

# Response to public submissions: Public Health and Wellbeing (Prescribed Accommodation) Regulations 2020

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# 1. Purpose

On 16 September 2020 the Department of Health and Human Services (DHHS) released an exposure draft of the Public Health and Wellbeing (Prescribed Accommodation) Regulations 2020 (the exposure draft Regulations) and an associated regulatory impact statement (RIS) for formal public consultation. The public consultation period closed on 15 October 2020. DHHS received 33 submissions within the submission period on the exposure draft Regulations and the RIS as outlined in section 2.

Consultation feedback was carefully reviewed and informed the new Public Health and Wellbeing (Prescribed Accommodation) Regulations 2020 (Regulations). Overall, there is broad consensus between most stakeholders that the regulation of certain forms of shared accommodation is required and that regulations have a role to play in managing public health risk. Some submissions supported making the Regulations as proposed in the RIS, with minor and technical amendments and consideration of the outcomes of the cross-portfolio reviews within the next five years. Some submissions while supportive of most of the form and content of the exposure draft Regulations, proposed some specific changes or clarifications. Several submissions considered that the current proposed changes did not go far enough and some considered that the Regulations should be reviewed in the next year or following two or three years. Given the diverse nature of the prescribed accommodation sectors, there were some different perspectives among stakeholder groups regarding the types of accommodation that should be regulated and the standards that prescribed accommodation should be subject to. Responses to issues raised in the submissions are outlined in section 4. Matters that were out of scope of the regulations are summarised in section 5.

Given that 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, the Regulations have been made for a period of 10 years, with minor and technical updates as identified in the RIS, subject to one change outlined in section 3 and minor changes to prescribed information for applications. DHHS will consider the findings of all reviews in the context of the regulatory objectives of the *Public Health and Wellbeing Act 2008* (the PHWA) and determine whether any changes to the Regulations should be made once the reviews are completed. The Regulations will be subject to a review within 5 years, at which point further stakeholder consultation will occur if significant changes are proposed. In addition to considering the outcomes of the cross-portfolio reviews, DHHS will also consider regulatory changes required to deliver government initiatives, stakeholder feedback provided as part of this RIS process and in response to the cross-portfolio reviews, and whether measures to minimise the transmission of coronavirus (COVID-19) are needed.

In the meantime, DHHS will also monitor the operation and effectiveness of the Regulations via:

- ongoing engagement with Councils, including ongoing liaison with their environmental health officers, and industry stakeholders. In particular, DHHS will work with Councils to improve consistency of interpretation, intent and enforcement, and to establish clarity about respective roles and responsibilities.
- ongoing review of trends in the accommodation market and other relevant data.

DHHS would like to thank all persons and organisations for making submissions as part of the public consultation process.

## 2. Submissions received

Submission	Submitter	Submission	Submitter
1	Kalyna Ski Club	18	Mount Baw Baw Stakeholders Association Inc.
2	Swan Hill Rural City Council	19	City of Melbourne
3	City of Wodonga	20	Council to Homeless Persons
4	Benalla Rural City Council	21	Banyule City Council
5	Buller Ski Lifts	22	Young People's Legal Rights Centre Inc (Youthlaw)
6	John Gardiner Ski Club Co-operative	23	City of Casey
7	Australian Ski Areas Association	24	Tenants Victoria
8	Johanna River Farm & Cottages	25	Indigo Shire Council and Mansfield Shire Council
9	Peninsula Community Legal Centre	26	Eastern Region Councils (Whitehorse, Monash, Manningham, Yarra Ranges, Knox, Boroondara and Maroondah)
10	Alpine View Apartments	27	Tourism Accommodation Australia (Victoria) (a division of the Australian Hotels Association (Victoria) )
11	City of Greater Dandenong	28	Mt Buller Chamber of Commerce
12	Mount Hotham Chamber of Commerce	29	Mt Hotham Resort Management Board, Falls Creek Resort Management Board, Mt Buller & Mt Stirling Resort Management Board
13	Victorian Snowsports Association Incorporated	30	Anton Huetten, Mt. Hotham
14	Kernow Environmental Services Pty Ltd	31	Private and confidential
15	Glen Eira City Council	32	Alpine Resorts Industry Advisory Group
16	City of Whittlesea	33	The Accommodation Association
17	Commissioner for Residential Tenancies		

## 3. Changes included in the Regulations

With the exception of one amendment, the changes incorporated in the RIS and referred to below, are those set out in appendix D of the RIS. The additional change relates to providing a later commencement date for the application of the Regulations to rooming houses declared by the Minister for Housing, and minor changes to the prescribed particulars for registration applications.

