming houses would be subject to the requirements of the Regulations where they were caught by the current definition in the Regulations.

payment of rent in which the total number of people who may occupy that room or those rooms is not less than 4;

It is proposed to amend the definition to: 'rooming house has the same meaning as it has in section 3(1) of the Residential Tenancies Act 1997;'

The definition of 'rooming house' in the Residential Tenancies Act is:

'rooming house means a building, other than an SDA enrolled dwelling, in which there is one or more rooms available for occupancy on payment of rent—

- (a) in which the total number of people who may occupy those rooms is no less than 4; or
- (b) in respect of which a declaration under section 19(2) or (3) is in force;'

Room is defined to mean: 'room means a room in a building, where the room is occupied or intended to be occupied for the purpose of a residence by a person having a right to occupy the room together with a right to use in common with others any facilities in the building but does not include a self-contained apartment;'

'SDA enrolled dwelling' is defined to mean:

'SDA enrolled dwelling means a permanent dwelling—
(a) that provides long-term accommodation for one or more SDA residents; and
(b) that is enrolled as an SDA dwelling under the National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2016 of the Commonwealth as in force from time to time or

under other rules made under the National Disability Insurance Scheme Act 2013 of the Commonwealth; and (c) that may comprise of—

- (i) an area or room exclusively occupied by an SDA resident and common areas shared by other SDA residents under an SDA residency agreement; or
- (ii) the dwelling as a whole occupied exclusively by an SDA resident under an SDA residency agreement; or
- (iii) the dwelling as a whole occupied under a tenancy agreement by at least one SDA resident and other occupants who may or may not be SDA residents;

The amendment is proposed to:

- (a) ensure consistency between the RTA and the Regulations
- (b) accommodate a review lead by DJCS into the definition of 'rooming house' and avoid the need for further amendment to the definition of 'rooming house' in the Regulations to accommodate the outcomes of the DJCS review.

Prescribed accommodation	6 (previously reg. 13)	No material impact	The amendment makes it clear that certain accommodation is not included within the definitions of prescribed accommodation.
Reference to 'self contained apartment'	7(b) (previously reg. 14(b))	No material impact	The reference to (b) a self-contained flat under the exclusive occupation of the occupier consisting of a suite of rooms that— (i) forms a portion or portions of a building; and

			(ii) includes kitchen, bathroom and toilet facilities; and (iii) forms a self-contained residence; is proposed to be replaced with 'a self contained apartment' to modernise the terminology.
Definition of 'temporary crisis accommodation' reg. 4)	5	No material impact	The amendment modernises the term 'the Government of Victoria' and changes it to 'the State'
Excluding SDA enrolled dwellings from prescribed accommodation	7 (previously reg. 14)	No material impact. The rooming house minimum standards under the RTA do not apply to SDA enrolled accommodation as that accommodation is subject to a separate registration, quality and safeguards framework to be enrolled under the Commonwealth NDIS legislation. Continuing to regulate this accommodation under the Regulations subjects them to dual regulation.	Consistently with the proposed amendment to the definition of 'rooming house' which would exclude SDA enrolled dwellings from the definition of 'rooming house', it is proposed to exclude SDA enrolled dwellings from all other forms of prescribed accommodation.
Accommodation that is not prescribed accommodation.	7 (previously reg. 14)	No material impact	The amendment makes it clear that certain accommodation is not included within the definitions of prescribed accommodation.
Application to register prescribed accommodation	8 (previously reg. 16(a))	No material impact	The requirements to apply to register prescribed accommodation are proposed to be included in a stand alone section. Why is the date of registration included in an application for registration?
Application for renewal of registration of prescribed accommodation	9. (previously reg. 16(b))	No material impact	The requirement to apply for a renewal of registration of prescribed accommodation is proposed to be included in a stand alone section. The following additional matters have been Is it useful to local government to include the conditions? Are the additional matters required with respect to an application to renew registration?

			included as required in an application: (a) the date of the application for registration; (b) the name and address of the proprietor; (c) the address of the premises;	
Application for transfer of registration of prescribed accommodation	10 (previously reg. 16(c))	No material impact	The requirement to apply for a transfer of registration of prescribed accommodation are proposed to be included as a stand alone provision. Regulation 16(c) has been changed from '(i) the date of transfer of registration' to: '(a) the date of the application for transfer of registration' to reflect that transfer is dependent on approval of the application. The following additional matters have been included as required in an application: (b) the name and address of the proprietor; (c) the address of the premises; (d) the date of proposed transfer of registration;	Are the additional matters required with respect to an application to transfer registration?
Exemption from requirements relating to size of bedroom based on cultural heritage significance	12(2)(b) (previously reg. 17A(2)(b))	No material impact	The reference is proposed to be updated from the Heritage Act 1995 to the Heritage Act 2017, and other minor updates such as the name of the relevant department.	
Drinking water and prescribed accommodation	16 (previously definition in reg. 4)	No material impact	The definition of 'water supplier' has been included in the regulation it relates to, namely regulation 16.	
Infringements	24(2) (previously reg. 88 (2))	No material impact	The formatting is restructured for ease of understanding.	
Advertising and prescribed accommodation	27	No material impact	It is proposed to change the reference to 'issued' from 'published' to better reflect contemporary means of advertising.	