### Drafting clarification

**Residential accommodation:** Includes in the definition 'part' of a house, building, or other structure used as a place of abode where people can live on payment of consideration.

**Applications for registration or renewal or transfer of registration:** Includes additional matters in the requirements: date of application; name and address of the proprietor; and address of the premises. The requirements for renewal and transfer are included in stand-alone regulations and have been amended to refer to the date of the application for renewal of registration (r. 9(a)) and with respect to an application for transfer, to refer to 'any conditions on the grant of registration or renewal or transfer' (r. 10(g)). Following consultation, minor amendments were made to the lists of prescribed particulars to improve clarity and consistency.

### Modernising language

**Self-contained apartment:** Modernises the terminology by replacing existing term and description of 'self-contained flat'.

**Temporary crisis accommodation:** Modernises the term 'the Government of Victoria' and changes it to 'the State'.

**Advertising and prescribed accommodation:** Changes the reference to 'issued' from 'published' to better reflect contemporary means of advertising.

### Consistency with other regulatory regimes

**Rooming house:** Incorporates by reference the definition of 'rooming house' in section 3(1) of the *Residential Tenancies Act 1997* for consistency, from 14 December 2020 subject to delayed commencement for 'declared rooming houses' referred to below. This change to the definition of rooming house avoids the need for further amendment to the definition of 'rooming house' in the Regulations following the outcomes of a review of the definition by the Department of Justice and Community Safety. Consistent with the definition of 'rooming house' in the *Residential Tenancies Act 1997*, this also excludes enrolled Specialist Disability Accommodation services which are already regulated for quality and safety under the Commonwealth National Disability Insurance Scheme.

**Delayed commencement for declared rooming houses:** Delayed commencement for declared rooming houses: Includes a staged process and commencement in six months time, from 13 June 2021 for rooming houses declared by the Minister for Housing under section 19 of the *Residential Tenancies Act 1997* to be classified as a rooming house for the purposes of the Regulations. Regulatory consistency was the intended policy for the use of this rooming house definition in these regulations. The delayed commencement will allow time for proprietors and councils to operationalise the changes. It will allow proprietors to make adjustments to their properties where necessary to comply with the regulations, such as ensuring bedrooms are a minimum of 7.5 metres squared.

**Prescribed Accommodation:** Excludes enrolled Specialist Disability Accommodation services which are already regulated for quality and safety under the Commonwealth National Disability Insurance Scheme.

**Drinking water:** Includes definition of 'water supplier' within the meaning of section 3 of the *Safe Drinking Water Act 2003* in regulation 16.

### Technical amendments

**Application for renewal of prescribed accommodation:** Includes the requirements for an application for renewal of registration in a stand-alone section.

**Application for transfer of registration of prescribed accommodation:** Includes the requirements for a transfer of registration in a stand-alone section.

**Infringements:** Restructures the formatting for ease of understanding.

**Exemption from requirements relating to size of bedroom based on cultural heritage significance:** Updates the title of the *Heritage Act 1995* to the *Heritage Act 2017*, and other minor updates such as the name of the relevant department.



## 4. Summary of public consultation findings and Victorian Government response

### Options for Remake of the Regulations and Stakeholder Engagement

#### Opinion on the proposed Regulation

Comment made / Issue raised and submissions	Government response
Support provided for remaking the regulations with minor and technical updates and awaiting the outcome of the cross- portfolio reviews as an interim step: <i>Submissions 3, 7, 17</i>	Support noted.
Agree that Option 2 in the RIS is the preferred option, but request further amendments to the proposed Regulations (addressed below summary): <i>Submissions 3, 14, 15, 16, 17, 19, 20, 23, 24, 26, 27, 31, 32</i>	Support noted. Stakeholder recommendations for change responded to below.
Concern that the proposed improvements are minor (essentially retaining the status quo) and do not address deficiencies in the Regulations (such as a lack of clarity, inconsistency, and inadequate minimum standards): <i>Submissions 13, 15, 16, 20, 22, 24, 25, 31</i>	DHHS appreciates that some stakeholders may prefer changes to the Regulations in addition to the changes being made. DHHS 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. DHHS will also consider stakeholder feedback provided as part of this RIS process and other cross portfolio reviews and whether measures to minimise the transmission of coronavirus (COVID-19) are needed.

#### Stakeholder engagement process

Comment made / Issue raised and submissions	Government response
Concern that stakeholder engagement process did not seek views of all affected groups: <i>Submissions 13, 20, 24, 25, 31</i>	Public notices inviting submissions to the review were published in the Victorian Government Gazette, and the Age newspaper, and further information was contained on the Department's website. In addition, the Department wrote to approximately 130 organisations including municipal councils, peak bodies representing occupiers and providers of accommodation, industry participants and regulators regarding the public review.  In the alpine resorts sector, the Department wrote to relevant councils in addition to a peak body representing ski owners and operators.

## Lifespan of the Regulations and Timing of Future Review

### Sunset period on the proposed Regulations

Comment made / Issue raised and submissions	Government response
<p>View that Regulations should be made with a shorter lifespan e.g. five years and reviewed in the next year or two to three years to respond to learnings from COVID-19 health emergency and more relevant and urgent matters such as issues with worker accommodation, relevant recommendations from cross-portfolio reviews: <i>Submissions 2, 19, 20</i></p>	<p>The RIS discusses the cross-portfolio reviews that are expected to be progressively completed over the next 3 years. DHHS 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. DHHS will also consider stakeholder feedback provided as part of this RIS process and other cross portfolio reviews and whether measures to minimise the transmission of coronavirus (COVID-19) are needed.</p>

### Commencement of the Regulations

Comment Made / Issue raised and submissions	Government response
<p>Concerns that the proposed commencement date of 13 December 2020 does not provide sufficient time for councils to prepare for implementation: <i>Submission 14</i></p>	<p>The changes being made are minor and technical. It is not expected that significant lead time is required. Communication material will be provided to relevant stakeholders and sectors.</p>

## Scope of the Regulations-Classes and Types of Prescribed Accommodation

### Rooming houses

Challenges in determining whether a property operates as a rooming house.

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"><li>Concern expressed that given the definition of 'rooming house' varies across legislation the definition in the Residential Tenancies Act 1997 should be adopted in other legislation that regulates rooming houses, in addition to the Regulations adopting this definition.</li><li>Concern also expressed that that the scope and application of the definition is unclear, and it practically difficult to determine if premises operates as a rooming house. Consultation is required on future changes that may affect the definition.</li><li>Concern about existence of unregistered and illegal rooming houses and poor standards within these premises</li></ul> <p><i>Submissions 2, 15, 17, 22, 24, 26</i></p>	<p>DJCS will shortly undertake a review of the definition of rooming house under the <i>Residential Tenancies Act 1997</i>. DHHS will communicate these matters to DJCS. Stakeholders are also encouraged to raise these matters during this review.</p> <p>DHHS notes the issues raised about alleged illegal rooming houses and standards. Councils investigate alleged illegal rooming houses and based on the investigation and evidence obtained will decide on appropriate regulatory action.</p>

## Student housing

Comment made / Issue raised and submissions	Government response
<p>Concern that student housing providers are not correctly registering as rooming houses and that a review should consult relevant sectors:</p> <p>Submission 22</p>	<p>DHHS notes the issues raised about student housing. Council authorised officers investigate allegations of unregistered prescribed accommodation, including rooming houses, and non-compliance with prescribed accommodation standards. Following any investigation and evidence obtained, a council will decide on the appropriate course of action.</p>

## Standards

Comment made / Issue raised and submissions	Government response
<p>Concern that standards for rooming houses are minimal in protecting health and wellbeing and safety especially given the vulnerability of residents and DHHS, relevant state regulators and councils do not exercise powers to improve them:</p> <p><i>Submission 20</i></p>	<p>DHHS notes the issues raised about rooming houses and acknowledges that prescribed accommodation, in particular rooming houses support vulnerable and disadvantaged community members.</p> <p>This matter will be further considered after the completion of the DJCS review of the definition of 'rooming house' as that may raise related issues.</p>

## Hotels and motels

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"><li>• View that hotels and motels present a lower level of health risk than other forms of prescribed accommodation such as student dormitories, hostels, holiday camps and rooming houses, and concern that the review has not reduced regulatory burden on hotels and motels.</li><li>• Suggestion that DHHS consult with stakeholder to create a new category for lower risk hotels and motels, which are then exempt from the Regulations.</li></ul> <p><i>Submission 33</i></p>	<p>DHHS notes this view. DHHS considers that it is appropriate to wait for the outcomes of the work being undertaken by Better Regulation Victoria to consider any discrepancies in the regulation of traditional and short stay accommodation and to consider those outcomes and determine whether changes to the Regulations are required.</p>