Appendix E: Detailed assumptions

Detailed description of source data and calculations for these assumptions is provided in Chapter 4.

Estimated number of prescribed accommodation facilities

	2018 (a)	2019 (f)	2020 (f)	2021 (f)	2022 (f)	2023 (f)	2024 (f)	2025 (f)	2026 (f)	2027 (f)	2028 (f)	2029 (f)	2030 (f)
Total prescribed accommodation													
Total prescribed accommodation facilities	4,823	4,929	5,037	5,148	5,262	5,379	5,499	5,622	5,747	5,876	6,008	6,144	6,282
Residential Accommodation	1,517	1,555	1,594	1,634	1,675	1,717	1,760	1,804	1,850	1,896	1,944	1,993	2,043
Hotels & Motels	1,309	1,332	1,355	1,379	1,403	1,428	1,453	1,479	1,504	1,531	1,558	1,585	1,613
Hostels	207	209	211	213	215	217	220	222	224	226	228	231	233
Student Dormitories	170	174	178	182	186	190	194	198	203	207	212	217	221
Holiday Camps	315	315	315	315	315	315	315	315	315	315	315	315	315
Rooming Houses	1,305	1,344	1,384	1,425	1,468	1,512	1,557	1,603	1,651	1,701	1,751	1,804	1,858
Existing prescribed accommodation													
Total existing prescribed accommodation facilities	4,823	4,823	4,929	5,037	5,148	5,262	5,379	5,499	5,622	5,747	5,876	6,008	6,144
Residential Accommodation	1,517	1,517	1,555	1,594	1,634	1,675	1,717	1,760	1,804	1,850	1,896	1,944	1,993
Hotels & Motels	1,309	1,309	1,332	1,355	1,379	1,403	1,428	1,453	1,479	1,504	1,531	1,558	1,585
Hostels	207	207	209	211	213	215	217	220	222	224	226	228	231
Student Dormitories	170	170	174	178	182	186	190	194	198	203	207	212	217
Holiday Camps	315	315	315	315	315	315	315	315	315	315	315	315	315
Rooming Houses	1,305	1,305	1,344	1,384	1,425	1,468	1,512	1,557	1,603	1,651	1,701	1,751	1,804
New prescribed accommodation													
Total new prescribed accommodation facilities	0	106	108	111	114	117	120	123	126	129	132	135	139
Residential Accommodation	0	38	39	40	41	42	43	44	45	46	48	49	50
Hotels & Motels	0	23	23	24	24	25	25	25	26	26	27	27	28
Hostels	0	2	2	2	2	2	2	2	2	2	2	2	2
Student Dormitories	0	4	4	4	4	4	4	4	4	5	5	5	5
Holiday Camps	0	0	0	0	0	0	0	0	0	0	0	0	0
Rooming Houses	0	39	40	41	43	44	45	46	48	49	51	52	54

Estimated number of unique guests p.a., by type of prescribed accommodation

	2019 (f)	2020 (f)	2021 (f)	2022 (f)	2023 (f)	2024 (f)	2025 (f)	2026 (f)	2027 (f)	2028 (f)	2029 (f)	2030 (f)
Residential Accommodation	308,730	324,422	332,565	340,912	349,468	358,239	367,231	376,448	385,896	395,582	405,510	415,688
Hotels & Motels ('000)	12,045	12,256	12,471	12,690	12,913	13,139	13,370	13,604	13,843	14,086	14,333	14,585
Hostels	46,630	47,092	47,559	48,030	48,506	48,987	49,472	49,963	50,458	50,958	51,463	51,973
Student Dormitories	3,476	3,553	3,632	3,713	3,796	3,880	3,967	4,055	4,146	4,238	4,332	4,429
Holiday Camps	227,423	227,423	227,423	227,423	227,423	227,423	227,423	227,423	227,423	227,423	227,423	227,423
Rooming Houses	11,641	11,989	12,346	12,715	13,095	13,486	13,889	14,303	14,730	15,170	15,623	16,090