## Holiday camps

Comment made / Issue raised and submissions	Government response
<p>Amendment requested to clarify whether fixed accommodation in caravan parks is prescribed accommodation: <i>Submission 4</i></p> <p>Clarity is sought on the scope of the definition and whether members' club lodges are prescribed accommodation: <i>Submission 2</i></p>	<p>While caravans and caravan parks are regulated under the <i>Residential Tenancies Act 1997</i>, houses, buildings or structures whether temporary or permanent on those sites which are used for the accommodation of student groups, youth groups or family groups for holiday or recreational purposes, may also need to be registered as a holiday camp under the Regulations. Depending on the circumstances, club lodges may also constitute holiday camps or other forms of prescribed accommodation such as hostels. DHHS acknowledges that there is further work to be done in considering the scope of the definitions of different types of prescribed accommodation in the context of a diverse accommodation sector, public health risk and burden.</p> <p>DHHS considers it is appropriate to wait for the outcomes of cross portfolio reviews, including the Better Regulation Victoria's consideration of any discrepancies in the regulation of short stay accommodation and traditional accommodation and the review of the Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020 to be conducted by the Department of Environment Land Water and Planning (DELWP). DHHS will consider the findings of all reviews upon completion and determine whether any changes to the Regulations should be made.</p>

## Residential accommodation

Comment made / Issue raised and submissions	Government response
<p>Clarity is sought in the definition or by other means, as to the scope of the term, and whether for example, it includes bed and breakfasts, holiday houses/units, fixed rooms in caravan parks, share houses, short stay accommodation, and cottages. Concern about inconsistent interpretation: <i>Submissions 4, 14, 16, 26</i></p>	<p>DHHS acknowledges there is a need for further work about what constitutes residential accommodation. Refer to commentary above in relation to holiday camps.</p>

## Extension of or clarification on accommodation, which is not expressly referred to in the Regulations

### Worker accommodation

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"><li>Concern that COVID-19 crisis has elevated concerns about the lack of safe and suitable accommodation for transient workers, and the potential for outbreaks to occur in these houses due to overcrowding, poor hygiene and poor maintenance standards.</li></ul>	<p>DHHS is currently working with relevant accommodation sectors through Operation Beneserre and the COVID-19 Public Housing Highrise Response (including the rooming houses and supported accommodation sectors) to develop a range of prevention measures and outbreak responses to minimise the risk of COVID -19 transmission in these high-risk settings</p> <p>DELWP is currently undertaking a review of the Victoria Planning Provisions and whether 'rural worker accommodation', should be included as a land use term in the</p>

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>• Clarity/amendments sought relating to definitions of prescribed accommodation to include accommodation provided to workers, such as seasonal workers in rural and regional areas. This should include dormitory style housing and hostels.</li> <li>• Concern that investors choosing not to invest in Victoria as the legislative regime is too complex/difficult to comply with.</li> <li>• Concern that if on farm accommodation is recognised under the planning scheme that there should be alignment with the Regulations.</li> </ul> <p>Submissions 2, 17</p>	<p>Victoria Planning Provisions, with associated accommodation provisions. DHHS considers it appropriate to consider the outcomes of the DELWP work pending consideration of further amendments to the PHWA. These amendments 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>

## Short stay accommodation

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>• Concern was expressed that it is not clear whether forms of short stay accommodation such as holiday apartments, are prescribed accommodation and that councils apply differing interpretations to the exemption for 'exclusive occupation'. Clarification was sought in the Regulations.</li> <li>• Some submitters expressed the view that short stay accommodation should be regulated and there was an inequitable playing field with traditional forms of shared accommodation.</li> </ul> <p>Submissions 8, 10, 11, 14, 25, 26, 27 31, 33</p>	<p>As to whether particular premises will constitute prescribed accommodation will vary on a case by case basis.</p> <p>DHHS notes that there is a need for further work about the application and concept of 'exclusive occupation of the occupier' including in relation to 'short stay accommodation'. DHHS will endeavour to work with councils to seek a consistent approach and interpretation of this concept.</p> <p>DHHS considers that it is appropriate to await the outcomes of the work being undertaken by Better Regulation Victoria to consider any discrepancies in the regulation of traditional and short stay accommodation and to consider those outcomes and determine whether regulatory changes are required.</p>

## Exclusive occupation

Comment made / Issue raised and submissions	Government response
<p>Clarification sought on the definition of 'exclusive occupation of the occupier'</p> <p>Submissions 4, 10, 14, 25, 26, 31</p>	<p>As noted above, DHHS notes that there is a need for further work about the application and concept of 'exclusive occupation of the occupier'. To this end, DHHS will work with councils to seek a consistent approach and interpretation of this concept.</p>

## Exclusions from Prescribed Accommodation

### SDA (specialist disability accommodation) enrolled accommodation

Comment made / Issue raised and submissions	Government response
<p>Concern that Group SDA homes housing multiple people with shared facilities may be exempt from the <i>Residential Tenancies Act 1997</i> and may also be exempt from the proposed Regulations resulting in no public health safeguards.</p> <p>Submission 17</p>	<p>The NDIS quality and safeguards regime (including Rules and standards) will apply to SDA enrolled dwellings. If the dwelling is a residential service or a group home for the purposes of the Disability Act 2006, it will be required to comply with the standards under that Act. The Department will work with stakeholders to identify if</p>

Comment made / Issue raised and submissions	Government response
	there are any gaps in the regulation of accommodation provided to occupants with a disability.

## Crisis Accommodation

Comment made / Issue raised and submissions	Government response
<p>Seeks clarity on whether 'emergency accommodation' differs from 'crisis accommodation', and a clearer definition of 'crisis accommodation' to include premises receiving non-government funding:</p> <p><i>Submission 26</i></p>	<p>The Regulations exclude temporary crisis accommodation from the classes of prescribed accommodation. This term means temporary crisis accommodation provided on a non-profit basis by an agency which receives homelessness support funding from the Victorian Government. The submitter has not provided a basis for altering the definition.</p>

## Scope of the Regulations-Standards

### Occupancy requirements and overcrowding

#### Occupancy requirements

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>• Clarification sought on whether authorising officers can sign off room sizes and occupancy numbers, and whether the calculation for bedroom size already includes en-suites and storage space, or whether the Regulations can be amended to include en-suites and storage space.</li> <li>• Concern that the requirement for one basin, toilet and shower/bath for 10 people is insufficient and should be amended to a ratio of 1 to 8 or 5 people.</li> <li>• View that cupboard space should not be included in the calculation of bedroom space, so as not to diminish real bedroom space.</li> <li>• Observation that if the Regulations aim to achieve the highest attainable standard of public health and wellbeing, then the overcrowding provisions in the Regulations need to be improved, particularly in light of the COVID-19 pandemic.</li> <li>• Concern that it is unclear how the requirement applies to require increased bedroom size for stays over 31 days.</li> </ul> <p><i>Submissions 5, 9, 14, 15, 17, 23, 24, 25, 26</i></p>	<p>Division 4 under Part 6 of the <i>Public Health and Wellbeing Act 2008</i> sets out the general provisions relating to registration including powers of council and registration conditions. As the regulator of the scheme, councils are the appropriate agencies to explain the basis for their decisions and assessments under this Act and the regulations.</p> <p>Of particular relevance to the standards applying to occupancy and overcrowding is the DJCS review of the definition of 'rooming houses' and BRV's consideration of any imbalances in the accommodation sectors, specifically traditional and short-stay accommodation. DHHS will consider whether the standards in the Regulations are 'fit for purpose' in the context of considering the outcomes of various cross portfolio reviews that interface with prescribed accommodation. Additionally, this may involve examining and balancing public health risk, accommodation cohort and burden.</p>

#### Ski resort accommodation

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>• Amendment sought to exempt or reduce the restrictions on bedroom size for accommodation in alpine resorts during the ski season.</li> </ul> <p><i>Submissions 6, 7, 12, 13, 18, 28, 29, 30, 32</i></p>	<p>Under the Regulations, a council may exempt a proprietor of a holiday camp from the requirements regarding bedroom size in certain circumstances, including where varying the bedroom size would compromise the building's cultural heritage significance, as set out in regulation 17A. This exemption was introduced in the</p>

Comment made / Issue raised and submissions	Government response
	<p>2009 Regulations and was not available under the Health (Prescribed Accommodation) Regulations 2001.</p> <p>Resorts should consider whether the exemption under regulation 17A is available to them.</p> <p>The submitters have not provided evidence of a reduced health risk in alpine accommodation.</p>

## Water supply/discharge of sewage and wastewater

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>Seeks guidance on how to demonstrate water is safe for drinking and consistency between responsible authorities and operators</li> <li>Where no town water or town sewerage, occupants of accommodation are at greater risk</li> </ul> <p><b>Submissions 4, 14</b></p>	<p>Drinking water has the same meaning as it has in section 3 of the Safe Drinking Water Act 2003.</p> <p>Councils and proprietors may wish to speak to the relevant water authority on this matter to determine whether water is safe for drinking.</p>

## Refuse removal and receptacles

Comment made / Issue raised and submissions	Government response
<p>Various recommendation to prescribing medical waste disposal facilities to minimise harm to residents, remove specific nomination of refuse collectors, and to include controls on volume and type of garbage material disposed of:</p> <p><i>Submissions 11, 15, 26</i></p>	<p>It is considered that refuse removal by a professional service best supports appropriate management of health risk associated with refuse and pests.</p>