Forecast enforcement activity

Option 1	2018 (e)	2019 (f)	2020 (f)	2021 (f)	2022 (f)	2023 (f)	2024 (f)	2025 (f)	2026 (f)	2027 (f)	2028 (f)	2029 (f)	2030 (f)
Complaints	1,346	1,376	1,406	1,437	1,469	1,501	1,535	1,569	1,604	1,640	1,677	1,715	1,754
Informal advice	1,256	1,283	1,312	1,341	1,370	1,401	1,432	1,464	1,496	1,530	1,564	1,600	1,636
Prohibition notice	155	158	162	165	169	173	176	180	184	189	193	197	202
Prosecution notice	7	7	7	7	7	7	7	8	8	8	8	8	8

Cost to businesses, by subsector, of meeting certain requirements of the Regulations

Please note the following cost break-down excludes the Council fees incurred by businesses. All costs are expressed in NPV over the life of the Regulations

Total cost 2021-30 NPV	Registration	Attendance at inspections	Keeping a register	Maximum occupation	Maintenance	Total costs 2021-30 NPV
Residential Accommodation	\$968,296	\$1,205,566	\$313,104	\$1,326,743	\$1,972,782	\$5,786,490
Hotels & Motels	\$780,411	\$963,821	\$2,273,947	\$0	\$9,433,235	\$13,451,414
Hostels	\$115,138	\$140,979	\$419,798	\$618,505	\$2,413,303	\$3,707,724
Student Dormitories	\$105,780	\$131,309	\$3,379	\$288,781	\$1,083,132	\$1,612,381
Holiday Camps	\$160,032	\$193,635	\$192,566	\$424,424	\$10,858,832	\$11,829,489
Rooming Houses	\$869,446	\$1,087,801	\$118,634	\$4,795,894	\$7,025,148	\$13,896,924

Appendix F: Sensitivity analysis

Given the uncertainty associated with some of the cost estimates outlined in Chapter 4, sensitivity analysis has been undertaken on:

- Maintenance costs incurred by proprietors – this cost accounts for more than half of the estimated costs incurred by businesses.
- The number of prescribed accommodation facilities and level of occupancy given this is a significant driver of costs and given the uncertainty in the accommodation sector as a result of coronavirus (COVID-19).

The sensitivity analysis demonstrates that variation of these key assumptions does impact the preferred option finding when cost assumptions are varied upwards. However these higher cost scenarios are considered extremely unlikely because some costs used in this RIS are already considered to be upper bound estimates and these higher cost scenarios have only been conducted for completeness. It is considered more likely that total costs will be lower than estimated because of the upper bound estimates used and because of the potential impact of coronavirus (COVID-19) on accommodation forecasts.

It is noted that generally, where costs are decreased, expected benefits are also likely to be decreased. This is because lower expenditure on requirements such as maintenance is likely to reduce the increase in health and wellbeing standards as a result of the Regulations.

Varying maintenance costs

This sensitivity test demonstrates the impact on costs of varying the assumption regarding the extent to which businesses undertake maintenance under the Base Case. This assumption impacts how much maintenance cost is estimated under Option 1.

The analysis in Chapter 4 assumes the cost of maintenance under Option 1 is \$3,570 p.a. for each rooming house and residential accommodation premises; \$8,924 p.a. for each hostel and student dormitory; \$78,323 p.a. for each hotel/motel; and \$56,669 for each holiday camp.

This test examines the impact on costs and scoring of two scenarios: (1) halving and (2) doubling the assumed proportion of businesses that would not undertake adequate maintenance under the Base Case, as illustrated in Table F.1.

Table F.1: Sensitivity test – increasing maintenance costs

Type of prescribed accommodation	MCA assumption: Estimated % facilities that would not undertake adequate maintenance under the Base Case	Scenario 1: Halved	Scenario 2: Doubled
Residential accommodation	7.5%	3.75%	15%
Hotels and motels	2%	1%	4%
Hostels	30%	15%	60%
Student dormitories	15%	7.5%	30%
Holiday camps	15%	7.5%	30%
Rooming houses	30%	15%	60%
Maintenance costs – total NPV	\$32.8 million	\$16.4 million	\$65.6 million

Total costs (NPV)	\$62.4 million	\$46.0 million	\$95.1 million
Total cost per business	\$9,926	\$7,315	\$15,144
Unweighted score – business criteria	-7	-5	-10
Total weighted score – all criteria	+0.5	+1.3	-0.7

In the scenario where the proportion of businesses not undertaking adequate maintenance under the Base Case is assumed to halve, the NPV of costs decrease by \$16.4 million from \$62.4 million to \$46.0 million. This means that the total weighted score across all cost and benefit criteria) for Option 1 increases from +0.5 to +1.3, strengthening Option 1 relative to the Base Case. This is expected to represent a lower bound estimate of maintenance costs while the estimate presented in Chapter 4 is expected to be an upper bound estimate.