## Cleanliness and maintenance

Comment made / Issue raised and submissions	Government response
<p>Views that cleanliness provisions of the Regulations are very limited especially for long term accommodation, and do not adequately cover bathrooms and food preparation areas, bedlinen, availability of cleaning materials, communal areas, cleaning schedules, mould assessments, pest infestation, appliances:</p> <p><i>Submissions 1, 9, 20, 23, 26</i></p>	<p>The Regulations require rooming houses proprietors to minimise public health risks by meeting cleanliness, hygiene, maintenance, toilet and bathing standards, and standards to prevent overcrowding.</p> <p>In particular, the Regulations specify that accommodation must be cleaned after an occupier and before the next occupier including bed linen being changed weekly.</p>

## General

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>Current minimum standards are too low and do not meet community expectations</li> <li>Need standards around adequate communal space, and 24 hour access to facilities</li> </ul>	<p>The Regulations respond to acknowledged environmental risks posed to human health in accommodation settings involving shared facilities and/or high turnover of occupants and the reduced capacity of individuals in such settings to control factors which might impact their health.</p>

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>Standards should distinguish between those accommodated out of hardship and those accommodated for pleasure.</li> </ul> <p><i>Submissions 9, 4</i></p>	<p>DHHS considers it appropriate to consider whether the standards are 'fit for purpose' in the context of considering the outcomes of various cross portfolio reviews that interface with prescribed accommodation. Of particular relevance is the DJCS review of the definition of 'rooming houses' and BRV's consideration of any imbalances in the accommodation sectors, specifically traditional and short-stay accommodation.</p>

## COVID-19 health emergency and infectious disease outbreaks

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>Recommends including a requirement that a preventative plan must be prepared and implemented by a proprietor of prescribed accommodation in the event of a declared or recognised infectious disease outbreak.</li> <li>Recommends that infection control guidelines are developed to accompany the new Regulations providing consistent best practice information to relevant sectors</li> <li>Concern raised about overcrowding and unhygienic living conditions in rooming houses, particularly within the context of the COVID-19 pandemic. Existing standards should be reviewed.</li> </ul> <p><i>Submissions 9, 17, 20, 23</i></p>	<p>DHHS is currently working with relevant accommodation sectors through Operation Beneserre and the COVID-19 Public Housing Highrise Response (including the rooming houses and supported accommodation sectors) to develop a range of prevention measures and outbreak responses to minimise the risk of COVID -19 transmission in these high-risk settings.</p>

## Enforcement Action and Offences

### Issues with insufficient enforcement activity

Comment made / Issue raised and submissions	Government response
<p>Views were expressed that the Regulations do not appear to be adequately enforced, authorised officers may need enhanced enforcement powers and that there needs to be improved processes for reporting breaches and co-ordination between authorities such as councils and relevant state regulators:</p> <p><i>Submissions 9, 8, 15, 17, 22, 25, 26</i></p>	<p>Councils have a range of available enforcement tools including education, inspecting premises, requiring alterations or improvements to be made to premises, as well as the ability to cancel, suspend or impose conditions on prescribed accommodation.</p> <p>Council authorised officers investigate allegations of unregistered prescribed accommodation and non-compliance with prescribed accommodation standards. Following any investigation and evidence obtained, a council will decide on the appropriate course of action including referring matters to other regulators as appropriate.</p>

## Inspections

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>Concern raised that the yearly frequency for inspections pose an unreasonable and excessive cost. It should be decreased to every 3 years.</li> </ul>	<p>Councils may exercise discretion regarding the frequency of inspections.</p>



Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>Alternative view expressed about the proactive health and safety value of inspections</li> </ul> <p><i>Submissions 1, 4</i></p>	<p>Neither the <i>Public Health and Wellbeing Act 2008</i> nor the regulations set out requirements for the frequency of inspections by environmental health officers.</p> <p>However, the <i>Public Health and Wellbeing Act 2008</i> sets out the functions of councils including, but not limited to, creating an environment which supports the health of members of the local community and developing and enforcing up-to-date public health standards.</p> <p>DHHS expects councils to undertake inspections having regard to their Public Health and Wellbeing Act functions, risks and to public health outcomes. The frequency of inspections may be determined by a number of factors.</p> <p>Environmental health officers who are appointed as authorised officer and who have professional qualifications and responsibilities in relation to public health are well-placed to make these decisions. They are also adept at communicating to proprietors the concerns that may exist and instigating action where necessary to remedy issues.</p>

## Penalty infringements

Comment made / Issue raised and submissions	Government response
<p>Concern raised about the inability to issue penalty infringement notices for a variety of offences including for not maintaining a property in a clean and sanitary condition, or not maintaining a good state of repair, or not providing a continuous supply of hot water:</p> <p><i>Submissions 11, 14, 23</i></p>	<p>DHHS notes the issues raised.</p> <p>The regulations do provide for infringement notices to be issued for some offences, including offences relating to: registration of prescribed accommodation under the Act, not using a room as a bedroom if it has a floor area of less than 7.5 square metres, provision of 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.</p> <p>DHHS will give further consideration to whether it may be appropriate to expand the categories of offences for which an infringement can be issued after the completion of the cross-portfolio reviews, noting any such proposals would need to be consistent with the Attorney-General's Guidelines to the Infringements Act 2006.</p>

## Premises Registration, Occupants and Renewal Requirements

### Registration, renewal and transfer applications

Comment made / Issue raised and submissions	Government response
<p>Clarity sought on the meaning of certain information requirements for applications, such as meaning of 'the date of the application for registration': <i>Submission 21</i></p>	<p>DHHS agrees that the lists of prescribed particulars for applications for registration, renewal of registration and transfer of registration in regulations 8, 9 and 10 lacked clarity. These have been amended to improve clarity and consistency.</p> <p>DHHS thanks the stakeholder for this feedback.</p>

## Rooming houses

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"><li>• Recommends defining a rooming house proprietor in accordance with the Residential Tenancies Act 1997 to ensure proprietors are appropriately licensed and to require the Rooming House Operators Licence as a condition of registration, transfer or renewal.</li><li>• Suggests an accreditation scheme for rooming houses that accommodates vulnerable and high-risk groups (receiving financial support) that are referred through support agencies</li></ul> <p><i>Submissions 14, 17, 26</i></p>	<p>DHHS acknowledges that prescribed accommodation, in particular rooming houses support vulnerable and disadvantaged community members.</p> <p>These matters will be further considered after the completion of the DJCS' review of the definition of 'rooming house' as that may raise related issues.</p>

## Register of occupants

Comment made / Issue raised and submissions	Government response
<p>View that requirement to record all occupant names in a register is reasonable in a pandemic, but in usual times it is an excessive burden and recommendation that name of only the person paying rent be recorded, and that record may be retained electronically, and for 30 days only:</p> <p><i>Submissions 1, 33</i></p>	<p>DHHS aims to keep the regulatory burden on operators to the minimum level necessary to achieve the public health objectives. Overall, the benefits of the Regulations are considered to outweigh the costs. However, it is acknowledged that there is a time cost for businesses in each element of the Regulations, including in relation to the requirement to keep a register of occupant names. The maintenance of the register supports a number of regulatory purposes. For example, it supports Councils in assessing compliance with the requirements in the Regulations relating to the number of occupants and bedroom size. It also supports management of public health risk when those threats may arise and whether or not they can be predicted. It is considered reasonable to continue to require premises to record the names of all occupants in the register.</p>

## General

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"><li>• It is recommended that, as with packaged food premises, there should be a requirement for any public accommodation providers to at least notify Council of their presence so they can be informed by the Council on the limitations and triggers for when registration would be required: <i>Submission 4</i></li><li>• Request for information on the Regulations once they are finalised: <i>Submission 13</i></li></ul>	<p>The <i>Public Health and Wellbeing Act 2008</i> requires that prescribed accommodation premises be registered with their Council under s 70.</p> <p>Communication material will be provided to relevant stakeholders and sectors.</p>

## 5. Issues out of scope

### Broader rooming house regulation

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>Concerns raised about the complexity and confusion about multiple pieces of regulation and regulators overseeing rooming houses, and difficulty of implementing a consistent and co-ordinated approach.</li> <li>Recommendation for one agency with legislative mandate to enforce a single set of standards to avoid confusion</li> <li>View that no mechanism for regulators, owner operator organisations, and community organisations working in the housing sector to systematically discuss regulatory arrangements and accountabilities. Recommends a state level consultative/advisory council made up of all key stakeholders to work through issues.</li> </ul> <p><i>Submissions 9, 15, 20, 24,26</i></p>	<p>The interface of different regulatory regimes applying to rooming houses may be further considered across government after the completion of DJCS' review of the definition of 'rooming house' as that may raise related issues.</p>