Under the scenario where the proportion of businesses not undertaking adequate maintenance under the Base Case is assumed to double, the NPV of costs increase by \$32.7 million from \$62.4 million to \$95.1million. This means that the total weighted score across for Option 1 falls from +0.5 to -0.7. However this scenario is considered very unlikely as maintenance costs used in the RIS are already considered to be upper bound estimates.

Varying the number of prescribed accommodation facilities and occupancy

This sensitivity test demonstrates the impact on costs if the assumptions about the number of prescribed accommodation facilities and occupancy rates are varied. Adjustments to these assumptions affect all costs quantified in Chapter 4.

For Scenario 1, it is assumed that:

- Zero growth in the number of prescribed accommodation facilities over the life of the Regulations. This compares to growth rates used in the Chapter 4 MCA analysis as follows: residential accommodation and rooming houses 3% growth p.a.; hotels, motels and student dormitories 2% growth p.a.; hostels 1% growth p.a.; holiday camps 0% p.a. growth.
- Tourism-based accommodation have 50% of their pre-COVID-19 occupancy for the first five years and then gradually increases to reach pre-COVID-19 levels by 2030. The revised assumptions mean that:
 - Residential accommodation: occupancy of 33% between 2021-2025, and gradually increased to 65% occupancy in 2030
 - Hotels and motels: occupancy of 36% between 2021-2025, and gradually increased to 73% occupancy in 2030
 - Hostels: occupancy of 46% between 2021-2025, and gradually increased to 92% occupancy in 2030
 - Holiday camps: occupancy of 12% between 2021-2025, and gradually increased to 23% occupancy in 2030
 - Student dormitories and rooming houses: 100% occupancy as per Chapter 4 because it is assumed that they are not impacted by tourism forces.

These rates can be compared to the occupancy rates used of the MCA analysis set out in section 4.2.3.

For scenario 2, it is assumed that:

- The number of prescribed accommodation facilities grows at double the growth compared to what is assumed in Chapter 4.
- Tourism-based accommodation including residential accommodation, hotels and motels, hostels and holiday camps have 100% occupancy over the life of the Regulations.

The impact of these scenario assumptions on the estimated number of total prescribed accommodation facilities and total occupants for 2021-2030 is shown in Table F.2.

Table F.2: Sensitivity test inputs – varying prescribed accommodation facilities and occupancy

	Total prescribed accommodation facilities 2021-2030	Total occupants 2021-2030
Total facilities (10 years)	56,968	142 million
Scenario 1 Decreased	48,230	81 million
Scenario 2 Increased	70,341	239 million

The impact on costs of the different scenarios is shown in Table F.4.

Table F.3: Sensitivity test – costs for different scenario results

Total cost 2021-2030 NPV	Registration	Attend inspections	Keep register	Maximum occupation	Maintenance	Council fees	Total costs
MCA assumption	\$3.0 million	\$3.7 million	\$3.3 million	\$7.5 million	\$32.8 million	\$12.1 million	\$62.4 million
Scenario 1: decrease tourism	\$2.5 million -18%	\$3.0 million -20%	\$1.9 million -42%	\$5.8 million -25%	\$29.7 million -10%	\$10.0 million -18%	\$52.7 million -16%
Scenario 2: increase tourism	\$3.9 million +29%	\$4.9 million +33%	\$5.9 million +78%	\$10.0 million +32%	\$38.7 million +18%	\$15.3 million +27%	\$78.7 million +26%

Table F.4 shows the scores assigned to Scenarios 1 and 2 compared to the MCA analysis undertaken to determine the preferred option in Chapter 4.

In the scenario where the tourism level decreases in response to COVID-19, the total costs decline by \$9.7 million with the largest falls in the costs to keeping a register which declines by just less than half. This is largely driven by both the decline in the number of accommodation businesses and a decline in occupancy. Holding all else equal, the weighted score increases from +0.5 to +0.9 in this scenario.

In the scenario where the tourism level increases relative to levels in 2018-19, the total costs increase by \$16.3 million with the costs increases largely driven by the increase in costs to keep a register and higher maintenance costs. The costs to keep a register increase in response to more accommodation businesses and higher occupation while the maintenance costs increase in response to more businesses incurring these costs. Holding all else equal, the weighted score decreases from +0.5 to -0.3 meaning that the Base Case is preferred relative to Option 1 in this scenario. This scenario is considered very unlikely, particularly given the COVID-19 health emergency, and only included for completeness.

Table F.4: Sensitivity test – MCA scoring for different scenario results

Type of prescribed accommodation	MCA assumption (Chapter 4) for number of prescribed accommodation facilities and occupancy level	Scenario 1 Decreased	Scenario 2 Increased
Total costs	\$62.4 million	\$52.7 million	\$78.7 million
Unweighted score – business criteria	-7	-6	-9
Total weighted score – all criteria	+0.5	+0.9	-0.3

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