### Residential tenancies and building regulation

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"> <li>Amend requirements for a site plan so Council is informed whether the accommodation is attached or detached and exits, firefighting evacuation points etc. are indicated for emergency management purposes.</li> <li>Recommends a 24-hour contactable property manager be prescribed, standards to require a secure external mailbox for each room in a rooming house</li> <li>Recommends a review of the licensing scheme under the <i>Rooming House Operators Act 2016</i> because it is not achieving what it is designed to do i.e. deter and prevent unscrupulous operators and unregistered premises.</li> <li>Recommends changes to the Building Code to allow hostel accommodation in farming zones including dongas, transportable cabins etc.</li> <li>Recommends that the Regulations should not just prescribe minimum standards, but also prescribe designs that encourage better health and wellbeing.</li> </ul> <p><i>Submissions 2, 4, 9,11, 14, 15, 26</i></p>	<p>Division 4 in Part 4 in the Public Health and Wellbeing Act 2008 sets out general provisions relating to registration including powers of the councils and registration subject to conditions</p> <p>Property management and mailboxes are matters relate to building standards and/or tenancy law and are not in the scope of this review.</p> <p>This matter may be further considered after the completion of DJCS' review of the definition of 'rooming house' as that may raise related issues.</p> <p>The <i>Rooming House Operators Act 2016</i> and the Building Code and Victoria Planning Provisions are not within the scope of this review. DELWP is currently undertaking a review of the Victoria Planning Provisions and whether 'rural worker accommodation', should be included as a land use term in the Victoria Planning Provisions, with associated accommodation provisions.</p> <p>The submitter could raise issues for consideration by DELWP as part of its planning considerations.</p> <p>Design is a matter for building regulation and is not within the scope of this review.</p>

## Resident supports

Comment made / Issue raised and submissions	Government response
<ul style="list-style-type: none"><li>• Rooming house residents often fear for their health and safety due to increased likelihood of conflict caused by unsuitable tenant mixes, and issues such as crime, drug use, psychiatric illness, and illegal workers, which are risks some operators do not consider.</li><li>• Recommends prescribing minimum safety and security standards including the provision of secure key locks on all doors and visitor control or secure entry door locks to meet Australian standards.</li><li>• Recommends prescribing safe access provisions to ensure that rooming house residents receive access to required social, legal and health support.</li><li>• Rooming house residents are often forced to pay excessive rents for relatively small rooms in substandard, overcrowded housing. To address this, a rent control scheme is required.</li><li>• Request for state government to invest in the creation of extra public and community housing properties each year to meet the needs of people who cannot access or afford housing in the open market</li></ul> <p><i>Submissions 4 ,9, 15,26</i></p>	<p>If residents of rooming houses fear for their safety, these matters should be reported to the relevant authorities, such as Victoria Police, Emergency Services Victoria and the relevant local council.</p> <p>Issues concerning locks are addressed in the Residential Tenancies (Rooming House Standards) Regulations 2012.</p> <p>If residents require access to advice about social, health and legal services, these matters should be raised in an individual case with the relevant service provider. Information about the range of services provided by DHHS can be located at <a href="https://www.dhhs.vic.gov.au">https://www.dhhs.vic.gov.au</a> or calling 1300 650 172.</p> <p>Rent control is a residential tenancy matter. DJCS will shortly undertake a review of the definition of rooming house under the <i>Residential Tenancies Act 1997</i>. DHHS will communicate these matters to DJCS. Stakeholders are also encouraged to raise these matters during this review.</p> <p>The Victorian Government is committed to ensuring all Victorians have access to safe, secure and affordable housing. In March 2017, the government released Homes for Victorians, a coordinated response across government to address housing affordability in Victoria. As part of a state-wide \$2.7 billion infrastructure program, almost \$500 million will be used to build and upgrade community and public housing as part of the Building Works package. It is anticipated that 23,000 social housing properties across Victoria will benefit from this investment through upgrades. This investment is on top of the 2019-20 State budget announcement of \$209 million to build 1000 new public housing properties across our state.</p>

## Supports for council staff

Comment made / Issue raised and submissions	Government response
<p>Further consideration must be given to the resourcing required to achieve effective compliance with the Regulations. This includes resourcing for the registration process and routine monitoring by local Councils through physical inspections of prescribed accommodation. Without effective compliance, the Regulations have limited effect:</p> <p><i>Submissions 4, 17, 26.</i></p>	<p>It is a matter for Councils to determine how they will appropriately resource their functions under the Public Health and Wellbeing Act 2008. It is acknowledged that Councils and their environmental health officers have an important role to play in not only enforcing the regulations but identifying and managing health risk and educating proprietors about their compliance obligations. It should also be noted that the Public Health and Wellbeing Act provides for councils to charge fees for registering prescribed accommodation, and these fees contribute to the cost of administering the regulatory system.</p>